



An  
Bord  
Pleanála

## Inspector's Report PL15.246845

### Development

Change of use of entire house to early intervention centre, retention of bay window and velux rooflight and residential accommodation in attic and garage at Glack and Mountrush, Ardee, Co. Louth.

### Planning Authority

Louth County Council

### Planning Authority Reg. Ref.

Ref. 16/62

### Applicant(s)

Care (Ireland) Ltd.

### Type of Appeal

Third

### Planning Authority Decision

Grant

### Appellant(s)

1. Churchtown & District Community Alert Group
2. Jessica McCabe
3. Anthony & Niamh Flynn
4. Liam McCormack
5. Reaghstown Community Alert Group
6. Eugene & Philomena Gilmore

**Observer(s)**

1. Fergal Finn

**Date of Site Inspection**

7<sup>th</sup> October 2016

**Inspector**

Una Crosse

## **1.0 Site Location and Description**

1.1. The appeal site has a stated area of 5.2 hectares and is located in a rural area to the west of the N2 and to the northwest of Ardee. The site accommodates a very large domestic dwelling house with a stated area of 1128 sq.m and a part complete 2-storey garage with a stated area of 230 sq.m. The house is located approximately c.250 metres from the public road and accessed via an access roadway with an unfinished entrance on the public road and a gate located closer to the house. The site falls in gradient from west to east with the lawns to the front of the house incorporating earth mounds with some landscaping and hedgerows around the site boundary. The area in the vicinity of the site is agricultural with a number of residential dwellings located along the public road. There is a GAA complex located to the west of the site.

## **2.0 Proposed Development**

- 2.1. The proposal comprises a number of elements. Firstly, the change of use of the house from a dwelling house to an early intervention centre for the assessment of children between the ages of 3 and 10.
- 2.2. The development seeks the provision of a fire escape stairs located on the side elevation of the house which extends from ground floor level to the attic floor level of accommodation. Internal alterations are also proposed within the house including the subdivision of some rooms.
- 2.3. The development also seeks permission to retain the garage structure. It is proposed to use the garage structure as two single bed respite units. It is also proposed to retain the attic accommodation which currently comprises living accommodation and which it is proposed will accommodate various services associated with the proposed use. It is proposed to retain bay windows on the rear elevation at ground and first floor level and velux rooflights within the roof.

- 2.4. The proposal provides for the upgrading of a waste water treatment system and extension of the existing soil polishing filter.
- 2.5. The development was supported by a letter from the applicant outlining the proposed use of the structure, photographic report of the existing house and a design report outlining the nature of the application.
- 2.6. In response to further information amendments were made to the fire escape stairs and report on the proposed wastewater treatment system.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was granted subject to 9 conditions which included the following:

C2 – prior to occupation close circuit cameras to be operational;

C3 – comprehensive landscaping plan to address visual impact of fire escape and details of boundary planting;

C6 – wastewater treatment plant;

C9 – sightlines at entrance;

#### **3.2. Planning Authority Reports**

- 3.2.1. The initial planners report addressed the suitability of the proposal in respect of the planning policy pertaining on the site. It also considers the nature of the development considering that the nature of the use is not clearly defined in the information submitted nor is compliance with Government Policy. The rural location of the site is also considered with convenience to services addressed. It is stated that the concerns raised about children older than the specified category (3-10) cannot be addressed as development described is specifically a service for 3-10 year olds. The absence of reference to any Guidelines for such facilities is noted. Reference is

made to this facility being the first of its kind in the country. It is stated that it is not considered that the garage built without permission would visually add significantly to the development already in place and the contours created on the site by the embankments. Reference is made to the bulk and scale of the proposed external fire escape with the design considered to be of concern. The absence of a landscaping plan is noted, which would take into account the nature of the use and children on site with sufficient amenity space a requirement.

3.2.2. Further information was sought in relation to the nature of the development and details of the applicant; How the proposal adheres to National policy; how proposal complies with planning policy and location requirements; applicants corporate policy or plan; number of staff, visitors, services deliveries on a daily basis; Details as to the age group and concerns regarding activity of the age cohort and timeline for length of stay at the facility and educational needs; security measures proposed; concern regarding design of the fire escape; landscaping strategy for the site including play area; details of wells and wastewater treatment plants within the area and compliance of the wastewater treatment plant and percolation area with the proposal.

3.2.3. Following the submission of further information, the Planners report notes that the development meets with national policy and the priorities set out by the Department of Children and Youth Affairs and the applicant is considered to have provided clarity in relation to services and the referral system. In relation to the fire escape it is stated that the impact has to be considered in line with the set back from public roads, the scale of the proposal, the landscaping which will mature over time and is a necessary component of the proposal. The written response to landscaping is noted but considered a proper landscaping plan is required. The response to the security concerns is outlined but considered that while attempt is being made not to institutionalise the facility that there is a need to put in place close circuit cameras on the grounds.

