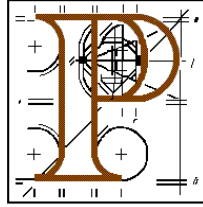


# An Bord Pleanála



## Inspector's Report

PL.09.245510.

**DEVELOPMENT:-**

Use of bungalow as a community based dwelling and retention of minor changes to part of the front façade at the Bungalow, Walshestown, Athgarvan, Co. Kildare.

**PLANNING APPLICATION**

**Planning Authority:** Kildare County Council  
**Planning Authority Reg. No:** 14/1114.  
**Applicant:** Nua Healthcare Services.  
**Application Type:** Permission.  
**Planning Authority Decision:** Refusal of permission.

**APPEAL**

**Appellant:** Nua Healthcare Services.  
**Type of Appeal:** First Party.  
**Observers:** Paddy and Ann Hensey.

**DATE OF SITE INSPECTION:** 23<sup>rd</sup> November 2015.

**Inspector:** Derek Daly

## **1.0 SITE LOCATION AND DESCRIPTION.**

The site is located in the village of Athgarvan 3 kilometres to the south of the town of Newbridge in County Kildare. The site fronts onto a public road which runs eastwards off the R416 the main road running through the village. The public road defines the site's southern boundary and there is a mature hedgerow located along the roadside boundary. The public road has no footpath on either side of the carriageway. The road continues eastwards towards the Punchestown area and the south of Naas.

To the west is vacant land and to the east is a detached dwelling and to the north is a dwelling which is part of a residential estate of detached dwellings accessed further east off the public road.

On the appeal site is a detached dwelling part single storied and part single storied with roof accommodation with a split in ground level. There is a detached garage located to the east of the dwelling. The site is served by a splayed entrance with two piers at the roadside and two further piers at the inner edge of the splay.

The site has a stated area of 0.19 hectares.

## **2.0 PROPOSED DEVELOPMENT.**

The proposed development as initially submitted to the planning authority on the 23<sup>rd</sup> of December 2014 was for the retention an eight bedroomed dormer bungalow as a community based dwelling for six people with intellectual disability. The development provides for accommodating two staff on a residential basis. The ground floor has a stated floor area of 266.2m<sup>2</sup> and a first floor of 120.3m<sup>2</sup>. The application also provided for the retention of changes to the front façade which relate to two windows and the provision of a patio door instead of a window at ground floor level and for the retention of the dormer windows as constructed and located at first floor level.

Further information was submitted on the 31<sup>st</sup> of July 2015. The information referred to;

- In relation to impact on residential amenities the nature of the use is residential and the location is appropriate; that care is taken in relation to the safety of the residents of the unit; residents are transported by car to and from the site; noise levels are akin to a dwellinghouse; the site is regulated by HIQA standards and there is a willingness to liaise with the local community to give a greater understanding of the facility.
- In relation to overlooking no changes are proposed and there are no changes to the rear elevation. Existing screening will be retained. Separation distances are in accordance with plan standards.
- There is more than adequate private open space provided.
- A flood risk assessment was submitted indicating no risk.

- A revised entrance was submitted relocating the entrance to the west and setting it back to achieve sightlines in accordance with DMURS.
- An internal parking layout was submitted.
- The applicants do not own the site and therefore cannot provide land but are willing to contribute to the provision of a public footpath.
- Details relating to drainage.

### **3.0 PLANNING HISTORY.**

The site has a planning history.

P.A. Reg. No. 351/99.

Permission granted for a dwelling on the appeal site.

P.A. Reg. No. 00/1406.

Permission granted to an extension to side (west) and rear of the dwelling. A condition of the permission limited the use to that of a domestic dwelling.

There is also reference to ED0042 where a certificate of exemption was sought in relation use of the dwelling as a residence for medium to long term care. There is also an enforcement file UD6336.

### **4.0 PLANNING AUTHORITY REPORTS.**

The area office report dated the 16<sup>th</sup> of January 2015 indicates no objection and recommends conditions.

The transportation services report dated the 12<sup>th</sup> of February 2015 requests further information in relation to the entrance to the development and in relation to provision of sightlines and parking. Reference is also made to the provision of a footpath.

The planning report of the 24<sup>th</sup> of February 2015 refers to the objections/representations received from third parties; to the planning history; to the provisions of the development plan in particular the Athgarvan Small Town Plan. The use as a community based dwelling is considered to be open for consideration and there is reference to similarity of the use to a nursing home which is a permitted use. Further information was recommended on a range of matters relating impact on residential amenities, overlooking, private open space flood risk, entrance details and sightlines, parking, the provision of a footpath fronting the site and drainage details.

