



An  
Bord  
Pleanála

## Inspector's Report PL91.248334

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<b>Development</b>	Nursing home with 39 bedrooms, ancillary accommodation, car park & associated site works.
<b>Location</b>	Moore Street, Cappamore, Co. Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	16/254
<b>Applicant</b>	Margaret Flint
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellant</b>	Anne Wetzel
<b>Observers</b>	None
<b>Date of Site Inspection</b>	21/07/17
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

- 1.1. The site, which has a stated area of 1.0089 hectares, is within the village of Cappamore which is c.22km to the south-east of Limerick city centre. The site is irregular in shape with the main body set back from Moore Street, accessed via a narrow laneway. The site also includes a derelict shed and stone wall along the roadside boundary. This is bounded to the east by a two storey dwelling. A single storey dwelling bounds the access to the north-west with its front boundary to Moore Street delineated by a stone wall backed with planting. Its side boundary onto the lane is delineated by a hedgerow. There is a further single storey dwelling to the rear of the said dwelling which is accessed from the laneway. Its side boundary to the site is delineated by low wall with a hedgerow to its rear.
- 1.2. The site is effectively to the rear of the properties that front onto Moore Street and to a cul-de-sac of two storey terraced dwellings to the south. The site slopes up from the street entrance. The north-western, northern and south-western boundaries to the main body of the site are delineated by hedgerows with a block wall and hedgerow delineating the south-eastern boundary.
- 1.3. The site is c. 270 metres to the south of Main Street. Moore Street is characterised by a mix of single and two storey dwellings with a notable number of buildings either vacant or in a derelict condition in the vicinity of the site. There is a Co-Op store and associated yard on the opposite side of the road with a filling station and associated retail outlet to the north-west. The street was noted to be lightly trafficked on day of inspection.

## 2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the **29/03/16** with further plans and details received **24/02/17** following a request for further information dated 18/05/16. A time extension was granted.
- 2.2. The proposal, as amended, is for a 2355 sq.m. single storey nursing home providing for 39 bedrooms and ancillary facilities including 33 parking spaces and amenity areas (including two internal courtyards). The finished floor level is stated to be 60.75 metres with external finishes to be a mix of plaster with stone clad detailing.

- 2.3. The existing shed along the roadside boundary is to be demolished to widen the entrance to 15.05 metres. The existing laneway is to be widened to 7.5 metres with footpaths to be provided.
- 2.4. Connection to public mains is proposed with three storm water attenuation tanks proposed prior to discharge to the storm water sewer on Moore Street. The maximum permissible storm water runoff rate to the storm water network is 5.04 litres/sec.
- 2.5. The application is accompanied by a Planning Report.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Grant permission subject to 30 conditions. In addition to standard planning and engineering requirements of note:

*Condition 12:* proposed development to be used as a nursing home only.

*Condition 15:* Archaeological monitoring

*Conditions 19 & 20:* Water supply and foul sewerage requirements including house on right hand side entering site to have separate connections.

*Condition 21:* Underwater static firefighting storage as per site plan for cumulative capacity of 72,000 litres of water to be supplied.

*Condition 22:* Written agreement re. proposal to reserve a portion of land within the site for the construction of an in-line vertical sewer vent pipe, should it be deemed necessary in the long term.

*Conditions 24 & 29:* Junction requirements including stop sign and markings, advance signage, double yellow lines and crossing markings.

*Condition 26:* Road width to be reduced to 6.0 metres

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

The **1<sup>st</sup> Planning report** dated **16/05/16** (countersigned) states that having regard to the fact that the site is zoned for phase 2 residential the proposal is acceptable and

will enhance the amenities of the village and the services available for the wider population base. There is a legal issue arising with the right of way and FI is required on same. The proposal is considered acceptable in terms of overall scale, design and layout. The layout provides for adequate and suitably sized outdoor space equating to c.32% of the overall site area. The waste water treatment plant has been recently upgraded and has adequate capacity to accommodate the development. Roads Section has no objection to the proposal. FI is recommended on the right of way, adequate emergency services access, hydrant provision, effluent treatment and details pertaining to public services including connection to same.