### 3.3. Other Technical Reports

**Environment Section** – Additional information requested in respect of wells and wastewater systems within 100m of the sites, compliance with EN12566 in respect of the waste water treatment systems required. Following further information submission conditions recommended in respect of the proposed wastewater treatment system.

**Infrastructure Office** – considerations recommended in respect of the sightlines, surface water disposal and measures to prevent spillage onto public roads.

### 3.4. Third Party Observations

- 3.4.1. 104 submissions were received by the PA the grounds of which are outlined in the grounds of appeal below.

### 4.0 Planning History

- 4.1. **Ref. 06/203** – Permission granted for a two-storey dwellinghouse, septic tank and percolation area, new entrance onto public road, new entrance, piers, wall and railings. Noted that significant further information submitted revising site boundaries increasing site size and facilitating location of landscaped screening mounds.
- 4.2. **Ref. 05/1126** – Permission refused for a two-storey dwellinghouse septic tank and percolation area, new entrance onto public road, new entrance, piers, wall and railings. Reasons related to height, design and scale of the dwelling and its visual impact.

### 5.0 Policy Context

#### 5.1. Development Plan

- 5.1.1. The current development plan for the area is the Louth County Development Plan 2015-2021 with the site located within development control zone 5. The objective of **PL15.246845**

development control zone 5 is *‘to protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone’.*

Policy RD39 sets out the applicable policies within Control Zone 5 and provides that it is the policy “To consider developments falling within the following categories; limited one-off housing\*, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects; developments to be used for leisure, recreation and tourism; holiday accommodation including cottages and lodges where these are part of an existing or proposed integrated tourism complex; hotels/ guest houses / B & B’s (only where the proposal involves the re-use or diversification of an existing building); extensions to existing authorised commercial and industrial developments; renewable energy schemes, public utility infrastructure, certain resource based and location specific developments of significant regional or national importance, critical infrastructure projects, nursing homes/analogous services, \*\* and Economic Business Zone at Carrickcarnan\*\*\* (for small scale commercial development linked to leisure, recreation and tourism, agricultural diversification and extensions to authorised developments).

\* Refer to Section 2.19.1 for Qualifying Criteria

\*\* In the location identified by red dot on Map 3.1 ‘Development Zones’

\*\*\* In the location identified by light blue dot on Map 3.1 ‘Development Zones’

#### 5.1.2. **Policies RES 45 & RES46**

Section 4.18.3 of the Plan deals with Nursing Homes/Analogous Services. It states that the planning authority considers that nursing homes/analogous services should be located within Dundalk, Drogheda, Ardee, Dunleer and the Level 3 Settlements

where:

facilities are available, as water and sewage

Opportunities for greater social inclusion and integration to the community exist,   
Accessibility by means of public transportation is available,  Visitors can  
trips to see patients and relatives with other trips such as shopping and worship.

It is stated that there is a presumption against nursing home  
developments/analogous services in the open countryside for reasons relating to  
unsustainability, poor accessibility, social exclusion and visual intrusion.

In assessing planning applications for nursing homes/analogous services, the  
planning authority will have regard to the following:  The zoning of

area and the site's size, shape and adjoining buildings and its compatibility with other  
uses in the area,  Access must be provided in a manner that is safe  
and adequate to meet the pedestrian and vehicular traffic flows anticipated and  
adequate parking provision in accordance with the standards set down in this Plan.

The location of nursing homes along public transportation routes is highly  
recommended in the interest of sustainability and to facilitate employees, relatives  
and visitors who depend upon public transport,  Design and Layout

respect the characteristics of the site and fit in comfortably within the landscape and  
with adjoining properties. Applicants should consult with the Health Service  
Executive (HSE) with regard to internal design and layout at design stage,

Amenity- sufficient amenity space and landscaped areas should be provided to meet  
the needs of the residents and provide an attractive setting,  Connection  
to public water supply and foul drainage will be required.

Policy RES 45 states that it is policy to require that nursing homes/analogous  
services are located within Dundalk, Drogheda, Ardee, Dunleer and Level 3  
Settlements. In exceptional circumstances where suitable, the re-use of existing  
buildings shall be considered.

Policy RES 46 states that it is policy to ensure that all applications for nursing  
homes/analogous services comply with the guidelines outlined in Section 4.18.3  
above.



