



An
Bord
Pleanála

Inspector's Report ABP 307731-20.

Development	Extension and material alterations to existing building layout and elevations, site layout, closure of one entrance, replacement treatment system and percolation area with system to EPA guideline standards and ancillary works.
Location	Brickhill East, Cratloe, Co. Clare.
Planning Authority	Clare County Council
P. A. Reg. Ref.	19-537
Applicant	Joseph and Natalie Cosgrove.
Type of Application	Permission.
Decision	Refuse Permission.
First Party Appellant	Joseph and Natalie Cosgrove.
Observers:	Jarleth O'Looney, Angus O'Looney, Paul O'Looney, James McEniry.
Date of Inspection	6 th October, 2020
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site has a stated area of 3,037 square metres and is located at Brickhill East at the northern end of the village of Cratloe in County Clare. The ground level rises relatively steeply towards the north and the area is characterised by low density, low profile residential development on individual plots. There is hedgerow along the west side and east side boundary which adjoins the public road, (Gallows Hill Road) onto which there are two vehicular accesses. The existing buildings, the gross floor area of which is 844 square metres faces southwards towards the Shannon estuary and the approach from Cratloe and comprise a bungalow constructed in the 1960s with additional blocks at either side and rear. Surface parking is located to the front side and rear boundaries. The development has a connection to the public mains water supply and a private effluent treatment system and percolation area.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for and extension to the existing buildings providing for the addition of a first floor with a stated floor area of 444 square metres along with internal layout alterations, alterations to elevation treatment and rearrangement of the site layout along with closure of one of the two entrances off the public road. In addition, it is proposed to replace the existing wastewater treatment system and percolation area with a new site-specific system and percolation which is compliant with current EPA Guidelines and site development works. The total stated floor area is 640 square metres. Also proposed is replacement of the existing waste-water treatment plant with a new waste-water system and percolation area consistent with the standards in the EPA guidelines.
- 2.2. A request for additional information was issued in which the applicant was requested to address concerns as to overdevelopment due to intensification of use, and design with excessive scale and height; overlooking and adverse impact on residential amenities of adjoining properties; deficiencies in on-site parking and arrangements to eliminate concerns as to surface water drainage onto the public road.
- 2.3. A response was received on 25th May, 2020 in revised drawings are provided indicating that build outs and a first floor conservatory at the front and smoking room

at the rear are omitted, the roof profile is simplified and the footprint is reduced. It is stated that the skyline is not obstructed, potential for overlooking does not arise; that twenty four parking spaces would be sufficient on site based on a survey, and proposals for stormwater storage and installation of an ACO drain are included.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 28th August, 2020, the planning authority decided to refuse permission for the following reason:

“It is considered that the proposed development comprising an extension to the existing nursing home, including material alterations to the existing building layout and elevations, taken together with the inadequate on-site parking and the restricted site area, would give rise to a congested layout and to overdevelopment of the site. In addition, the proposed development by virtue of its height, scale and design particularly when viewed from the south, would form a prominent feature in the landscape and would overlook the rear of existing residential development to the south of the subject site. The proposed development would therefore seriously injure the residential amenity and depreciate the value of property in the vicinity and would be out of character with the pattern of development in the area and would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. The planning officer in his final report, on the further information submission, states that he agrees that the skyline is not breached but that he considers the development visually prominent. He notes the minor reduction in floor area of 35.76 square metres proposed resulting in a total floor area of 1,461.50 square metres but states that the revised design fails to address the concerns regarding overdevelopment and excessive massing. He considers that overlooking of the rear garden of the property to the south would occur, but not at any other properties, that the external amenity space is insufficient in quality, being located at the rear north

side, and that the parking provision is insufficient and that the lack of scope for additional parking in accordance with CDP standards, in the site is indicative of overdevelopment. The planning officer therefore recommended that it be decided to refuse permission.

- 3.2.2. **The Environmental Scientist's report** notes the specification for the proposed treatment system and percolation area which is stated to be satisfactory but it is pointed out that the percolation area, may be deficient in size, the existing percolation area being in third party property.
- 3.2.3. **The Environmental Engineer's report** indicates the proposed treatment system and enlarged percolation area would be an improvement on existing arrangements. It would accept the relatively insignificant increased loading and would result in reduced potential for contamination of water sources for the bored wells. According to the report some leeway can be made with regard to insufficient separation distance between the distribution system and the boundaries as there is an existing development but that some clarification regarding the drip pipes location is required.
- 3.2.4. **The Fire and Building Control report** indicates concerns as to a means of escape over a number of issues and as to deficiencies with access for fire tenders and related facilities.