The **2<sup>nd</sup> report** dated **21/03/17** (countersigned) following FI notes that a boundary rectification application has been made to the Land Registry to clarify the boundary between the applicant and objector. No works are proposed to the property of Ms. Wetzel. A grant of permission subject to 30 conditions is recommended.

#### 3.2.1. Other Technical Reports

The report from **Executive Engineer, Air, Noise & Water Pollution and Public Health** dated **29/04/16** recommends FI on treatment of effluent from the nursing home. The **2<sup>nd</sup> report** following FI dated **09/03/17** recommends that the developer be required to abide by the commitments made. A small portion of land within the development should be reserved for the construction of an in line vertical sewer pipe, should this be deemed necessary in the long term.

**Fire Service, Building Control** in a report dated **05/05/16** recommends FI on access for emergency vehicles and provision of hydrants. The **2<sup>nd</sup> report** following FI dated **13/03/17** has no objection. Underwater static firefighting water storage required as per Engineer's site plan.

**Executive Archaeologist** in a report recommends a condition requiring archaeological monitoring should permission be granted.

A report from **Operations and Maintenance Services** dated **15/03/17** considers the sightlines to be acceptable within the 50kph speed limit. The planting outside the boundary to the existing house accessed from the laneway will have to be low level to ensure sightlines are not impeded from the private entrance to the internal road. Conditions are detailed including reduction in width of road to 6 metres.

### 3.3. Prescribed Bodies

**Irish Water** in a report dated **09/05/16** recommends FI regarding connection to water, surface water and foul sewerage services. The **2<sup>nd</sup> report** following FI dated **11/03/17** has no objection subject to conditions including separate water main and sewer connections for the house on the right hand side entering the site.

**Senior Environmental Health Officer, HSE** in a report dated **17/05/16** has no objection.

### 3.4. Third Party Observations

Observations received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised relate to site ownership, right of way, site access and impact on amenities of adjoining property.

## 4.0 Planning History

14/936 – permission refused in 2015 for single storey, 45 bedroom nursing home with 34 parking spaces and ancillary works. The reason for refusal cited inadequate quality of design and open space.

04/175 – permission granted in 2005 for 36 bedroom nursing home and 20 no. retirement homes in 2 storey blocks.

## 5.0 Policy Context

### 5.1. Limerick County Development Plan

Objective HOU 05: Location Criteria for Residential care

It is an objective of the Council to:

- (a) Ensure that the maximum distance from sheltered housing and nursing homes shall be no more than 300 metres safe walking distance to community facilities, convenience retail facilities and amenities. Exceptions shall only be made where suitable sites cannot be found, an urgent need is being addressed, and at least one amenity/facility can be provided in situ.

Section 10.9.4 details the development management guidelines for nursing homes. In respect of....nursing homes, these uses shall be located within settlements and close to community facilities, shops and amenities. The maximum distance from such facilities shall be no more than 300 metres safe walking distance. Exceptions shall only be made where suitable sites cannot be found, an urgent need is being addressed and at least one amenity/facility can be provided in situ.

Nursing Homes shall comply with the standards laid down in the Statutory Instrument No. 317 of 1985 "Homes for Incapacitated Persons Regulations 1985" and any subsequent legislation.

Developers will be required to submit a mobility management plan based on the 'Mobility Plan – Advice Note' DTO July 2002 and any subsequent document, and a connectivity study demonstrating pedestrian permeability and connectivity with existing community services.

Proposals will be required to include details of all service vehicles including emergency vehicles and how associated turning movements are accommodated on the site.

## **5.2. Cappamore Local Area Plan 2011-2017**

The site is within an area zoned Residential Development Area Phase 2. This zoning provides for new residential development and other services associated with residential development. While housing is the primary use in this zone, recreation, education, crèche/playschool, clinic/surgery uses, sheltered housing and small corner shops are also envisaged, subject to the preservation of neighbouring residential amenity. Permission may also be granted for home based economic activity within this zone, subject to the preservation of residential amenity, traffic considerations and compliance with Section 5.6 in Chapter 5 of this LAP.

Nursing home is open for consideration in this zone.

Objective H2: Residential Density, Design, Mix and Phasing

(g) Ensure development of sites in Phase 2 can only proceed when at least 50% of all housing in Residential Development Areas Phase 1 is completed.

