



An
Bord
Pleanála

Inspector's Report PL29N.247797

Development	Enlargement of the existing elderly nursing care facility by the addition of three storeys with associated works
Location	Site at Beneavin Lodge Private Nursing Care Facility, Beneavin Road, Glasnevin, Dublin 11
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3123/16
Applicant(s)	Beneavin Contractors Ltd.,
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Peter Loughlin & Stella Treacy
Observer(s)	Tim O'Halloran B. Dixon J. Kelly
Site Inspection	30/03/17
Inspector	Gillian Kane

1.0 **Site Location and Description**

- 1.1.1. The subject site is located on the south side of the Beneavin Road in Glasnevin, Dublin 11. The mature housing estate of Beneavin Park is located to the northern side of the Beneavin Road. To the west is the two storey school De Le Salle: the rear southern and part of the western boundary of the site abuts the playing fields of the Beneavin De La Salle Boys Secondary School whose buildings bound the subject site to the west. The eastern boundary is bounded by mature low density residential development in the form of the rear garden areas of detached and semi-detached two storey homes on Ferndale Road and the single storey detached bungalows of Beneavin Road, which includes the appellant's property at 42 Beneavin Road.
- 1.1.2. The appeal site hosts two interlinked buildings, Beneavin House to the west and Beneavin Lodge to the east. Both combine as a nursing care facility offering sessional, respite and residential care. Access to the appeal site is from Beneavin Road via 3 no. vehicular access points, the westernmost is at Beneavin House, the central a service access and the easternmost is the main vehicular entrance to Beneavin Lodge, adjacent to the appellant's site.
- 1.1.3. The overall site has been extended with the addition of a rectangular site of approximately 1 acre to the rear (south) of the existing facility – bound to the east by Ferndale Road and to the west by the playing fields retained by the school. The site is cordoned off from the facility and the school by a palisade fence of approximately 1.2m high. This section of the site is undeveloped, in scrubland with a line of mature trees along the eastern boundary. A ditch runs along the eastern boundary which may have comprised a waterbody at some point.
- 1.1.4. Photographs of the site and surrounds are appended.

2.0 **Proposed Development**

- 2.1. Permission was sought to enlarge the existing nursing home facility Beneavin Lodge by the addition of three storeys to the east of the site and

minor alterations to the existing Dementia Wing (as granted under reg. ref 3454/15).

2.2. Details provided in the application form are:

- total site area 15,955sq.m.
- floor area of buildings to be retained within the site: 17,750.6sq.m.
- total floor area of new buildings proposed: 2562.5sq.m.
- Total floor area of proposed development: 20,313.1sq.m.
- proposed plot ratio: 1.27

2.2.1. The application was accompanied by the following:

- Planning Statement
- Arboricultural Assessment
- Drainage Methodology
- Flood Risk Assessment
- Car Park Provision

3.0 Planning Authority Decision

3.1. Third Party Observations

3.1.1. A number of submissions regarding the proposed development were submitted to the Council. The issues raised can be summarised as follows:

- Impact on traffic
- Impact on houses on Ferndale Road
- Impact from construction traffic
- Cumulative impact of subsequent extensions to and intensification of Beneavin Lodge
- Commercial use of Nursing home in conflict with surrounding residential area
- Proposed development is too close to Ferndale Road houses
- Proposed development will exacerbate sewer problems in the area
- Development is not complying with previous permissions as the gate does not close at 9pm.

3.2. **Planning Authority Reports**

3.2.1. **Technical Reports**

- **Waste:** No comment
- **Drainage Division:** No objection subject to conditions.
- **Road and Traffic Planning:** No objection subject to three conditions.

3.2.2. **Planning Report:** Proposed three storey height is acceptable. Proposed extension is sufficient distance from dwellings on Ferndale Road to avoid negative impacts. Proposed development provides car parking at surface level removing an area of open space- previous permission had proposed car parking at basement level. Total car parking provision is 135 no. spaces of which 77 no. will be for Beneavin House and 58 no. will be for Beneavin Lodge. Additional information required.