## 6.0 Natural Heritage Designations

6.1. The site is approximately 7.6km from the nearest Natura 2000 site which is the Stabannan-Braganstown SPA (site code – 004091). The matter of Appropriate Assessment is addressed separately in Section 8.7 below.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Site within a secluded rural area creating additional strain on local Garda Station with limited Gardai;
- Remoteness of the area leads to boredom leading to anti-social behaviour with no facilities in the area other than the GAA grounds;
- Distance of site from hospitals and lack of medical services in the area;
- Anti-social behaviour arising from other facilities in the area including the privately run facility at Tullykeel, 2km from proposal, from where two residents carried out an aggravated burglary (on appellants - Flynn) and a fire at a facility at Ballapousta;
- Fears of the community have not been addressed by applicant with approach to CCTV, staff/client ratio, boundary fencing and failure to provide adequate response to questions;
- Submissions from Fergus O'Dowd TD and retired Garda from Ardee district Patricia Flynn attached to appeals outlining concerns with location within rural area;
- No community engagement by applicant with attendance at one committee meeting with model of care for the unit requested not provided;

- Response to further information request inadequate with PA bombarded with information most of which is not relevant with purpose of use aspirational;
- Applicant failed to provide best practice guidelines from here or UK on siting and location of facilities as required by the PA in the further information request;
- PA based decision on models of the other centres run by the applicant all of which are for 11-18-year-old children;
- 90% of such centres in urban settings according to Tusla website;
- Tusla do not place 3-10 year age group within such centres with none existing to date and no Government policy or investment to support the proposal;
- Applicants have given no guarantee of age limit with further information referring to 'target' age group with concern that facility will allow children up to 18 and minutes of meeting between community and applicant (February 2016) with age group used to diminish concerns in community;
- PA did not impose a condition restricting the unit to the 3-10 age group;
- Scale of proposal larger than other facilities with site of a size to accommodate further increase once use established;
- Proposal is a commercial entity with education of children dependent on funding by referrer;
- Farm safety on surrounding farms with risk of children wandering onto nearby farms;
- Increased level of traffic from staff/services on narrow winding road with inability for two vehicles to pass and no footpaths for children walking and concern at ability of road to facilitate access to emergency services including fire tenders;
- Dangerous junctions onto the N2;
- No mains water supply at the site;

- Visual Impact of the proposed fire escape which will be highly visible from surrounding roads;
- Precedent for use of large residential units granted during the boom;
- Cost should not be a valid reason for site selection;
- Proposal is a material contravention of the Development Plan with use of clause to facilitate re-use of buildings in exceptional circumstances for nursing homes inappropriate given different uses;
- Proposal does not comply with Part M of the Building Regulations;
- Site notice placed on site illegible within 5 week period, with no advertisement of significant further information;

## 7.2. Planning Authority Response

The response is summarised as follows:

- Site notice was legible;
- Further information was not deemed significant and therefore not requested to re-advertise;
- Facility is a care facility and noted the applicant has not clearly demonstrated what is unique about the development having to locate within this area;
- Policy RES45 preempts the reuse of existing building where suitable with the proposal a sustainable use of an existing building;
- Proposal would fall within analogous services as provided for in section 4.18.3 of the Plan;
- PA mindful of National Policy when making the decision and had regard to documents submitted with further information response;
- Applicant regulated and inspected by TUSLA;

- Commercially sensitive information not made available to the public given PA subject to Data Protection Act 1998-2003;

### 7.3. First Party Response

The first party response to the appeal is summarised as follows:

- Proposal is an assessment centre for children with maximum stay of 15 weeks and not a residential care home;
- Respite facility in garage is short term measure following assessment while child waiting for placement;
- Proposed assessment centre seeks to address issues at an early age so as to avoid problems and undesirable outcomes;
- Proposal is a sustainable use of an existing building with house set within spacious site with additional landscaping and external play areas proposed;
- Protection of children of national importance with early intervention reducing risk of children getting drawn into anti-social behaviour;
- Road visibility required in original permission not provided with proposed development proposed to provide increased visibility in accordance with required condition;
- Existing road network outside applicants control but serves the existing house and wide enough to accommodate agricultural machinery;
- Planning documentation clearly states age of children to be assessed and permission granted on this basis with maximum stay 15 weeks;
- Older children not covered by conditions of the permission and admittance would contravene permission with admittance of older children requiring a new permission;

- Location necessary in order to keep facility away from undesirable elements with visitors to the site seen on approach with large site to facilitate play areas, small animals;
- Access to services within the town provided under supervision and access by car;
- Homes where incidents occurred within the area are residential care homes for teenagers and young adults with applicants not having such problems in their care homes due to correct staff numbers;
- Part M of the Building Control Regulations a matter for the Building Control Authority;
- Unprecedented nature of the change of use not the case with many example of large estate houses changes into hotel, schools;
- No high walls or barbed wire proposed around perimeter with advice to children not to enter lands with fences around boundary sufficient with children supervised when outside;
- Applicants have good report with Gardai and no incidents at their premises similar to those outlined in appeals;
- In relation to traffic, not all of the staff members on the team would be on the site at the same time but would work in shifts with no family members likely to visit. Staff do travel together but not obliged to;
- Concerns about access for emergency services along the road network applies to all properties in the area;
- Tusla & NI Trust do place children under 12 in residential care although proposal is not a residential care centre but a centre for assessment;
- Tusla working with applicant on model of care in order to ensure appropriate facilities for future use;