The transportation services report dated the 24<sup>th</sup> of August 2015 refers to the information submitted and that a recessed entrance should be provided that would allow vehicles to pull safely off the carriageway. This would affect the level of parking provided on the site and reduce the level of parking below an acceptable level. Refusal of permission was recommended as it is not appropriate to address the matter by condition.

The planning report of the 25<sup>th</sup> of August 2015 refers to the further information submitted; that most outstanding matters were addressed with the exception of the matters raised by the transportation report and refusal of permission was recommended.

## **5.0 PLANNING AUTHORITY'S DECISION.**

The Planning Authority decided to refuse permission. One reason was stated which relates to traffic hazard due to the substandard entrance provision and in particular the requirement to provide a gated entrance which would impede direct access to the site giving rise to traffic stopping on the public road.

## **6.0 APPEAL SUBMISSIONS.**

### **6.1 FIRST PARTY APPEAL.**

The appellant in the grounds of appeal states,

- The appellant indicates that the application was carefully considered by the planning authority.
- The development is consistent with the provisions of the development plan in relation to zoning and other provisions of the plan.
- In relation to the issue of traffic and parking the issue of sightline visibility is addressed.
- The issue appears to be the provision of the electronic gate and potential of vehicles waiting on the public road to gain access.
- The appellant is prepared to recess the gateway to address this and in doing so the parking internally is not compromised and an autotrack diagram is submitted to address this.
- The recess can be increased to ensure a length of 5 metres is achieved which would enable cars to be off the road while waiting for the gates to open and the further increase will not compromise the parking layout.
- The appellant is also prepared to remove the gate if required and a gate can be provided internally within the site.
- Drawings NRB-AP-001, NRB-AP-002, NRB-AP-3 and NRB-AP-004 indicating the amended gated location is submitted, compliance with sightline visibility and autotracking.

## **7.0 RESPONSES TO GROUNDS OF APPEAL.**

### **7.1 PLANNING AUTHORITY RESPONSE.**

The planning authority in a response dated 16<sup>th</sup> of October 2015 indicates that that they have no further comment in relation to the appeal.

## **8.0 OBSERVER SUBMISSION.**

Paddy and Ann Hensey in a submission dated the 13<sup>th</sup> of October 2015 indicate,

- The observers support the decision to refuse the development.
- The observers submitted a complaint of unauthorised development in relation to the use of the site.
- The site is unsuited for use as a care home and is unsafe for residents and the general public.
- The site does not have the depth, is located on a busy thoroughfare and hidden behind an overgrown hedgerow and the residents would not have contact with the community.
- There is only 7 metres from the road to the front of the house.
- Reference is made to the traffic volumes on the public road in particular morning peak flows.
- Issues of concern were not addressed.
- There is no reference to the use of ambulances which frequent the site and also other large vehicles.
- A dangerous situation will remain with traffic reversing onto the road.
- There is no autotrack of an ambulance or large vehicle.
- The road is busy and used as a rat run for local businesses.
- The issue of sightlines are not resolved and the position will remain inadequate.
- A gate is needed for the development given the nature of the facility.
- The amendments to the façade are not minor.
- The observers have submitted additional information and photographs in relation to complaints made in relation to the authorised use of the site, issues in relation to parking and there is reference to the submissions made to the planning authority in advance of the planning authority's decision.

## **9.0 POLICY.**

### **9.1 Kildare County Development Plan.**

9.1.1 The relevant plan is the Kildare County Development Plan 2011-2017 with specific reference to variation no. 1 incorporating small town plans. The small town plan relating to the site is the Athgarvan Small Town Plan effective June 2012.

In the county development plan chapter 11 of the plan relates to Social Community. Section 11.5.2 refers to People with Disabilities and that "Specific planning and design polices will be implemented including the provision of:

- Dwellings located close to community services and public transport;
- Housing units designed to accommodate a live-in carer if required;
- Accommodation for those with disabilities within mixed residential developments;

Chapter 19 relates to Development Management which outlines standards in relation to parking and road safety standards.

Table 19.9 relates to car parking standards and in relation nursing homes the requirement is 1 car space per 2 bedrooms.

Specifically in relation to the Athgarvan Small Town plan section 5.4 relates to Zoning Requirements. The site is located within an area zoned B Existing Residential (map 5.1) with the objective to protect and improve existing residential amenities, to provide for appropriate infill residential development and to provide for new and improved ancillary services.

There is a specific objective AT 20 to provide new footpaths at the various locations including from Athgarvan Crossroads to Rosemount Court which includes the road side frontage of the appeal site.

The lands to the west of the site are zoned town centre.

Table 8.2 is a land use zoning matrix table and community/recreational/sports buildings are open for consideration within zone B and nursing homes are a permitted use.