3.3. **Third Party Observations**

Observations were received from four parties who are occupant of residential properties in the immediate vicinity of the site. They have also submitted observer submissions in connection with the appeal. Their concerns are outlined in Section 6.4 below.

4.0 **Planning History**

Permission for the original house was granted in 1966 under P. A. Reg. Ref. P8/798

Permission for its use as nursing home was granted in 1974 under P. A. Reg. Ref. P8/5877.

Permission for retention of alterations and addition was granted under P. A. Reg. Ref. P8/23941 in 1987.

Permission was granted for extensions and alterations P8/26795 in 1989.

Permission for extensions and alterations was refused under P. A. Reg. Ref. 02/1897.

Permission for extensions and alterations was granted in 2003 under P. A. Reg. Ref. 03/642

Permission was granted for retention of a ground floor extension and conservatory was granted in 2010 under P. A. Reg. Ref. 06/416

Permission was granted in 2010 for enlargement of three rooms under P. A. Reg. Ref.10/487

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Clare County Development Plan, 2017-2023 according to which the site is in the settlement area for Cratloe which is designated as a small village in the settlement hierarchy and is subject to the zoning objective: "Community".

Under section 4.10, it is the policy of the planning authority to support nursing homes and day care facilities on in towns and villages and on brownfield sites, subject to the satisfaction of normal suitability criteria.

Carparking, 1 space per patient bed + 1 per doctor/consultant + 1 per 3 nursing and ancillary staff.

Cycle parking: 1 space per 8 employees 5 spaces per 100 beds

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Linford Building Surveys Ltd., on behalf of the applicant on 28th July, 2020. Attached is a copy of HSE published *Covid 19 Guidance on Visitations to Residential Care Facilities*. June, 2020, a time and motion

study, a cross section, 'line of sight' drawing and a site layout plan (including parking layout). According to the appeal:

- The nursing home is compatible with the local residential development and is sustainable and the current proposal is a significant improvement in design relative to the acceptable designs in the prior grants of permission.
- The facility, in order to comply with HIQA requirements has had to operate with fewer bedrooms, (22 with 32 beds) since 2010, having initially had a forty-bed capacity in 2002. A minimum of forty bedspaces is required for a nursing home facility to be financially viable and sustainable and is the minimum required when raising finance with by banks. The proposal greatly enhances the quality of the indoor facilities and quality of life. There will be an increasing need for nursing home facilities in the future.
- The only option for expansion was to build over the existing resulting in the north, east and west elevation being two storey and the south elevation three storey. Building out would have interfered with the circulation space the site.
- Current and forthcoming HIQA guidance will mean the remodelling and extending nursing homes will be needed. The applicant is aware of this and therefore the extension is required. It is contended that the planning authority did not objectively consider the effort by the applicant to achieve standards and ensure that their nursing home is a viable and sustainable facility.
- Seventeen parking spaces were accepted, for thirty-two bed spaces in the development permitted under P. A. Reg. Ref. 10/487. This cannot be revisited with regard to this grant of permission and the current CDP. The addition of eight bedspaces and eight car spaces increasing to a total of twenty-five is adequate. This provision is supported by the findings in the applicant's time and motion study. Historically there has never been a need for off-site parking and the new guidelines for visitation restrictions due to the Covid-19 spread which will be in place for some time will reduce demand for parking. Furthermore, some staff cycle instead of driving to work.
- It is clear, (in the submitted cross section drawing) that there would be no views over the rear garden of the property to the south from the additional floor. A garage screens the rear of the property to the south. The distance

from the two houses are twenty-eight and thirty-six metres according to the planning officer report.

- The building design is such that it will not be prominent in the landscape due to the existing topography and does not break the skyline or come into view from roadways. The topography screens the views from the public road. Along Gallows Hill the nursing home is not visible.
- There is no noise and disturbance that would affect residential amenities.
- The existing nursing home which has been in operation since 1974 has never caused injury to residential amenities or property devaluation and it is unproven. The facility has been deemed to be in character with the pattern of development in the vicinity so it cannot now be deemed out of character with the existing residential development in the locality.
- The new secure outside area at the rear is quiet and secluded. Relocating the area to the front as suggested by the planning officer would not be compatible with safety and calmness due to traffic and parking.

