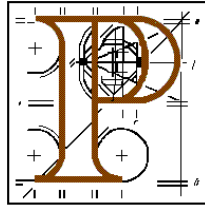


An Bord Pleanála



Inspector's Report

Reference: PL06S.246197

P.A. Reference: SD15A/0171

Title: Nursing home, 25 parking spaces, 20 bicycle parking spaces, new entrance, etc.

Location: Commons Little, Aylmer Road, Newcastle, County Dublin.

Applicant: Mick Bennett

Appellants: Mick Bennett

Observers: None

PA: South Dublin County Council

Type of Appeal: First party against refusal

Decision: Permission refused

Date of Site Visit: 18th May 2016

Inspector: Philip Davis

1. Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for a nursing home on the outskirts of the small town of Newcastle, County Dublin. The two reasons for refusal relate to zoning and policy issues. I note that a new Development Plan was adopted on the 12th June 2016, after the date of submission of the appeal. The zoning designation has changed under this new Plan.

2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

Commons Little, Aylmer Road, Newcastle

The appeal site is located in the townland of Commons Little, just south of the Aylmer Road, in Newcastle, County Dublin. Newcastle (sometimes referred to as Newcastle-Lyons), located in west county Dublin close to the Kildare border, is a formerly one-street village with a medieval origin which has been expanded in recent years by incremental suburban developments. The wider Electoral District has a population of just under 4,000. Commons Little townland is just east of the Main Street of Newcastle. The R120 runs directly through the village, and then runs south-east before joining the M7 at Rathcoole. Aylmer Road is a primarily residential road (traffic calmed) which runs east-north-east from a point about 500 metres from the town centre. For about 700 metres of its length, Aylmer Road is almost continuously lined by medium sized terraced and detached houses. After this stretch of houses, there is a short countryside gap before the road forms the northern boundary of the Greenogue/Aerodrome Business Park and after that, runs past the western side of Baldonnel (Casement) Aerodrome. North of Aylmer Road are agricultural lands and a GAA sports ground, while it is mostly open countryside to the south. The appeal site is a large field south of Aylmer Road, with an access 500 metres east of its junction with the R120.

The site and environs

The appeal site is a large open field south of Aylmer Road with a narrow access to that road in a gap between two houses. The site area is given as 6.15 hectares. The field is uncultivated and ungrazed grasslands, with parts transitioning to scrub. It is bounded on the west, east and south sides by ditches and high hedges. There is a small watercourse running along part of the southern and eastern boundaries. The land is largely flat, but drops slightly in level to the east and south-east. On the northern part of the land, near the entrance and behind some houses, there is an informal compound with what appears to be an inhabited mobile home (this mobile home is not shown on any plans on file). To the south, west and east of the site are

open fields, while to the north it is bounded by a line of 20 dwellings facing Aylmer, with block walls or similar forming the boundary. Two of these dwellings are within the land ownership. A combined foul and stormwater sewer serving the village of Newcastle runs across the site, with at least one manhole visible.

3. Proposal

The proposed development is described on the site notice as follows:

Detached 2-storey nursing home comprising 36 no. ensuite bedrooms at ground floor and 58 no. ensuite bedrooms at first floor. Other rooms/ areas include: reception, staff, WC's, living areas / day rooms, dining areas, landscaped courtyard, kitchen, administrative/office areas, visitor WC's, laundry, sluice, sunroom, nurses stations, stores, treatment, oratory and smoking area. 20 no. bicycle parking spaces and 25 no. car parking spaces. New entrance and access road, footpaths, lighting and all associate site development and landscaping works. Total floor area is 4418m².

4. Technical Reports and other planning file correspondence

Planning application

The planning application, with supporting documentation, was submitted to the planning authority on the 23rd June 2015. An AA Screening Assessment submitted with the application concluded that there was no requirement for an NIS. Following a further information request, additional information including revised drawings were submitted on the 23rd December 2015 (these were not re-advertised).

Internal and External reports and correspondence.

Environmental Health: The proposal is considered acceptable subject to the clarification of a number of matters and suggested conditions. Following the submission of further information, a number of conditions were recommended.

Environment, Water & Climate Change: It is considered acceptable subject to a number of conditions on waste storage and collection.