- Proposal not intended as a secure centre but children monitored and accompanied at all times;
- No invitations to meetings following initial meeting attended;
- Registration to Tusla cannot be sought until permission granted;
- All of the applicants facilities are in rural areas with duty on landowners to ensure livestock adequately secured;
- State requires the voluntary and private sector to operate alongside its various organisations;
- Lack of social facilities applies to all children living in the area, with children in the centre there for 15 weeks;

#### 7.4. **Observations**

The observation is summarised as follows:

- Questions response of the PA to ABP question regarding applicants interest in land;
- Much of further information submitted of little relevance;
- Questions raised about the appropriateness of keeping animals on the site;
- Use of supporting documentation including newspaper article questioned;
- Details of the pre-planning meetings held should be investigated;
- The Board urged to investigate materials submitted by FI stated private and confidential;
- Roof of the garage completed following submission of the application with justification sought as part of enforcement not provided;

- Site was cheap and provides space for expansion with no justification for location provided;
- Previous owner was still living in the house following lodgement of application and when site inspection undertaken by PA;
- Proposal not a care home or analogous service and erroneous to make this interpretation;
- Petition signed by 623 persons attached;

#### **7.5. Response of Appellants and Observer to First Party Response to the Appeals**

The responses received to the first party response to the appeals are summarised as follows:

- Criminal activity of a very serious nature has taken place in the locality as a direct result of and carried out by residents of similar residential home;
- Local community continually requested dialogue with the applicant but not forthcoming;
- Reference to security of livestock on surrounding farms shows weak interest on welfare of both residents and neighbours and no respect for livelihoods and failure to understand genuine concerns;
- Applicant seek to take advantage of rural setting but absolve themselves from all accountability with regard to increased risk;
- No guarantee still given on age-group of service users and no clarity on referrals procedure;
- No condition included in Louth decision limiting age group which more stringent conditions needed and evidence of need to refuse permission;
- Residents will reside at facility while being assessed and therefore residential element with risk arising due to absence of proposed security;

- Copy of recording of meeting with Care (Ireland) on 15<sup>th</sup> February 2016 enclosed with reference made to statements made at same by the applicant;
- A service may be sorely needed but does not make same of national importance;
- Questions remain about the referral process and scale of potential referrals;
- Assertions of applicant in relation to services they propose to offer closely match those defined by Tusla as children and young people having even greater needs and their definition of special care with existing cases referred to UK or USA;
- Building overlooks adjacent properties at former level with fire escape unacceptable visually;
- Proposal located in Zone 5 and Policy RES45 not applicable;
- Fear that if permission granted for the proposal that another application will be sought to extend the age group;

#### **7.6. Response of Planning Authority to First Party Response to the Appeals**

The response received from the PA to the first party response to the appeals is summarised as follows:

- Concur that building already existing and probably too large for a single family home;
- Scale of house significantly larger than most domestic homes and fit out of building to very high quality with sustainable reuse supported and use as a house not practical;
- Adaptation of buildings not a recent occurrence;
- Acknowledge role Tusla plays and recognise such centres have to be provided through public and or private investment;



- Proposal does not contravene plan and falls under analogous services provided for in section 4.18.3;

#### **7.7. Response of First Party to Observer**

The response is summarised as follows:

- Letter from Applicants solicitor confirming they own the property;
- Letter from Social Work consultant stating model of care in process of completion and matter for Tusla to assess suitability or otherwise;
- Document submitted in response to FI referred to applicant's other facility and closest available documentation to give an insight;
- Ample room on site for housing and tending small animals and any permissions necessary would be sought;
- Pre-planning meeting did take place;
- Documents marked confidential done so for economic reasons;
- House is now unoccupied with applicant facilitating previous owner to stay;
- Further information submission was not deemed significant;
- Reference is made to a meeting attended whereby Tusla set out new systems for Registration and Inspection and the appointment of a Derogation Officer to deal with application for child placement falling outside current formula for registration;

#### **7.8. Response of Appellants and Observer to First Party Response above**

The responses include reiterations of much of the material outlined above and the following:

- Reference is made to an incident at Oberstown Centre where a fire broke out following disturbances from residents.

