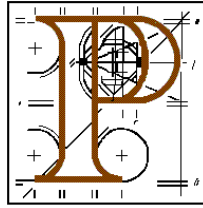


An Bord Pleanála



Inspector's Report

Reference: PL93.246351

P.A. Reference: 15/649

Title: Change of use from residential to a community based respite home for people with intellectual disabilities. Permission to construct a single storey extension east and west of building along with internal alterations.

Location: 37 Summerville Avenue, Waterford City

Applicant: Waterford Intellectual Disability Association

Appellants: Paul Smith and others

Observers: None

PA: Waterford City and County Council

Type of Appeal: Third party against grant

Decision: Granted with conditions

Date of Site Visit: 7th July 2016

Inspector: Philip Davis

1. Introduction

This appeal is by local residents against the decision of the planning authority to grant permission for the change of use of a single storey dwelling in an inner suburb of Waterford City to a residential respite home for adults with intellectual disabilities – the conversion includes single storey extensions on each side. The grounds of appeal relate to amenity, overdevelopment and parking issues.

2. Site Description

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

Summerville Avenue, Waterford

Summerville Avenue is a mature inner suburban estate of mostly detached dwellings just south-east of the city centre of Waterford, on a hillside overlooking the city and the River Suir. The road is indicated as a minor local road on the 19th Century OS maps but seems to have developed largely in the early 20th Century with some of the houses having very fine aspects over the city. The road branches into cul-de-sacs, with one terminating at a local highpoint dominated by a water tower. Levels rise significantly to the south and south-east.

The site and environs

The appeal site is a nearly square site with an area given as 0.082 hectares, occupying a corner site between two branches of Summerville Avenue. It is occupied by a single storey bungalow (just over 100 m² gross floorspace), of a style typical of the 1920's or 30's. There is also one large araucaria (monkey puzzle) tree on the north-eastern corner and a number of semi-mature scots pines along one boundary. The bungalow is in good condition with many original features but appears to have been vacant for several years. The site rises significantly in level from the roads to the north and west to the rear of the site. There is no driveway – access is via steps on the north-western corner. The site bounds two large detached dwellings to the south and east. Across the road to the west is a very large modern dwelling, with a number of smaller bungalows across the road to the north.

3. Proposal

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

The change of use from residential to a community based respite home for people with intellectual disabilities, together with planning permission for the construction of new single

storey extensions to the east and western side of the existing building, along with internal alterations, elevational changes, a new vehicular entrance with provision of on-site car parking spaces and new accessible ramped approach, connection to existing services and all associated site works’.

4. Technical Reports and other planning file correspondence

Planning application

The planning application, with plans and specifications and a supporting letter, was submitted to the planning authority on the 13th November 2015. Following a further information request, revised plans on a smaller scale were submitted on the 2nd February 2016. These revised plans included two options for vehicular access arrangements.

Internal and external reports and correspondence.

A number of objections to the proposed development are on file.

Water Services Department: No objection subject to standard condition.

A Habitats Directive Screening Assessment is on file – this states that no significant adverse impacts are anticipated, so no NIS is required.

Waterford CC Planners Report (31st December 2015): The zoning designation for residential amenity is noted. Concerns are expressed at what is considered overdevelopment of the site and the apparent shortfall in parking spaces. A further information request was issued. Following the submission of revised plans which reduced the number of bedrooms from seven to five (one for staff), a second report (25th February 2016) stated that the plans were satisfactory and recommended permission subject to conditions.

5. Decision

The planning authority decided to grant permission subject to 10 no. standard conditions (no financial condition or bond). Condition 10 alters slightly the access and parking arrangements.

6. Planning Context

Planning permissions – appeal site

There is no relevant planning history on file.

Planning permissions – adjoining areas

There is no relevant planning history on file, although the appellant refers to a number of applications for similar developments, including **08/1474** in Ferrybank, Kilkenny and a refusal for 6 residential units on a site near Summerville Avenue (**03500/337**). The applicant noted the development density of the dwelling opposite (**07/500061**).

Development Plan

The area is zoned 'existing residential' in the Waterford City Development Plan 2013-2019. In such areas, policy is set out in Sections 12.1, 12.16 and Section 13.2 of the City Development Plan which is generally to permit infill developments and extensions subject to the protection of the amenities of adjoining properties and the overall character of the area. Relevant extracts from the City Development Plan are attached in the appendix to this report.

7. Grounds of Appeal

- The appellant has submitted detailed arguments to suggest that the stated requirement for 4 car parking spaces is a '*gross under estimation of the number... that will be required based on evidence at other similar homes*'. It is also questioned as to whether the area is suitable for mini-bus access.
- It is argued that the extensions to the side are too close to adjoining dwellings on either side, which will significantly reduce functional/active garden space to below development standards required, and will impact upon the residential amenities of adjoining properties.
- It is argued that it will have a significant impact of the scots pine trees on the eastern boundary of the site and it is stated that these trees are used by a protected species – the red squirrel.
- It is argued that there is a concern about the loss of privacy arising from potential loss of screening trees.
- It is argued that the proposed development was not assessed according to proper criteria for care homes.