Environmental Services: Recommends the use of a C&D project waste management plan.

Water Services: No objection subject to conditions relating to flood risk and drainage works.

Roads Department: No objection subject to a number of conditions.

Parks & Landscape Services/Public Realm: Concerns expressed at a number of points, and additional information is requested. Following the submission of further information, it is stated that there were no objections subject to conditions relating to the protection of hedgerows and the agreement of landscaping plans.

Department of Defence: No objection, but it is noted that it is 500 metres to the south west of Casement Aerodrome, a 24 hour military facility.

Heritage Officer: No correspondence on file, but the planners report indicated that concerns were expressed about the lack of a bat survey.

South Dublin CC Planners Report: The first planning report noted that the site is zoned GB, ('Green Belt') but with a specific local objective for a nursing home. It notes a previous refusal (2008) for a nursing home on the lands, and a nearby permission (granted on appeal PL06S.243745) for a retirement village. It was considered that the design is too high to be consistent with the GB zoning. A redesign and additional information was requested (7th August 2015). Following the submission of further information and revised plans, it was considered that some issues were addressed satisfactorily, but on balance the proposed development was considered unacceptable. A refusal was recommended.

5. Decision

The planning authority decided to refuse permission, for two reasons that I would summarise as follows:

1. It is considered contrary to the GB zoning designation due to the height, massing and design of the proposed nursing home.
2. It is considered that it would set an undesirable precedent for similar developments in 'GB' zoned areas.

6. Planning Context

Planning permissions – appeal site

In 2008 the planning authority refused permission for an 81 bed nursing home on the site for the reason that it contravened the Green Belt zoning (**SD008A/0835**).

I note that there is a mobile home on the site and there is no record on file of this having the benefit of planning permission.

Planning permissions – adjoining areas

On a site to the south of Newcastle, about 750 metres from the appeal site, the Board, in January 2015, decided on appeal to overturn the decision of the planning authority (**SD14A/0021**) to refuse permission for revisions to a permitted hotel development comprising a retirement village, nursing home/care centre (**PL06S.243745**).

Development Plan

The planning application and the decision were made when the South Dublin County Council Development Plan 2010-2016 was the operative Development Plan for the area. On the 12th June 2016, the South Dublin County Council Development Plan 2016-2022 was adopted. The zoning designation and related policy for the site substantively changed in the new Plan.

Under the 2010-2016 Plan the site was in an area zoned as 'GB' Green Belt in the South Dublin County Council Development Plan 2010-2016. In such areas 'nursing homes' are 'open for consideration' (in existing premises only). Policies H20 and H21 applied to Nursing Homes. Specific Objective no. 47 is: *To provide for the development of a high quality nursing home facility at Commons Little, Aylmer Road, Newcastle.*

Under the 2016-2022 Plan the site is in an area zoned 'RU' as 'to protect and improve rural amenity and to provide for the development of agriculture'. In such areas nursing homes are 'not permitted' (Table 11.16, page 197 of the Plan). Policy H3 (objective 1) of the Plan (page 31) is 'to support housing that is designed for older people (including independent, semi-independent or nursing home accommodation) in residential and mixed use areas, at locations that are proximate to existing services and amenities including pedestrian paths, local shops, parks and public transport'. There is no special objective or any other direct reference to the site or to nursing homes in or around Newcastle.

The site is just outside the Department of Defence Inner Zone around Casement Aerodrome (IE8 objectives 5 and 6).

In the Newcastle 2012 Local Area Plan the site is **not** included within the town area (except for a small part of the site entrance). There is no mention of the site specifically, or of nursing home policy within this LAP.

Relevant extracts from the South Dublin County Council Development Plans 2010- 2016 and 2016-2022 and the Newcastle LAP are attached in the appendix to this report.

7. Grounds of Appeal

- It is noted that all approved nursing homes recently in the SDCC area (references and details supplied) are 2 storeys or more in height.
- It is argued in some detail that given the context and the nature of the proposed development, a set of 2 storey buildings would not be visually obtrusive and that reducing the building to a single storey would result in a very large footprint and a more expensive and energy inefficient building.
- It is argued that the 'design language' is appropriate for the use and national HIQA standards.
- With regard to the greenbelt zoning, the applicant is willing to enter into a S.47 agreement to sterilize other lands in his ownership.
- It is argued in some detail that the design of the proposed nursing home is appropriate and that in other respects (traffic, landscaping, amenity, etc.), it is in line with normal planning standards.