- It is also noted that the applicants reference to Tusla's acceptance of the proposal is not supported by any correspondence.
- Absence of a cast iron guarantee regarding age group is stated to remain a significant issue given possibility of catering for older children and seeking retention for same.
- Reference to meeting with Tusla regarding derogation officer noting the age profile referenced at under 12 does not reconcile with proposed age profile;
- Inclusion of letter from Social Work Consultant attempt to remedy short comings of the further information response;
- Planner noting the house as unoccupied made decision easier to justify;
- Private and confidential documentation which the applicant submitted to the PA remains a bone of contention;

## 8.0 **Assessment**

### 8.1. **Key Issues**

I consider the key issues in determining this appeal are as follows:

- Principle of the Use as an Early Intervention Centre
- Impact on Residential Amenity and Rural Environment
- Changes Made and Proposed to the House and Grounds
- Traffic and Access
- Other Matters
- Appropriate Assessment

### 8.2. **Principle of the Use as an Early Intervention Centre**

- 8.2.1. Prior to addressing whether or not the principle of the proposal is acceptable on the subject site particularly in respect of National Policy as it applies to the proposal and

then compliance with local planning policy I would suggest that it is appropriate to firstly address the matter of the nature of the proposed use and the rationale for the location of the facility within a rural area.

8.2.2. Firstly, the matter of the proposed use. The public notices described the change of use of the house to an early intervention centre for children aged 3-10. The letter from the applicant submitted with the application sought to outline the nature of the proposal and stated that the centre will be tailored towards younger children and the assessment undertaken would be carried out during a 15-week period with a maximum of 8 children accommodated at any one time. During the 15-week period it is stated that arrangements are put in place for the child's next step but in the event of delays in same that a respite unit is proposed within the garage for emergency circumstances where additional time is required to find a placement. The rationale for accommodation within the separate dwelling is so that the attachment to the centre can be broken but remains closely. I discuss the matter of the garage separately in section 8.4 below.

8.2.3. While the supporting documentation on file from the applicant sought to define what the centres role would be I would suggest that while the intention may have always been to propose an assessment centre that the absence of 'assessment' within the public notice may have led to some confusion. Notwithstanding, the use proposed is that of an early intervention assessment centre for children aged 3-10 years.

8.2.4. In terms of location, there is much discussion within the documentation on file about the location of the proposal within a rural location and the suitability or otherwise of same. The rationale for the location within this rural area is outlined in the letter from the applicant accompanying the application. It is stated that in terms of the basic need of those children using the centre, that the rural setting is more calm, tranquil and safe and the applicant refers to 4 other centres within their ownership which are rurally located. It is stated that an urban setting provides too much distraction with

greater accessibility. The rural location, it is stated, also provides the opportunity for keeping animals, horse riding etc. I would note that details of a facility stated to be similar to that proposed is appended to the initial application documentation but I would note that this centre deals with children 12 and above. It is also noted that the size and scale of the house and site was more affordable in a rural location.

8.2.5. The applicants state that the facility is the first of its kind in Ireland and of National Importance. There is considerable reference throughout the documentation submitted by the applicant to both the PA and the Board about the National Importance of this proposal. Therefore, if it is the case that the proposal is of National Importance it would be expected that a facility of this kind would be included within National Policy relating to children or within the Programme for Government. In their submission to the PA the applicant states National policy has been to support the growing need of children requiring intervention by measures including the establishing the Department of Children and Youth Affairs, Tusla and other measures such as allowing more under10's to be treated in specialist centres. They state that 'specifically' the Government recognises the need for special intervention measures and in the 2016 Budget increased the Tusla budget. Reference is made to a speech made by the Minister relating to the 2016 Budget which highlighted the special needs of pre-school children with a suite of support supports to enable children with disabilities to fully participate with access to therapeutic intervention specifically mentioned.

8.2.6. While I note that this extract from the speech suggests supporting intervention, the references are loose extracts cherry picked from a speech and there is no evidence provided to suggest that the establishment of such centres as that proposed is intended. I would note that the speech referenced, while not appended to the documentation but the press release (dated 10/02/2016) relating to same was included in the further information, appears to relate to the extension of the free pre-school (ECCE) scheme (copy in pouch). No documentation was appended to the

submission supporting the planning application which would suggest that the proposal is in line with any specific policy set out by the Government.

- 8.2.7. I would note that the further information requested by the PA states at Item 2 that the statement in the documentation supporting the application that the proposal is in line with Government National Policy is ambiguous as to what is being referred to as National Policy with specific details requested. In response the applicants submit material downloaded from the Tusla and Department of Children and Youth Affairs websites which it is stated make clear that child welfare policy is at the heart of Government policy generally with parts referring to early intervention highlighted.
- 8.2.8. The extracts attached from both the Departments and Tusla's website refer to child welfare and care and to the investment in early years services as outlined above in terms of the extension of the pre-school scheme, to residential centres and special care. The National Standards for Children's Residential Centres prepared by the Department of Health and Children is also attached. References on the Tusla website to early intervention are also highlighted as are details relating to residential care. An extract from the Alternative Care Practice Handbook prepared by Tusla is also included. While the PA appeared to accept the information submitted, I do not see any reference within the documentation provided to any National Policy which would support the establishment of an early years assessment centre either by the State or by a private operator.
- 8.2.9. In respect of information submitted in response to the appeals and observations received by the Board, the applicant references a meeting held by Tusla attended by the applicant where matters of child placement were discussed. In addition, the applicant's response to the appeals includes a letter from a consultant in the UK stated to be preparing a model of care document for the facility. There is considerable discussion within the appeals about the absence of a model of care for the facility. Requests for same from the PA led to the inclusion of model of care