## **10.0 ASSESSMENT.**

10.1 The development as initially submitted to the planning authority on the 23<sup>rd</sup> of December 2014 was for the retention an eight bedroomed dormer bungalow as a community based dwelling for six people with intellectual disability. The development also provides for accommodating two staff on a residential basis. The application also provided for the retention of changes to the front façade which relate to two windows and the provision of a patio door instead of a window at ground floor level and for the retention of the dormer windows as constructed and located at first floor level.

Further information was submitted on the 31<sup>st</sup> of July 2015. The information referred to the appropriateness of the nature of the use to the location and zoning; a flood risk assessment was submitted indicating no risk; a revised entrance relocating the entrance to the west and setting it back to achieve sightlines in accordance with DMURS and also internal parking layout was submitted. In relation to provision of a footpath fronting the site it was indicated that the applicants do not own the site and therefore cannot provide land but are willing to contribute to the provision of a public footpath.

10.2 In relation to the appeal the issues relate to policy issues and matters relating specifically to the site and in particular the stated reason for refusal.

10.3 Policy/town plan.

The site is located within zoning B Existing Residential on map 5.1 of the Athgarvan Small Town plan with the objective to protect and improve existing residential amenities, to provide for appropriate infill residential development and to provide for new and improved ancillary services. Table 8.2 of the plan is a land use zoning matrix table and although the use applied for is not specifically referred to community/recreational/sports buildings are open for consideration within zone B and nursing homes are a permitted use which are the nearest related use.

I note that the observers in their submission refer to their contention that the site is unsuited for use as a care home and unsafe for residents and the general public. There is also reference to the site not having sufficient depth; is located on a busy thoroughfare and is hidden behind an overgrown hedgerow and the residents would not have contact with the community. There are also concerns to the traffic volumes on the public road in particular morning peak flows and this also renders the site as unsuitable for the use applied for.

I would also refer to chapter 11 of the current county development plan which refers to Social Community. Section 11.5.2 of the plan in particular refers to people with disabilities and that specific planning and design policies will be implemented including the provision that dwellings be located close to community services and public transport; that housing units are designed to accommodate a live-in carer if required and that accommodation for those with disabilities be within mixed residential developments.

In many respects the appeal site given the nature of the development, which is a residential based care facility; the zoning of the site; the proximity to the centre of the village and being a detached property with open space is appropriate to the use applied for in principle I would have no objection the development. The development utilises a dwelling which was granted planning permission, has screening and mature boundaries and would not present issues of overlooking in any different to the original permitted use.

#### 10.4 Site specific matters.

##### 10.4.1 Traffic.

The development was refused for one reason which relates to traffic hazard to the substandard entrance provision and in particular the requirement to provide a gated entrance which would impede direct access to the site giving rise to traffic stopping on the public road.

In the grounds of appeal the appellant considers that in relation to the issue of traffic and parking the issue of sightline visibility is addressed. The issue raised in the refusal appears to be the provision of the electronic gate and potential of vehicles waiting on the public road to gain access. In this regard the appellant is prepared to recess the gateway to address this and in doing

so the parking internally is not compromised. An autotrack diagram is submitted to address this.

It is also indicated to address concerns the recess can be increased to ensure a length of 5 metres is achieved which would enable cars to be off the road while waiting for the gates to open and the further increase will not compromise the parking layout. Drawings NRB-AP-001, NRB-AP-002, NRB-AP-003 and NRB-AP-003 indicating the amended gated location was submitted and indicating compliance with sightline visibility and autotracking.

The observer in commenting on the grounds of appeal refers to the issue of ambulances and other large vehicles having difficulty at present entering the site due to restricted internal space.

10.4.2 In its current position the existing entrance and access arrangements are unsatisfactory with substandard sightline visibility. Vehicles exiting the site have to enter onto the surface of the road carriageway to obtain adequate sightline visibility which is a traffic hazard and an obstruction to traffic flow and road users. There would also be difficulties if the gate into the site is closed in relation to traffic movement on the road given the current depth from the gate to the edge of the carriageway.

The appellant has submitted revised access arrangements to address current deficiencies. In the revised entrance details submitted to the planning authority on the 31<sup>st</sup> of July 2015 the existing roadside boundary is removed with a wall set back 2m from the edge of the road carriageway. This set back is to facilitate a specific objective AT 20 in the Athgarvan plan to provide new footpaths at the various locations including from Athgarvan Crossroads to Rosemount Court which includes the road side frontage of the appeal site. In addition there is provision for a relocated sliding gate approximately 3 metres from the edge of the road with provision for increased sightline visibility.