8. Planning Authority's Comments

The planning authority noted that it is an area where it may be subject to a supplementary development contribution for the Kildare Route Project. In a separate response it states that the reasoning behind the PA's decision was set out in the planners report forwarded to ABP.

9. Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following headings:

- **Principle of development**
- **Design, density and layout**
- **Residential amenity**
- **Flooding and drainage**
- **Parking and Traffic**
- **Appropriate Assessment and EIA**
- **Other issues**

Principle of Development

There are no specific national or regional policy guidelines for nursing homes, but standards are set out in the Health Information and Quality Authority document '*National Quality Standards for Residential Care Settings for Older People in Ireland*' 2009. I note that according to the HIQA website these will be superseded by the '*National Standards for Residential Care Settings for Older People in Ireland*' on the 1st July

2016. This document does not provide recommendations or advice on the locational aspects of nursing homes, but provides detailed recommendations on the internal design and layout of such facilities.

The site was zoned as 'Green Belt' in the 2010-2016 Development Plan, in which nursing homes are considered 'open to consideration', but only when applied to the conversion for an existing building. Confusingly, the site was also identified in the same development plan as part of a strategic objective to provide a 'high quality nursing home'. No explanation was been provided for this inconsistency. The site is mostly (with the exception of a small part of the entrance) outside the Newcastle village area as defined in the LAP. The current Development Plan (adapted on the 12th June 2016) zones the site as 'RU' (agriculture) - in such areas nursing homes are 'not permitted' and there are no exceptions set out which could apply to the current application.

Policy H21 in the 2010-2016 Plan stated that it is policy that accommodation for older people should be located in existing residential areas well served by infrastructure and relevant amenities. In the current plan, this is replaced by Policy H3 objective 1, which is similar but a little more specific, indicating that nursing homes should be proximate to existing services and amenities.

The application would have been considered 'open to consideration' under the previous development plan, but under the current adopted Plan is it unambiguously contrary to the zoning designation. Notwithstanding the zoning designation, under general policy on housing for older people (including nursing homes), such developments are only supported if they are '*proximate to existing services and amenities....*'

It is unclear as where to the intended clients of the nursing home may come from, but given the scale of the site relative to Newcastle, it must be assumed that it will draw residents from the wider west Dublin/east Kildare area rather than the immediate vicinity. Newcastle is not particularly well served by public transport – the 68 bus from Newcastle/Greenogue to Fleet Street is hourly during the day (it also links to the Luas and the no. 69 bus from Rathcoole), so most likely visits to the proposed nursing home would be by car. But in general, nursing homes are not considered major traffic generators, and the traffic tends to be spread through the day. Much depends on the particulars of future residents, but some may be mobile and have cars, but this is likely to be only a very small proportion. The nearest bus stop is on Main Street, approximately 800 metres from the entrance to the site.

There are few other facilities close to the site that could potentially be used by future residents. Newcastle does not have a particularly vibrant or diverse core, with the limited number of shops and cafes,

etc., spread through the urban area – as such it is typical more of a commuter settlement than a true village. The RC church at the town centre is almost exactly 1 km from the entrance to the site – realistically, too far for walking for any likely nursing home resident. There are no shops or cafes or pubs on Alymer Road or close by. Realistically therefore, all but the most able-bodied of residents would be dependent on being transported to any family members or shops/pubs in the area, and as such it is difficult to interpret the site as being fully consistent with the objectives of Policy H21 (2010-2016 Plan) or H3 Objective 1 (2016-2022 Plan). Notwithstanding this, I would note that the nature of Newcastle and its environs is that there really isn't much of a core area where you could say that residents would enjoy the proximity of amenities that would be of practical use. I would also note that for the families of people within Newcastle (or on the no. 69 bus route) and for employees from the village, it would be reasonably conveniently located.