related to the applicant's other facilities which I consider only led to increase confusion and concern rather than provide any clarity as it was for an entirely different type of facility. What is clear is that no such model of care currently exists. Notwithstanding, the applicants have not submitted any information which would support their contention that the proposal is supported by national policy.

8.2.10. The applicants appear to suggest that as children are the State's greatest asset that by extension this facility to protect the State's children is of National Importance. While I do not necessarily disagree with the sentiment expressed, in policy terms I would not concur with such a leap as relatively speaking this rationale could be applied to any centre which cares for the children of the State in whatever form such care is applied. While the principle of early intervention may be part of National policy relating to child welfare I have not seen anything which would suggest that the development of an assessment centre by a private operator is either within the policy parameters or of national importance within the context of child welfare policy. Therefore, I do not consider that the proposal expressly complies with National policy.

8.2.11. This brings me to the application of local policy. The site is located within an area where the objective pertaining is development control zone 5. The objective of development control zone 5 is 'to protect and provide for the development of agriculture and sustainable rural communicate and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone'. Therefore, the policy provides that certain development which location specific requirements or critical infrastructure which are of local, regional or national importance will be given consideration. As I outlined above, the location of the facility within a rural setting is considered to be of importance to the applicant. The calm and tranquillity of the countryside as well as the ability to tend animals is outlined. However, I would note that the use is not

dependent on a rural setting, rather a rural setting is considered more attractive. Therefore, I do not consider that the proposal could be considered to have location specific requirements. Neither do I consider that the proposal comprises a piece of critical infrastructure.

8.2.12. Policy RD39 sets out the applicable policies within Control Zone 5 and provides that consideration will be given to developments which fall into a number of categories. The list of categories is quite extensive but I note that the PA consider that the nursing homes/analogous services use included in Policy RD39 is the use most applicable to the development proposed in the subject appeal. As I outline above I do not consider that the proposal is either location specific or a piece of critical infrastructure. Therefore, the Board must decide whether they consider that the development proposed herein is analogous to a nursing home. I would note that the applicants stress the difference between their proposal herein and a residential centre which provides more permanent accommodation for children. The proposal herein is an assessment centre rather than a residential centre and therefore I would question whether the use could actually be considered to be analogous to a nursing home. If such a comparison is considered appropriate, I would refer the Board to Section 4.18.3 of the Plan which deals with Nursing Homes/Analogous Services.

8.2.13. It states that the planning authority considers that nursing homes/analogous services should be located within Dundalk, Drogheda, Ardee, Dunleer and the Level 3 Settlements for reasons such as the availability of Public utilities such as water and sewage facilities, opportunities for greater social inclusion and integration to the community exist and accessibility. It is stated that there is a presumption against nursing home developments/analogous services in the open countryside for reasons relating to unsustainability, poor accessibility, social exclusion and visual intrusion.

8.2.14. Therefore, the Plan specifically states that there is a presumption against such services within the open countryside for the reasons stated. Having regard to this

presumption in the Development Plan the PA refer to Policy RES 45 where it is stated that in exceptional circumstances where suitable, the re-use of existing buildings shall be considered. The proposal would provide for the re-use of an existing building, one which is very large and built to an extremely high specification. The consideration in the planning report from the PA that the use of the building as a family home is not practical is reasonable in my opinion. However, the provision for the re-use of buildings for nursing homes/analogous services in Policy RES45 is provided for in exceptional circumstances.

8.2.15. The use of exceptional circumstances has in this instance been applied by the PA on the basis, as noted in the Planners report, that the development meets with national policy and the priorities set out by the Department of Children and Youth Affairs. However, as I note above, I do not consider that the proposal meets with National policy. In this regard I do not concur that exceptional circumstances apply in this instance and I do not consider that the proposal complies with the policy objectives set out in the County Development Plan in this regard. I consider that the principle of the use within this structure is therefore not acceptable.