The front section of the site onto Moore Street is within an Architectural Conservation Area. In assessing development proposals within the ACA, the Council shall take into account the material effect that the proposed development would be likely to have on the character of the ACA

### **5.3. Natural Heritage Designations**

Site is located 130 metres south-west and on the opposite side of Moore Street to the Bilboa River which forms part of the Lower River Shannon SAC (site code 002165).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The submission by McElligott Consulting on behalf of the 3<sup>rd</sup> party appellant is accompanied by supporting details and photographs. Ms. Wetzel is the owner of the dwelling to the immediate north-west of the proposed entrance. The grounds of appeal can be summarised as follows:

- The proposed sightline of 60 metres in the left turn direction does not conform to any design standard or any recommended road design manual. Sightlines should be from the near/inner edge of the footpath abutting the existing wall and not from the far road edge. The proposal would constitute a traffic hazard.
- Condition 3 requires the retention of all sound trees and hedgerows unless permitted by a grant of permission. This cannot be complied with as the appellant does not consent to the removal of the hedgerow along her boundary. The hedgerow needs to be removed to achieve a visibility in the left turn and should have been a pre-condition to any grant of permission. No account has been taken of the appellant's front pier and damage that could be done to same.
- The large hedges within the appellant's boundary, should they be removed, would reduce her privacy and safety.

- The applicant has no right to interfere with the appellant's boundary (plan accompanying showing same).
- Adequate storm water proposals have not been submitted. The appellant's property is located at a lower level than the proposed development. It is not clear how surface water will impact on her property. She has gone to considerable cost in installing gabion cages (photos provided) to support her boundary and is concerned that construction traffic may adversely impact on same with possible subsidence. There is a steep gradient between the site of the nursing home and the appellant's property
- It is not clear how conditions 6 & 7 were derived at when adequate details were not submitted. How can surface water be disposed of given the topography of the site without affecting any part of her property. There are no watercourses in the vicinity and the design of soakpits was not addressed.
- Condition 10 with regard to landscaping and adequate drainage works to prevent flooding of the landscape is vague with no detail. This is considered important because of the perceived risk of flooding to the appellant's property.

#### **6.2. Planning Authority Response**

None

#### **6.3. Applicant Response**

None

#### **6.4. Observations**

Correspondence from Niall Collins TD requesting to be kept informed of the appeal.



## 7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

1. Principle of Development
2. Site Access
3. Site Services
4. Other Issues
5. AA – Screening

### 7.1. Principle of Development

- 7.1.1. The site, accessed from Moore Street, is within an area zoned 'Residential Development Area Phase 2' in the Cappamore LAP. Nursing homes are open for consideration in this zone. The village centre location, in close proximity to services and community facilities, accords with the Limerick County Development provisions for the location of such facilities as set out in objective HOU 05 and section 10.9.4. I consider that the proposed development is acceptable in principle but will be subject to the need to attain a balance between the reasonable protection of the amenities of adjoining property and the need to provide for the development.

### 7.2. Site Access

- 7.2.1. The site is accessed via an existing laneway onto Moore Street bounded by a two storey dwelling to the south-east and a single storey dwelling (appellant's property) to the north-west. It also serves a dwelling located to the south of the appellant's property. It is currently wide enough to facilitate single vehicular traffic.
- 7.2.2. By removing the shed and wall to the south-east road frontage it is proposed to widen the access to 14.029 metres with a 7.5 metre carriageway facilitating two way vehicular movements with provision for footpaths to either side. Access to the single storey dwelling from the lane is to be maintained. I note as per condition 26 attached to the grant of permission that the planning authority requires the reduction in the width of the carriageway to 6 metres.