The transportation services report of the local authority dated the 24<sup>th</sup> of August 2015 in considering this information considered that a recessed entrance should be provided that would allow vehicles to pull safely off the carriageway. It did however consider that such a provision would affect the level of parking provided on the site and reduce the level of parking below an acceptable level and a refusal of permission was recommended as it is not appropriate to address the matter by condition. I would agree with the general outline of this report that the details provided by way of further information were unsatisfactory and did not address the issue of problems being stationary on the carriageway and that the access required to be recessed further to enable a vehicle entering the site to be off the road carriageway.

In the information and details submitted with the grounds of appeal the appellant has submitted further revised details and drawings NRB-AP-001, NRB-AP-002, NRB-AP-003 and NRB-AP-004 indicating an amendment to the gated location with a recess back to 5 metres for the gate, indicating



compliance with sightline visibility of 45m in both directions set back 2.5m from the edge of the road carriageway and autotracking in relation to a car and a minibus.

In relation to the revised proposals the removal of the boundary and the recess of the boundary will facilitate the improvement of sightline visibility both in relation to exiting the site but also in relation to giving increased awareness to vehicles approaching the site. The recess of the entrance gate with the provision of a splayed access will facilitate access to the site and address issues of vehicles being stationary on the carriageway while accessing the site. The autotracking details do give an indication of the relative tight nature of the front area of the site but on my site inspection 6 vehicles were parked in the area without causing a problem and although a further 2 metres depth will be lost if the front boundary is recessed there is sufficient area to park cars on the site.

In relation to larger vehicles and or ambulances attending the site the drawings both at further information stage and in the drawings submitted with the appeal refer to a set down area which could be used as visitor parking if required as the minibus no longer visits the facility. The retention of this set down area would be desirable in the event of an emergency vehicle requiring to attend at the site and should be retained for this purpose. If a vehicle is in the area there is adequate space for a vehicle to vacate this area to accommodate an emergency vehicle

Having considered the matter I consider that the revised details submitted with the grounds of appeal are satisfactory.

10.4.3 In relation to other matters the proposal also provides for the retention of changes to the front façade which relate to two windows and the provision of a patio door instead of a window at ground floor level and for the retention of the dormer windows as constructed and located at first floor level. I would have no objections to these changes.

The site is within a flood risk area and a report was submitted in relation to the matter. This is not a green field site and has buildings and surface areas and no significant alterations are proposed in this regard. A report on flood risk was submitted concluding that no further mitigation measures are required and I would agree with this assessment.

No issues arise in relation other matters.

## **11.0 CONCLUSION AND RECOMMENDATION.**

Having considered the issues arising I would therefore recommend that permission be granted for the reasons and considerations set out hereunder:

## **REASONS AND CONSIDERATIONS.**

Having regard to the existing pattern of development on the site and the nature of existing and permitted development on the site it is considered that the proposed development subject to compliance with the conditions set out would not adversely impact on the amenities of the area, would not give rise to a traffic hazard or seriously injure the amenities or depreciate the value of properties in the vicinity of the site and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS.**

1. The development shall be carried out in accordance with the plans and particulars lodged with the application and received by the planning authority on the 23<sup>rd</sup> of December 2014 and as subsequently revised and amended on the 31<sup>st</sup> of July 2015 and in details submitted to An Bord Pleanála on the 19<sup>th</sup> of September 2015 except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. This grant of planning permission shall be for the retention of development as specified in the public notices.

**Reason:** In the interests of clarity.

3. Vehicular access/egress to the site shall be carried out in accordance with the details submitted to An Bord Pleanála on the 19<sup>th</sup> of September 2015. Within two months of the date of this order the applicant shall agree with the planning authority details relating to finishes of the boundary wall and access and also a timescale for the implementation of the details outlined in drawings NRB-AP-001, NRB-AP-002, NRB-AP-003 and NRB-AP-004 submitted to An Bord Pleanála on the 19<sup>th</sup> of September 2015. The set down area indicated on the drawings shall be reserved for that purpose. The 2 metre strip reserved for a future footpath shall be reserved free of any development and obstruction.

**Reason:** In the interest of traffic and pedestrian safety.

4. The site shall be landscaped in accordance with an overall scheme of landscaping, details of which shall be submitted to the planning authority for written agreement, and such agreement obtained within two months of the date of this order. The scheme shall also include a timescale for its implementation.

**Reason:** In the interest of visual amenity.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act, 2000. The contribution shall be paid prior to the commencement of development or in such phased payments the planning authority may facilitate. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the Scheme.

**Reason:** It is a requirement 48 of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Derek Daly**

**Senior Planning Inspector.**

**25<sup>th</sup> November 2015.**