6.2. Planning Authority Response

6.2.1. A submission was received from the planning authority on 11th August, 2020 according to which the planning authority gave due consideration to the proposed development. The contents of the submission are outlined in brief below.

- It is acknowledged that there is a need for additional facilities and that changes to existing facilities are required to provide for compliance with HIQA standards.
- The building was originally a single dwelling and therefore not designed as a purpose-built nursing home as is evident in the prior history of extensions and alterations. The site is too restricted to accommodate unhindered expansion.
- The design, especially the south facing elevation is disproportionate to the site, excessive and incompatible with the surrounding area.
- There is a lack of space for carparking provision at CDP standards and for a Fire Tender.

- The area for the waste-water treatment system is restricted. It is noted that there are bored wells in the area.
- The applicant does not appear to have made a serious attempt to reduce the scale of the development at application stage. The further information response indicates a reduction in floor area to 1,462.50 square metres from 1497.26 square metres.
- The proposed development would overlook the rear private open space of the dwelling to the south of the application site.

Overall, the planning authority considers the limitations to the site configuration and size, the layout of the existing buildings, the location for the wastewater treatment facilities, the lack parking facilities and the surrounding residential development renders the proposed development unsuitable.

6.3. Observations

- 6.3.1. Submissions were received from the four parties listed below and they occupy adjoining residential properties. They support the decision to refuse permission.

Jarleth O’Looney,
 Angus O’Looney,
 Paul O’Looney,
 James McEniry.

- 6.3.2. According to the submissions:

- The proposed development amounts to overdevelopment for the site prioritising intensification and commercial interest over design and environmental considerations.
- The scale and height would be excessive in size and out of character with the surrounding area. The previous expansion of the nursing home to a thirty-two capacity is a considerable intensification. The site was suitable for one dwelling. The original dwelling was a bungalow with a low pitch roof and a carport.

- The additional floor would cause interference with privacy of the private road and the and residential amenities of the properties accessed off it. Mr. Mc Eney's property is on the north side of the private road and Mr. Jarleth O'Looney's is on the south side of the road adjoins the west side boundary of the application site.
- Foul sewage treatment and storm water disposal would be deficient. The upgrading proposed would have limited effect.
- The potable water supply at each sourced through bored wells at the surrounding properties could be at risk of pollution.
- On site carparking would be deficient. The existing twenty-four spaces are not sufficient for a forty-two-bed nursing home.
- Emergency services access may be compromised by the changes to the entrance arrangements.

7.0 Assessment

7.1. The issues central to the determination of the decision are that of:

- Development in principle. (zoning)
- Scale mass and height.
- Impact on residential amenities of surrounding properties
- On-site parking provision.
- Drainage arrangements.
- Environmental Impact Assessment Screening
- Appropriate Assessment Screening.

7.2. Development in principle. (zoning)

7.2.1. Although the site location is within an established residential area comprising single dwelling development on individual plots within the settlement boundary it has the benefit of a "Community" zoning objective according to the CDP and as provided for under Section 4.10 the planning authority supports nursing home development in

town and villages. The nursing home use, which has been in operation on the site since the mid-seventies following conversion of the original dwelling, is in principle therefore consistent with the CDP's policies and objectives.

- 7.2.2. The comments in the appeal as to growing demand for nursing home facilities and, changing requirements issued by HIQA as specified in guidelines and standards for nursing home accommodation and facilities are acknowledged and appreciated. However, the proposed development is assessed on the basis of its planning merits and the interests of proper planning and sustainable development.

7.3. **Scale mass and height.**

- 7.3.1. The nursing home has already been extended considerably whereas there are significant constraints to the scope for further development on the site by virtue of the size and configuration, and the relatively steep fall in levels from north south. Furthermore, the surrounding area is characterised by low profile, low density residential development along the minor road on the slope of the hill and the private access road off it adjacent to the northern, rear site boundary.
- 7.3.2. It is agreed with the planning officer that, by reason of the proposed combination of additional massing, scale and height to the existing structure, which itself is significantly larger and more dominant than the surrounding dwellings, the proposed development would be particularly conspicuous and incompatible with the established landscape character in the views on approach from the public road to the south and from the estuary. As such the building would be excessive and, seriously injurious to the visual amenities and character of the area notwithstanding the containment within the existing footprint as indicated in the revisions provided in the additional information submission. However, it is agreed that the skyline would not be breached.