The overall area is typical of a transitional urban area, with its haphazard mix of older village centres, suburban expansions, major commercial facilities, major roads, and of course the aerodrome. The planning authority has clearly attempted to provide buffers between the growing development areas, the original green belt area being one – it is seemingly primarily intended to provide a 'green buffer' between the residential areas and the business centre of Greenogue, although the current Plan simply identifies it as agricultural land, not specifically a 'green belt' (this zoning designation no longer exists in the Plan).

While I would consider that its appropriateness under general policy on housing for older people and nursing homes is ambiguous and open to argument, the proposed use is unambiguously contrary to the current zoning designation, which I consider to be reasonable having regard to the location outside the core village as defined in the LAP and the historic use of the lands for agriculture. Therefore, notwithstanding the change in Development Plan, I broadly concur with the planning authority in their primary reason for refusal.

Design, Density and layout

The planning authority refused permission on the basis of the design, the key element of which is the height, at 9 metres (2 storeys). The applicant was requested to reduce the height to 6 metres – but did not comply fully as, it is argued, this would result in a single storey building which for a variety of reasons would not be practicable.

The planning authority also had a number of other issues with the building, most notably based on the comments of the EHO with regard to internal layout – the revisions submitted at least partly addressed these.

The main quantitative standards set out by HIQA state that each bedroom should be a minimum of 12.5m² (2.7.11, 2016 Guidelines)

excluding en suite bathroom facilities. The rooms submitted are generally of 21m² (including en-suites), so are well within this standard. The other standards are more qualitative, relating to the comfort and dignity of residents.

The revised drawings are a significant improvement on the original application, but I would still find it a somewhat disappointing design as it seems to be pretty much a functional layout with little imagination used to create a more attractive environment for its residents. But the internal courtyard is likely to result in a decent environment for residents and it appears to be a safe layout which provides the necessary levels of amenity and dignity for residents.

Given that the site is not within clear sight of any public road or other public areas, I find the planning authority insistence on a 6 metre height to be somewhat arbitrary. A building on this scale (and it seems close to the minimum size needed to be viable) would have to be at least two storeys. I would argue that it may well be better to be higher, if in return there was a smaller footprint and so a greater area of land left for landscaping. The heights of the houses along Aylmer Road ensure that even without landscaping, the building would only be visible on an intermittent basis for anyone from a public area. From the R120, I would consider that landscaping would be the most appropriate way to ensure the 'green' aspect of the area is maintained. I therefore do not concur with the planning authority that the building need be 6 metres high or lower in order to conform with the zoning designation as it applied prior to June 2016. However, this is a moot point considering the zoning designation as currently applies.

Residential amenity

The proposed main building is some 150 metres from the rear of the nearest dwellings on Aylmer Road. As such I do not consider that there would be any significant issue with regard to loss of privacy or overshadowing to nearby residential properties.

Flooding and drainage

The site is bounded to the south and east by a small watercourse, a tributary of the Griffeen, part of the Liffey catchment. A part of the south-east of the site is within the 100 year flood zone area according to a provisional flood risk assessment by the OPW (figure 4.4 of the LAP). This is not referred to in the engineering services report submitted with the application (section 7 of the attached report), which simply states that there are no records of flooding on the site.

There is a major storm and foul sewer running across northern part of the site, which has presumably provided the main constraint on development, which is why it seems the proposed development is to the south of the site, not next to the houses. Foul sewerage is to be discharged to the combined sewer running through the site, while it is

proposed to discharge surface run-off to the nearest stream to the east, via attenuation tanks. Otherwise, the proposed development is to be designed in accordance with SUDS principles.

I would have concerns that the applicants and planning authority do not appear to have addressed the proximity of at least part of the development to a potential flood zone. However, the CFRAMS and other OPW records indicate no history of flooding of the site – the Liffey catchment study is ongoing and not due to be published until the end of this year. The available plans and the levels would indicate that it would only be one corner of the building that could potentially be within reach of a 100 year flood. So on balance I do not consider that this would be a reason for refusal.

Parking and Traffic

Nursing homes in general are not major traffic generators, and since staff shifts tend not to match 'normal' working hours they usually do not contribute significantly to daily traffic peaks. The proposed development has parking provision in line with development plan requirements, in addition to cycle parking. There is a single access to the site, on Aylmer Road, which seems to have sufficient sight lines on either side.