### **8.3. Impact on Residential Amenity and Rural Environment**

8.3.1. While I address the matter of the principle of the use and the age group proposed in the proceeding section, I would note that the age group likely to use the proposed centre has a significant bearing on the residential amenity of the surrounding area. There have been negative impacts on the community from residential centres accommodating teenage children within the area. These incidents of anti-social behaviour which have been documented in detail in the appeals have had a significant impact on the community. It is therefore understandable that the local community would have serious reservations about the introduction of a use such as that proposed notwithstanding the proposed differences in the nature of the uses. As I outline above, I would suggest to the Board that the apparent reluctance of the applicant to guarantee the age group of children proposed to be accepted at the



centre has been a critical issue and while the applicant may not wish to disenfranchise any child, the repercussions of suggesting that any child could be accepted are of concern to both the community and also suggest that the confines of the permission sought will not be adhered to or would be loosely adhered to by the applicant.

- 8.3.2. In this regard, as I outline in the proceeding section, if the Board are minded to permit the development I consider that it is essential that a condition would be attached to any permission which restricts the centre to the assessment of children in the 3-10 age group. Furthermore, I consider that any such condition should clearly specify that the use permitted is that of an assessment centre and does not provide for long-term stays.
- 8.3.3. The matter of security is one which has been discussed at length in the appeals. The applicants are seeking to create a home away from home atmosphere for those children attending the centre and seek to minimise the level of security on site. I note that the PA have conditioned cameras on the property as this was not proposed by the applicants. While I can appreciate the atmosphere which the applicants wish to create, the reality is that the applicant does not know how the children likely to attend the centre are likely to react when on site and therefore given the rural location of the site and particularly the concerns of the community that a balance must be struck between the need to create a suitable atmosphere and the need to protect the children and the local community. Therefore, security is an essential requirement and if the Board are minded to permit the development that a condition is essential requiring CCTV and other such security measures to protect the development and the surrounding community.
- 8.3.4. One of the concerns expressed in respect of security was the potential for children attending the centre to wander into adjoining farms and the potential for incidents occurring with livestock. The applicant in their response to the appeals appears to

suggest that children abscond because they are children and it's in their nature and that if cows, horses or other livestock are dangerous at any time it's for the owner to ensure they are absolutely secured and not a matter for the applicant. For a company that states they operate exclusively in rural locations I would suggest that this is a very naïve and unfortunate response and would highlight even further the need for security on the site if the Board are minded to grant permission.

8.3.5. The matter of landscaping has been marginally addressed to date I would suggest. The further information request sought at Item 9 a Landscaping plan for the site which was required to include a strategy for linkages between internal and external areas, outdoor play areas etc. The response comprised a written response referencing the 'National Standards for Children's Residential Centres' and reference to what was proposed to be introduced. No landscape plan or drawing illustrating same was included. In my opinion the response was deficient in terms of providing illustrative details of the proposal.

8.3.6. The PA stated that the house sits comfortably within a large site which has been landscaped and while landscaping has been carried out, the house remains a highly visible structure from the local road network. While landscaping has yet to mature, I would suggest that it is imperative, if the Board are minded to grant permission, that a comprehensive landscaping strategy prepared by a qualified landscape architect is submitted for both the outdoor and play areas within the grounds and also substantial additional planting along the site boundaries. I will address the matter of the fire escape in the next section.

#### **8.4. Changes Made and Proposed to the House and Grounds**

8.4.1. A large two-storey garage was constructed without planning permission in close proximity to the main house. There are two matters arising with the garage in my opinion, firstly the matter of the structure and secondly the proposed use. In terms of the structure, the building is roofed and partly finished but not complete. The building

is a large structure of 230 sq.m over two floors and includes features such as decorative window surrounds which assist in integrating the design with the main house. While very large the structure remains subservient to the main house, given the scale of same, and therefore I consider that the principle of the garage structure is acceptable although its proximity to the main house detracts in my opinion from the setting of the main house. Notwithstanding, I consider that the structure is acceptable.

- 8.4.2. In terms of the proposed use of the garage, it is proposed to use same as a respite unit. The structure is proposed to be divided into two separate compartments with a bedroom and living space within each. The stated purpose of the unit is to provide accommodation for children following their 15-week assessment period who are waiting on their next placement. It is stated in the documentation supporting the application that ideally the need will not arise but such a facility can be required.
- 8.4.3. While I acknowledge that it may not be possible to provide the appropriate next step for children attending the centre following the completion of the 15-week assessment period, I fail to see how it would be appropriate to place one or two children aged 10 years or younger on their own in a self-contained unit separate from the main centre. No detail has been provided as to the supervision of such a child in this unit. While I appreciate the need to have such a facility detached from the assessment centre per se, I do not consider that this is a suitable or appropriate use of this detached garage notwithstanding its proximity to the main house. The garage may be suitable for other uses within the centre which are not dependent on proximity to the children attending. I recommend that a condition is attached to any grant of permission which might be granted which expressly restricts the use of the garage for such purposes.
- 8.4.4. The proposal also seeks to retain the accommodation within the attic of the main house. The attic space currently accommodates bedrooms, bathrooms, a small kitchen and a room which appears to have been used as a living room. It is proposed

to retain this space and use the rooms for therapies, classrooms, sensory room and other related uses for staff. I consider that the retention of this space is acceptable.