3.3. **Request for Further Information**

3.3.1. On the 11th August 2016 the Planning Authority requested the applicant to address the following three items:

- 1: how the proposed development accords with the zoning objective of the site
- 2: clarification of previously approved basement car park
- 3: proposed removal of mature trees and impact on dwellings on Ferndale Road

3.4. **Response to FI Request**

3.4.1. The applicant responded to the request for further information, stating that the proposed extension is the final phase of the upgrade of the Beneavin nursing care facility on an overall site of 4.619ha. In response to item 1 the applicant referred to section 14.8.4 of the 2016-2022 development plan which states that a masterplan is not required in the case of minor developments associated with the existing use or where the development proposed relates to extensions to the existing community and institutional use. The applicant also stated that the subject site is not required by the school as sufficient open space is available elsewhere. In response to the request to clarify basement car parking, the applicant stated that the

proposed development complies with the current development plans requirements for car parking. In response to the request to address neighbours' concerns over the removal of trees, the applicant stated that the proposed development requires the removal of only two trees, that permission has been granted previously for the removal of the other 11 no. trees.

3.5. Planning Authority reports on file following submission of FI

3.5.1. Planning Report: Masterplan drawings indicating overall development and provision of open space are acceptable. Description of proposed development is acceptable. Proposed development is considered acceptable. Recommendation to grant permission.

3.6. Planning Authority Decision

3.7. By order dated 06/12/16 a notification of decision to GRANT permission subject to 10 no. standard conditions issued.

4.0 Planning History

4.1. PL29N.245935 (DCC reg. ref. 3454/15): Permission was granted for alterations to permission granted under planning register reference number 2060/12, comprising the provision of new basement car parking and cycle stands beneath the approved four storey nursing care accommodation wing to the south of the site adjacent to Beneavin College playing fields, including minor alterations to the eastern end of the storey block at ground and upper floor levels. The basement parking would allow the removal of surface parking provision which would be converted to landscaped amenity space. Additionally, the proposal sought to extend approved scheme (planning register reference number 3602/14), the retention of a new pedestrian entrance off Beneavin Road to Beneavin Lodge reception and cover alterations to storm and foul drainage and high quality hard and soft landscaping at surface level.

4.2. Reg. Ref. 3602/14 Permission granted for a three storey extension to Beneavin Lodge to the east of the site by the addition of a new Specialist Dementia Wing to provide care services for residents suffering from

Alzheimer's. Provision for 39 cars (2 for disabled use) and 12 cycles in a covered stand, a new entrance at the easterly end of the approved 4-storey block to the south of the site adjacent to the playing fields.

- 4.3. **Reg. Ref. 2060/12** Permission and Retention permission granted for additions to Beneavin lodge, including additional staff rest facilities at ground floor level, and activity rooms for residents at ground, first and second floor levels, and external activity space at first floor level; and the proposed extension and enlargement of Beneavin Lodge. The proposal included a third storey to the section of the building facing onto Beneavin Road, with an additional two storeys on the rear elevation facing the school playing fields to match the adjacent facility at Beneavin House.
- 4.4. **Reg. Ref. 3797/08** Permission granted for changes to previously approved plans at Beneavin House providing separate catering, laundry and staff facilities at Beneavin House (ref. no. 2989/07) and Beneavin Lodge (ref. no. 3178/02) enabling them to operate as totally independent units with separate facilities. This will include works involving the closure of all access doors between the two units. The changes will also include an additional fire escape stairway as per the conditions set down under the fire safety certificate (ref. no. FSC 1414/08) and the location of an electricity substation on the site.
- 4.5. **Reg. Ref. 2989/07** Permission granted to demolish the existing building, Beneavin House, former residential home for Brothers of the De La Salle Order, and erection of a new three storey building to Beneavin Road, rising to four storeys at the rear of the site, adjacent to the school playing fields. The proposal will connect to the existing nursing care facility, Beneavin Lodge. Condition 12 of this decision relating to financial contributions was appealed to the Board (**PL29N.225711** refers).
- 4.6. **Reg. Ref. 3178/02** – Planning permission granted for 62 no. bed nursing home with 3 no. independent living units.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. In the 2016-2022 Dublin City Development Plan, the site is zoned '**Z15 Institutional and Community**' which has the stated objective "to protect and provide for institutional and community uses". Section 14.8.14 of the development plan states that where development is planned on the perimeter of Z15 lands adjacent existing residential development, it shall have regard to the **prevailing height of existing residential development** and to standards in section 16.10 (standards for residential accommodation) in relation to aspect, natural lighting, sunlight, layout and private open space, and in section 14.7 in relation to the avoidance of abrupt transitions of scale between zonings. Where there is an existing institutional and/or community use, any proposed development for "open for consideration" uses on part of the landholding, shall be required to demonstrate to the planning authority how the proposal is in accordance with and assists in securing the aims of the zoning objective; how it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses; how it secures the retention of existing functional open space e.g. school playing fields; and the manner in which the nature and scale of the proposal integrates with the surrounding lands.
- 5.1.2. The development plan states that while a **masterplan** may assist in demonstrating how the requirements of this paragraph may be satisfied, it will not be required in the case of minor developments associated with the existing use or where the development proposed relates to extensions to the existing community and institutional use and would enhance the facilities.
- 5.1.3. Amongst the uses listed as a "Building for the Health, Safety or Welfare of the Public" in Appendix 21 of the development plan is Nursing Home. Such uses are **permissible uses on Z15 lands**.
- 5.1.4. Indicative **plot ratio** for Z15 lands is 0.5-2.5 and **site coverage** is 50%
- 5.1.5. Policies of note in the development plan include:
QH14: To support the concept of independent living and assisted living for older people, to support the provision of specific purpose-built