8. Applicants response

- With regard to car parking, it is argued that the other facilities highlighted by the appellants are not comparable to the proposed development.
- With regard to overdevelopment, it is argued that the development level is appropriate having regard to the nature of the proposed use and the nature of the area – it is noted that it represents a less

dense development than the large dwelling on a similar site opposite.

- It is stated that while the adjoining trees are to be protected, it is noted that they have no specific designation for protection and that no evidence has been submitted that they are used regularly by red squirrels.
- It is denied there is any significant loss of amenity.
- It is argued that the use of the site is as a respite home, hence policy on Care Homes is not relevant. A list of relevant legislation and reports is attached.

A letter of support is attached from the Waterford Intellectual Disability Association.

9. Planning Authority's Comments

The planning authority state that with regard to the grounds of appeal they are satisfied the development as conditioned would be acceptable. It is noted and acknowledged that the proposed development would be substandard with regard to open space provision in a residential development, but they consider this acceptable having regard to the nature of the proposed use. It is not considered that the development would significantly impact upon the trees along the boundary or on neighbouring privacy. It is considered that the applicants are an experienced provider of disability services and should be afforded some discretion in identifying a suitable location for their development.

10. 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**
- **Standard of development**
- **Residential amenity and character of the area**
- **Parking and traffic**
- **Trees**
- **Appropriate Assessment and EIA**
- **Other issues**

Principle of Development

The proposed development is described as a 'respite home', with a capacity for five adults and helpers. The development plan does not recognise such a distinct 'use' and the planning authority considered that it was essentially a residential use and assessed it accordingly.

The appellants have argued that it should be assessed as a care home (there are no specific policies in the CDP for 'care' facilities except insofar as they apply to nursing homes for the elderly). While I accept that there are some features of a respite home which would share characteristics of other forms of health or community facility, I am satisfied having regard to the overall scale and nature of the proposed use that it is primarily 'residential' in nature and should be assessed as such.

The site is within a mature inner suburban area and is zoned for the protection of existing residential amenities. In such areas the policies set out in Chapter 12 of the City Development Plan focus on the protection of residential amenities and the character of the area.

I would conclude that the use of the house and its extension as a respite home would be in accordance with the zoning designation, subject to development standards and the protection of residential amenities and local character.

Standard of development

The proposed development (as revised) involves an extension to the rear and side of the existing square plan bungalow in addition to a staff office and bedroom in the existing attic. The existing bungalow is somewhat unusual in that it is located in the centre of a square shaped site, with a roughly equal sized front, rear and two side areas of garden. The site slopes gently upwards to the south-east. The internal layout appears acceptable for the use, although I note there are no specific planning guidelines with regard to such respite facilities.

The development as proposed would leave the house somewhat deficient in available rear garden space – the CDP states that there should be 50-75 m² for 2-5 bedroom houses. The planning authority has stated that the nature of a respite home is such that this shortfall is acceptable. The appellant has argued that in the event of the house reverting to normal residential use, it would therefore be substandard.

I would accept that in the event of a 'new-build', it would be most appropriate to apply residential rear garden standards strictly. However, I do not consider this necessary or appropriate when applying such standards to a long established built up area, where many existing properties will, as a matter of course, not follow standards applied to modern new-build. I am satisfied that the design as amended provides a reasonable qualitative standard of garden space for the use of future residents.

Residential amenity and character of the area

The existing dwelling is an attractive bungalow, typical of the first half of the 20th Century, located on a prominent corner within the Summerville Avenue area. The proposed development will extend the

ground floor to the eastern side with a smaller extension to the rear of the bungalow. The two adjoining properties are at slightly higher elevations than the bungalow, and are screened by hedges and trees. The side extension would come within 8 metres of the property to the east, while the proposed rear extension would be over 12 metres from the side gable of the dwelling to the south. The orientation is such that I do not consider that there would be an issue with overlooking or direct loss of privacy. The relative positioning of the buildings would not result in any overshadowing or loss of light. Any significant loss of boundary vegetation, including the trees, would have a short term impact, but it would be within the bounds of general acceptability, given the nature of the area.

The overall area is mature and attractive, with high hedges and trees around houses on Summerville Avenue providing an attractive residential environment. The large modern dwelling across the road and west of the appeal site is the most prominent structure in the area – a particularly fine late 19th Century house north of the site beyond the adjoining bungalows is largely screened by trees. The existing house, while modest, is prominent due to its location and generally adds to the attractiveness to the area.