7.4. **Impact on residential amenities of surrounding properties.**

- 7.4.1. It is agreed with the planning authority that one property only, (House C) the property to the south, (to which the separation distance to the dwelling is circa thirty metres), could be relatively marginally be affected by potential for overlooking, towards the rear private open space. However, given the scale, mass and height and the intensity of development, it is considered that potential perceptions of overlooking and intrusiveness on privacy could be increased as a result of the

additional development. It is considered that the other surrounding properties would not be overlooked.

7.4.2. The building's visibility from the access road along the northern boundary would be increased but not excessively owing to the lower ground level. Undue overlooking of the private properties accessed off this access road would not occur, but it is accepted that perceptions of intrusiveness could arise owing to the increased size and intensity of use of the nursing home. Noise associated with the development would be mainly attributable to vehicular traffic particularly services and deliveries but the nature of use is compatible with residential development with any variation or increase associated with the increased room capacity and intensity of development being relatively insignificant.

7.4.3. **On-site Parking Provision.**

7.4.4. The applicant has made a strong case in the appeal and accompanying 'time and motion study' as to the adequacy of on-site parking provision, a total of twenty four spaces, (existing and proposed) for the forty two bed facility being proposed. However, there is a significant shortfall in parking provision having regard to standards available in Appendix A of the CDP, (1 space per patient bed + 1 per doctor/consultant + 1 per 3 nursing and ancillary staff) which would be exacerbated with the additional development in place resulting in a shortfall of circa fifty percent.

7.4.5. A degree of flexibility with regard to under provision may be reasonable but a major fifty per cent shortfall is unacceptable and indicative of overdevelopment. It is considered that this deficiency give rise to a likelihood of unauthorised or disorderly parking within the site curtilage and / or overspill parking outside of the site within the immediate vicinity. This scenario would in turn give rise to concern a to potential obstruction and hazard affecting convenience and safety of vehicular movements, especially access for emergency services vehicles and risk to the safety of pedestrians and cyclist traffic within the site curtilage and externally, in the vicinity of the site.

7.4.6. There appears to be no provision for cycle parking facilities at the existing/proposed development according to the submissions on file.

7.5. Drainage.

- 7.5.1. There is an improvement to the existing substandard arrangements for foul drainage, treatment and disposal by virtue of the proposed upgrade, leading to reduced potential for contamination of borehole water sources and to favourable consideration by the environmental scientist in spite of deficiencies in the size of the area available for the proposed treatment, discharge and disposal. It is considered that these deficiencies are illustrative of overdevelopment due to limitations in the capacity of the site. There is no objection to the proposed arrangements for surface water drainage incorporating the storage and ACO drain as proposed, subject to standard conditions, should permission be granted.

7.6. Environmental Impact Assessment Screening.

Having regard to the nature of the existing and proposed development and its location, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.7. Appropriate Assessment Screening.

- 7.8. The nearest European sites are the Lower River Shannon SAC and the Lower River Shannon and River Fergus Estuaries SPA which are circa 2.5 kilometres from the application site which is that of an established nursing home.
- 7.8.1. Having regard to the scale and nature of the proposed development of an extension in conjunction with existing development and to the location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld based on the following reasons and considerations:

9.0 Reasons and Considerations

Having regard to the hillside location and surrounding low density and low profile residential development in the area; to the limited size and configuration of the site and, it is considered that the proposed development of an additional extension to the scale, height and massing of the existing building, part of which would be increased to three storeys would constitute substandard overdevelopment which would be visually conspicuous and excessive in views from the public realm to the south and out of character with the established pattern and character of development; would be seriously deficient in on-site parking provision leading to disorderly parking and overspill into the road network in the immediate vicinity where there are no footpaths and, potential obstruction of other road users including services vehicles, pedestrians and cyclists. As a result the proposed development would seriously injure the visual amenities and established character of the area and the residential amenities of adjoining properties, would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
22nd October, 2020.