accommodation, and to promote the opportunity for older people to avail of the option of 'downsizing'. To support the promotion of policies that will:

- Encourage/promote full usage of dwellings units
- Incentivise property owners of underutilised dwellings to relocate to smaller age friendly dwellings.
- Actively promote surrendering larger accommodation/financial contribution schemes without compulsion.

5.1.6. **Section 16.19** of the development plan refers to Nursing Homes. The plan states that there is a continuing and growing need for nursing homes and in particular, because of the ageing population structure in the suburbs, for elder care homes. Such facilities should be integrated wherever possible into the established residential areas of the city, where residents can expect reasonable access to local services. In determining planning applications for change of use of a residential dwelling or other building to nursing/elder care home, the following factors should be considered:

- Compliance with standards as laid down in the Statutory Instrument No. 226 of 1993, Nursing Homes (Care and Welfare) Regulations, 1993
- Compliance with the Health Information and Quality Authority (HIQA) National Quality Standards for Residential Care, Settings for Older People in Ireland (February 2009), in particular Section 6
- The effect on the amenities of adjoining properties
- Adequacy of off-street parking
- Suitable private open space
- Proximity to local services and facilities and
- The size and scale of the facility proposed: the scale must be appropriate to the area.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal of Peter Loughlin and Stella Treacy of 42 Beneavin Road can be summarised as follows:

- In response to the Council's request to identify separation distances between the proposed development and the neighbouring houses, the applicant failed to include the shortest distance – that to 42 Beneavin Road.
- This was brought to the attention of the Council. That this distance was not considered raises concern that the appellant's privacy and safety have not been given due concern.
- The Board is requested to request the information.

6.2. Planning Authority Response

- None on file

6.3. Observations

6.3.1. **Janet Kelly** & 4 other signatories, 9 Beneavin Park and **Brendan Dixon** & 4 other signatories of 7 Beneavin Park. The issues raised in the observations can be summarised as follows:

- The Council was requested to condition that the car park be completed first. The Board is requested to refuse permission on the grounds that traffic congestion on Beneavin Road is exacerbated by Beneavin Lodge.

6.3.2. **Tim O'Halloran**, 23 Ferndale Road. The issues raised in the observation can be summarised as follows:

- Had the scale of the current and proposed development been sought in 2002, permission would not have been granted. The local residents never envisaged that the facility would expand and therefore did not object to the original application.
- The proposed development is a change of use of playing fields to a commercial enterprise, without any evidence to support such change. No evidence has been submitted that the school or the GAA / Soccer clubs who use the fields, do not need the playing fields. The Department of Education have not consented to the development, as required by the Z15 zoning objective.