The proposed extension to the rear would not have any significant impact on the external appearance of the house. However, the side entrance will 'unbalance' what is now a symmetrical front elevation. Notwithstanding this, I consider the overall design to be low key and suitable for the context. I would have concerns that the removal of the hedges to the front in order to provide car access would have a significant impact, but it would seem to be inevitable if the development is to have a minimal level of curtilage parking. I would consider that any impacts can be addressed by the suitable use of materials and landscaping in order to replace the existing boundary features.

Parking and traffic

The appellants have raised concerns about the level of parking that would be generated and overall traffic movements, and have provided photographs and other information with regard to other respite/care homes. I am, however, satisfied that there is no evidence that such a small respite facility would generate traffic levels over and above a large residential dwelling. Any requirement for a minibus for residents would likely be very occasional and would not add significantly to the type of traffic that would be expected in a normal suburban environment. While the local road/footpath system is substandard in relation to more up to date requirements, this is typical for a road layout of the period and I would not consider it as a reason to prevent this or any other extensions for other dwellings in the vicinity.

The applicants submitted two alternatives for providing the required parking and access provision, a single gate and a double gate layout. The planning authority considered option no. 2, which provides for an

'entry' and 'exit' gate on different sides to be the most satisfactory, and conditioned this one. I concur that this seems the better layout, so I recommend this be set by condition.

Trees

The site and adjoining properties are well vegetated with an attractive araucaria tree in the front garden with a line of semi-mature Scots Pines along the eastern boundary, along with evergreen hedges on all boundaries. The elevated nature of the site makes all the trees a valuable part of the overall qualities of the area, in addition to valuable screening between the houses. None of the trees are subject to TPO's or other specific protections in the City Development Plan.

The araucaria is mature, but seems to be in poor condition, with a retreating crown. There is no information as to whether it will be maintained, but given its condition I do not consider that it would be appropriate to set a condition to protect it. The line of scots pines form an important local feature, but I am satisfied that they can be protected as part of the development works – the nearest part of the proposed extension would be about 4 metres away. This would bring it within the canopy of the trees, which as a general rule of thumb would indicate that some roots may be lost, which could affect the long term growth and viability of the closest of the trees. However, I would not consider that the trees are of sufficient importance to be subject to specific protection and discretion should be left to the landowner in how best to deal with them.

The appellants have suggested the trees have been used in the past for red squirrels. Pine trees are a known feeding habitat for the red squirrel, but given the paucity of mature tree cover in the area it is not likely that this was anything but a temporary shelter for squirrels foraging in the area. I do not consider on the basis of available evidence that any impact on the trees would have relevance for the conservation status of red squirrels.

Appropriate Assessment and EIA

The appeal site is within Waterford City. The nearest Natura 2000 site is the River Suir SAC, site code 002137. This SAC is designated for a variety of riverine species and habitats. Most of the river and banks as it flows past Waterford City is designated, as is the estuary and harbour. At its closest, it is just over 500 metres from the site. As the site is serviced via public water supply and sewerage I do not consider that there are any pathways for pollution or other impacts, so I do not consider that there is any possibility of an effect on the conservation status of the SAC or others in the area.

I therefore consider that it is 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 on European Site No. 002137, or any other 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 scale and nature of the proposed development and absence of specific sensitive environmental receptors in the vicinity I do not consider that the issue of a requirement for EIS arises.

Other issues

I note that Irish Water did not confirm that there is adequate capacity for water supply or sewerage for the site, but as it is within an already serviced site which is connected to the public water and sewerage network, I consider it reasonable to assume that it is acceptable in this regard.

The site is on an elevated location not indicated on any available documentation to be subject to flooding.

The planning authority indicates that the proposed development is not subject to a development contribution requirement.

There are no records of recorded ancient monuments on or in the vicinity of the site and it is not within the archaeological zone in Waterford City. There is a protected structure (Gortmore House, a late 19th Century detached dwelling) to the north, on Summerville Avenue, as well as others further north, but the site is not within the curtilage, or close enough to any protected structures to have a significant impact on their settings.

I do not consider that there are any other substantive issues arising in this appeal.

11. Conclusions and Recommendations

I conclude that the proposed development is in accordance with the zoning designation and would not seriously impact on local amenities and would otherwise be in accordance with the proper planning and sustainable development of the area.

I recommend therefore that subject to the conditions set out below, that for the following reasons and considerations planning permission for the proposed change of use and extension be **granted** planning permission.

REASONS AND CONSIDERATIONS

Having regard to the planning history of the site, the pattern of development of the area, the nature and scale of the proposed respite home and its design and siting in relation to neighbouring properties, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the residential zoning designation and would not seriously injure the amenities of the area or of property in the vicinity and would not cause traffic congestion. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Parking and access information shall be as set out in 'option no.2' layout as indicated in the plans submitted to the planning authority on the 2nd day of February 2016.

Reason: In the interest of traffic safety.

3. Details of the materials, colours and textures of all the external finishes (including boundary treatments and gates) to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and protecting the character of the area.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the respite home without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the dwelling.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

Philip Davis,
Inspectorate.
11th July 2016