8.4.5. The proposed fire escape is located on the side elevation of the property and is required to meet Building Regulations. As such an escape was not envisaged in the original design it has to be effectively superimposed on the existing structure. I would note that very little detail accompanied the application in the first instance in respect of the fire escape. Further information was requested on same referring to the scale and bulk of the structure and requesting a photomontage of a simplified design. The further information outlined the need for the stairs, which I accept, and the need to cover same, which I also accept. I also appreciate that it is more difficult to incorporate such a feature into a building post construction when such a feature was never envisaged particularly when fire door positions are pre-determined by the location of opes within the existing elevation. The redesign provides for a stair that is closer to the house and is narrower in width. The materials proposed are cedarwood sheeting of grey/brown colour which it is stated would allow it to blend with the house. It is also proposed to plant trees at specific locations within the site to minimise the visual impact.

8.4.6. The fire escape is a very visible structure and one which detracts from the house. It is bulky, high and whatever material is proposed will be a visually discordant feature. However, if the Board are minded to grant permission, a fire escape is a requirement and as such the amended design is probably as good a solution as is possible given the retrospective circumstances.

8.4.7. A number of other alterations were made to the house which have been submitted for retention. These include the addition of bay windows on the ground and first floor and the inclusion of velux windows on the roof. I consider that these changes made do not have any material impact on the house and are acceptable.

## 8.5. **Traffic and Access**

8.5.1. There is considerable discussion in the documentation submitted about the suitability of the local road network to accommodate both additional traffic associated with the proposal and also emergency vehicles which may be required at the proposed facility. The level of traffic associated with the operation of the facility would in my opinion be relatively low and would involve in the main staff arriving in the morning and leaving in the evening with shift work staff accessing and leaving the site prior to and following such shifts. Whether or not the staff share cars to access the property would not in my opinion be material. The road is well surfaced and the horizontal alignment serves to slow traffic using the road. I do not therefore consider that the road network is deficient. In terms of emergency access, I would tend to agree with the applicants that emergency access is required for all properties in the vicinity of the site and not just the appeal site. Therefore, the same requirements of the road network would apply for all residential properties in the area.

## **8.6. Other Matters**

8.6.1. I would refer to a number of issues raised by the appellants regarding the site notice, the failure of the applicant to re-advertise the submission of further information and the reference by the Planner to the house being unoccupied at the time of their visit. I would note that by appealing the Notification of the PA's decision to the Board that the Board consider the development de novo and therefore the matters raised are not of material significance to the Board's consideration of the proposal before it.

8.6.2. I would note that the existing wastewater treatment plant on site had a PE of 6. It was proposed in the original submission to upgrade the system to provide for a PE of 16 or replace same and to decommission the existing soil polishing filter and install a new filter. In response to further information a new system and soil polishing filter is proposed.

## **8.7. Appropriate Assessment**

Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 Recommendation

9.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

1. The Board is not satisfied on the basis of the information submitted to the Planning Authority or the Board that the establishment of an early intervention centre for the assessment of children aged 3-10 years is supported by National Policy. Furthermore, no evidence was provided by the applicant that the establishment of an early intervention centre for the assessment of children aged 3-10 years, in principle or otherwise, was supported by the relevant State Agency/Government Department. The Board determined therefore, that the proposed development would, be contrary to the proper planning and sustainable development of the area.
2. The proposed development is located within an area defined as Development Control Zone 5 in the Louth County Development Plan 2015-2021 the objective of which to protect and provide for the development of agriculture and sustainable rural communicate and to facilitate certain resource based and location specific developments of significant regional or national importance. It is stated that critical infrastructure projects of local, regional or national importance will also be considered within this zone. Policy RD39 provides that nursing home/analogous services may be considered in such

areas however, Section 4.18.3 of the Plan states that there is a presumption against such services within rural areas. Furthermore, Policy RES 45 requires that nursing homes/analogous services are located within Dundalk, Drogheda, Ardee, Dunleer and Level 3 Settlements and provides that in exceptional circumstances where suitable, the re-use of existing buildings shall be considered. Having regard to the use proposed it is not considered that the establishment of an early intervention centre for the assessment of children aged 3-10 years is supported by National policy and in that regard the Board does not consider that exceptional circumstances apply in this instance. The proposed development therefore does not comply with the objectives of the Louth County Development Plan 2015-2012 and would not accord with the proper planning and sustainable development of the area.

Una Crosse

Senior Planning Inspector

October 2016