Appropriate Assessment and EIA

The appeal site is approximately 20 km from the relevant nearest EU designated sites, the SAC's and SPA's of Dublin Bay. An AA screening report was carried out by the planning authority (the Wicklow Mountains SPA is closer, but there is no pathway for impacts). The stream flowing around the boundary eventually discharges to the Liffey which discharges to the bay and the various intertidal areas, dune systems and offshore areas which are designated for protection, mostly with regard to seabirds and coastal habitats. Due to the nature of the proposal, which would not have any discernible impacts beyond the boundaries of the site (all sewerage and water run-off will discharge to the sewer or be part of controlled run-off via a SUDS drainage system), I consider it reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect any European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

Due to the relatively small scale of the proposed development and the absence of any sensitive environmental receptors in the immediate vicinity I do not consider that there would be a requirement for EIA having regard to the thresholds set out in the Fifth Schedule of the 2001 Regulations, as amended.

Other issues

The applicants have stated that they would accept a Section 47 agreement to ensure the rest of the site is undeveloped. While it would perhaps have been better had it been incorporated into a landscaped park for residents in order to protect the formerly Green Belt setting, it would provide some protection against further development within this zoned area. If the Board is minded to grant permission, I would recommend a condition repeating the S.47 agreement requirement.

It is not clear from the file information that all the design concerns outlined by the Environmental Health division of SDCC were addressed in the redesign. I would also note that HIQA will be formalising new guidelines (they are available online) in July of this year. I would note a number of relatively minor areas of concern I would have with the layout – in particular the proximity of the main elevator to the reception area/entrance which could make it difficult to prevent residents from wandering accidentally out of the building. I would therefore recommend a condition allowing a certain amount of leeway in altering the internal layout prior to construction in line with the updated guidelines.

There are no records of recorded ancient monuments on the site or the immediate vicinity, although there is one *fulacht fia* to the west, and it is about 800 metres from the centre of the medieval village. I would note that the site has quite an uneven surface which suggests that there may be some made ground, perhaps associated with nearby developments in the past. Given the proximity of some nearby archaeology, I would recommend an archaeological monitoring condition. The site is not within the setting or curtilage of any protected structures.

I would note that there was a mobile home on the site at the time of my site visit – from visual appearance it has been there for several years. There is no record of any planning permission for such a use. I would recommend a condition such that all unauthorised structures on the lands be removed prior to any works proceeding.

I note that concerns were expressed by the council Heritage Officer about the absence of a bat survey. The presence of a waterway and semi-mature trees would seem to make the area a possible foraging habitat for bats. However, as the proposed development does not involve the removal of any mature trees or other structures that may act as roosts for bats, and will not involve the removal of hedgerows, I do not consider that a bat survey is necessary.

The proposed development would be subject to a S.48 Development Contribution. There is a requirement for developments in the general area for a supplementary development contribution for the Iarnród Éireann Kildare Route Project, but the map showing precise areas requiring a contribution is not on the SDCC website, nor does it appear

to have been sent to the Board as a paper copy. But as the Scheme indicates that it only applies to property within 1 km of the rail line, and the appeal site is some 4 km distant, then it is not likely to apply.

10. Conclusions and Recommendations

I conclude that the proposed development is in contravention of the 'RU' zoning designation of the lands as indicated in the South Dublin County Council Development Plan 2016-2022, adopted on the 12th June 2016. I conclude that this zoning designation is reasonable and consistent with national and regional policy and there are no extenuating circumstances which would justify a grant of permission.

I note the zoning designation has changed since the applicant submitted the appeal, so the Board may wish to consider providing an opportunity to the parties to the appeal to comment on the new zoning designation. However, as it is quite unambiguous that a nursing home on these lands is contrary to the current statutory Development Plan I do not consider that this is necessary.

I recommend therefore that for the reasons and considerations set out below planning permission be refused for the proposed nursing home.

REASONS AND CONSIDERATIONS

Having regard to the zoning of the site as 'RU', the objective of which is 'to protect and improve rural amenity and to provide for the development of agriculture' in the South Dublin County Development Plan 2016-2022, it is considered that the proposed development, which represents a use type which is listed as 'not permitted', would contravene materially the said zoning objective and would thus be contrary to the proper planning and sustainable development of the area.

Philip Davis,
Inspectorate.
4th July 2016