- The proposed development is too close to the playing pitch retained by the school.
- The proposed development does not comply with policy NC24 as it does not promote sustainable neighbourhoods.
- The existing three storey nursing home overlooks the Observers home (photo submitted). It is submitted that three storeys is too high in close proximity to small back gardens.
- The proposed development involves the removal of too many mature trees. The applicant stated in the original application that the trees were important to the character of the area.
- The proposed development will exacerbate the problems of the existing sewer.

7.0 **Assessment**

7.1.1. On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the proposed development
- Impact on Adjoining Property
- Appropriate Assessment

7.2. **Principle of the Proposed Development**

7.2.1. The proposed development is a permissible use in a Z15 zone. Under the previous development plan (2011-2016) where there is no longer an identified use for the existing institutional and community use and where the land was to be developed in whole or in part, a masterplan was to accompany the planning application. That requirement is not part of the current (2016-2022) development plan for permissible uses – only those uses which are open for consideration. Further, section 14.8.14 of the plan states that a masterplan is not required in the case of minor developments associated with the existing use or where the development proposed relates to extensions to the existing community and institutional use and would enhance the facilities. This is the case in the subject development and I am satisfied that a masterplan is not required.

- 7.2.2. The principle of a nursing home development on the wider site has been established with a long planning history of development, most recently permitted by An Bord Pleanála. The proposed extension to the existing development is on a newly acquired site, to the south-east of the existing building. The site was formerly in use as playing fields associated with the adjoining De La Salle School.
- 7.2.3. The proposed development would introduce a three storey building to the west of the two storey dwellings on Ferndale Road. Section 14.8.14 of the development plan states that where development is planned on the perimeter of Z15 lands adjacent to existing residential development, it shall have regard to the prevailing height of existing residential development and shall avoid abrupt transitions of scale between zonings. Section 16.19 requires the effect on the amenities of adjoining properties, the adequacy of off-street parking, suitable private open space, proximity to local services and facilities and the size and scale of the facility proposed to be taken into consideration when assessing such proposals. These criteria are discussed in greater detail below.

7.3. **Impact on Adjoining Dwellings**

- 7.3.1. The applicant was requested to identify the separation distance between the proposed extension and the adjoining dwellings to the east. Drawing no. PL2A shows distances of 45.5m to 91.6m between the proposed extension and the two storey dwellings on Ferndale Road. As noted by the Appellant, the Applicant did not identify the separation distance between the proposed extension and the single storey dwellings facing north onto Beneavin Road. No. 42 Beneavin Road, the appellant's property, at 30m from the proposed extension is the closest and arguably should have been identified on the drawing. The Observer, resident of no. 23 Ferndale Road (approximately 50m from the proposed extension) has submitted photographs of the impact of the existing three storey development on his rear garden.
- 7.3.2. As can be seen on the drawing PL1A, the nursing home has incrementally increased as it extends towards the eastern boundary – that adjoining the residential dwellings on Ferndale Road. When permission was first granted

for the nursing home in 2002, the facility was two storeys and centrally located on the rectangular site. The scale of the facility was dramatically smaller than the current building. What was once a 60 no. bed space two storey nursing home is now a permitted 309 no. bed facility of up to four stories in height. I share the Observers concern that the overall facility appears to have developed incrementally and without the benefit of a masterplan or even a long term strategy. The impact of multiple and frequent extensions on the single and two storey dwellings to the east is cumulative. I note that the applicant's agent has stated that the current proposal is the final stage of the development, noting that the site is limited. The option of purchasing further land – as has been done with the current application – cannot be discounted however.

- 7.3.3. In response to the development plan requirement to respect adjoining residential development, the applicant states that a 12m separation from the eastern boundary is maintained and upper floor windows on the eastern elevation which mostly comprise bedroom and bathroom windows is minimised. I refer the Board to drawing no. 07 which shows the proposed eastern elevation, namely the elevation facing the rear of the properties on Ferndale Road. The 12.5m high elevation runs for a length of 57m (roughly corresponding to no.s 20 -25 Ferndale Road). I do not understand the applicants claim that the windows are minimised, given that they are not high level, nor opaque nor of low-level use. The nature of the business of the development is such that bedrooms will be used as intensively during the day as they will at night.
- 7.3.4. I note that the Inspector for PL29.245935 referred to the “increase in the landscaped amenity area, located to the south eastern portion of the site” which she considered improved “the level of amenity for occupants and visitors of the nursing home” and “softened the impact of the development on property to the east, thereby having regard to the transitional zone character of this boundary”. The proposed development seeks to replace that amenity area with a three storey building.
- 7.3.5. The existing three storey development facing the appellants home has limited windows on the eastern façade, thereby minimising overlooking. The

proposed extension has multiple windows on the eastern façade, facing into the rear gardens of the dwellings on Ferndale Road. I share the appellants concern that an extension to that building and the resultant intensification of use would cause injury to the residential amenity of the dwellings, in terms of overlooking, dominance and visual obtrusion from a three storey development. I am not satisfied that the separation distances are sufficient to ameliorate the impacts of a three storey development on the residential amenity of the two storey dwellings on Ferndale Road. I am not satisfied that the proposed development complies with the development plan requirement that development on Z15 lands be considerate of abrupt transitions in scale (section 14.8.14 refers).

7.3.6. Were the development to be reduced to two storeys in height, it is considered that the separation distances and the proposed landscaping along the eastern boundary would be sufficient to protect the residential amenity of the properties of Ferndale Road. The principle of the proposed development is not at issue, only the undue impact of same on the adjoining residential properties. Should the Board be minded to grant permission, a reduction in height of one storey could be achieved by way of condition. I note the recommendations of the Arboricultural Assessment. Should the Board decide to grant permission, the landscaping of the subject site can be agreed by way of condition.

7.4. **Appropriate Assessment**

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

8.0 **Recommendation**

8.1. I have read the submissions on file, visited the site, and have had due regard to the provisions of the Dublin City Development Plan 2016 – 2022 and all

other matters arising. It is considered that, subject to compliance with the conditions set out below, the proposed development would not injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area. I recommend permission be GRANTED subject to the following conditions:

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, to the scale and nature of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the development plan, would not adversely affect the amenities of the area, would be appropriate within the area, would provide an acceptable standard of amenity for future residents and would promote sustainable modes of transportation. 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. The proposed extension to the existing Beneavin Health Care Campus shall be revised to be no more than two storeys in height. A revised plan shall be submitted to the Planning Authority, prior to the commencement of development showing the proposed development reduced to a two storey building.

Reason: In the interest of protecting the residential amenity of the dwellings to the east of the subject site.

- 3 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) Existing trees, hedgerows specifying which are proposed for retention as features of the site landscaping

(ii) The measures to be put in place for the protection of these landscape features during the construction period

(iii) The species, variety, number, size and locations of all proposed trees and shrubs

(iv) Details of screen planting which shall not include *cupressocyparis leylandii*

(vi) Hard landscaping works, specifying surfacing materials, furniture and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity

4. The development shall comply with the terms and conditions of the permissions granted under planning register PL29N.245935 except as modified by this permission.

Reason: In the interest of the proper planning and sustainable development of the area.

5. The external finishes of the proposed development, including roof tiles, shall be the same as those of the existing building in respect of colour and texture.

Reason: In the interest of the visual and residential amenities of the area.

6. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

7. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

8. Prior to commencement of development, a detailed specification of planting to facilitate the implementation of the landscape planting shall be submitted to, and agreed in writing with, the planning authority. The agreed specification shall be fully implemented in the first available planting season following either the substantial completion of the development or the first occupation of the student accommodation, whichever is sooner. All plants shall be adequately protected until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

9. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

10. The trees identified for retention in the Arboricultural Assessment shall be protected during construction in accordance with the tree protection measures outlined in the submitted plans and particulars. All service pipes shall be so routed as to avoid the root spreads of the trees identified for retention.
Reason: In the interests of orderly development, and to prevent damage to those trees identified to be retained, having regard to the policies set out in the current Development Plan for the area.
11. All boundary treatments shall be in accordance with those indicated in submitted documentation.
Reason: In the interests of residential and visual amenity, and to ensure the provision by the developer of durable boundary treatment.
12. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.
Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development
13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Gillian Kane

Gillian Kane
Planning Inspector

03 April 2017