- 7.2.3. The appellant is concerned that the alterations and widening of the access would require works to her boundary for which her consent would not be forthcoming. I note that the works proposed do not purport to require modifications to her boundary. However, should the Board be disposed to a favourable decision and in the interests of clarity, the applicant should be advised of section 34(13) of the Planning and Development Act 2000, as amended, and that a person is not entitled solely by reason of a permission to carry out any development.
- 7.2.4. The measurement of the visibility in a north-westerly direction onto Moore Street is queried. As noted by the agent for the appellant sightlines are normally measured from the nearside kerb or edge of roadway where no kerb is provided. As evidenced on day of inspection the appellant's property boundary does impact on sightlines and that the sightlines as shown on the plans reflect the visibility of oncoming traffic from the north-west.
- 7.2.5. Due regard is had to the Design Manual for Urban Roads and Streets in which Section 4.4.4 and Table 4.2 set out reduced forward visibility standards. For a speed limit of 50 kph 45 metres can be applied. Such reduced forward visibility increases driver caution and reduces vehicle speeds. Whilst the guidelines recommends a maximum setback of 2.4 metres be used to calculate the sightlines it states that in difficult circumstances this may be reduced to 2.0 metres where vehicle speeds are slow and flows on the minor arm are low. It is acknowledged that the use of a 2.0 metre setback may result in some vehicles slightly protruding beyond the major carriageway edge, and may result in drivers tending to nose out cautiously into traffic.
- 7.2.6. On balance, having regard the 50 kph speed limit, the location of the site within the village centre accessed from Moore Street which is lightly trafficked, the proposed access width and the application of a 2.0 metre setback, the reduced forward visibility standards of 45 metres as set out in Section 4.4.4 and Table 4.2 can be attained. The reduction of the carriageway width to 6 metres is reasonable in such a scenario and is 0.5 metres greater than the standard carriageway width for local streets as recommended in the Design Manual for Urban Roads and Streets (Figure 4.55). The prohibition of parking in the vicinity of the junction as required by the planning authority would protect these sight lines. Advance signage would also assist in raising motorist awareness.

7.2.7. I therefore submit that the proposed access arrangements are acceptable and would not give rise to a traffic hazard.

### 7.3. **Site Services**

7.3.1. The site is serviced with proposals to discharge to the village's sewerage and surface water system. By way of further information details on the site drainage were provided within the Engineering Services Report. Three storm water attenuation tanks with a hydrobrake are proposed prior to discharge to the storm water sewer on Moore Street. The maximum permissible storm water runoff rate to the storm water network is 5.04 litres/sec. The tanks will be capable of providing sufficient capacity for a 1 in 100 year event. Irish Water has no objection to the proposal.

7.3.2. Whilst the site is upslope of the appellant's property with a differential of in the region of 5.5 metres between the finished floor level of the nursing home and the appellant's property, disposal of surface water within the site can reasonably be secured thereby avoiding the potential for surface water flowing from the site onto adjoining property. An appropriately worded condition can be attached to a grant of permission to address this issue.

### 7.4. **Other Issues**

7.4.1. The location and single storey design of the nursing home is such that the amenities of adjoining property both to the south and north would not be adversely impacted by way of overlooking or loss of privacy. Whilst the finished floor level of the nursing home will be higher than the terraced dwellings bounding the site to the south the low height of the structure located to the north of same coupled with the proposed 2 metre high boundary wall backed with planting will protect the amenities of said dwellings.

7.4.2. Invariably the use and widening of the laneway will result in greater vehicular movements than heretofore experienced by the dwelling accessed from same and by the appellant's property. I submit that taken in the context of the site's proximity of the site village centre, the zoning provisions for same, the existing boundary

treatment to the dwellings and augmentation of same that the impact on amenities would not be of such a magnitude as to warrant a refusal of permission.

- 7.4.3. In terms of landscaping, both removal of trees and hedgerows and augmentation and additional planting, a grant of permission does not entitle the applicant to undertake works on a 3<sup>rd</sup> party's property. As above section 34(13) of the Planning and Development Act, 2000 is applicable.
- 7.4.4. The appellant expresses concerns regarding the potential for subsidence arising from the construction phase. A construction management plan should be required with a specific requirement in terms of protection of site boundaries stipulated.

## 7.5. AA – Screening

- 7.5.1. The site is located 130 metres to the south-west and on the opposite side of Moore Street to Bilboa River which forms part of the Lower River Shannon SAC (site code 002165). Having regard to the location of the fully serviced site within the village of Cappamore and the intervening land uses 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.

## 8.0 Recommendation

Having regard to the documentation on file, the grounds of appeal, a site inspection and the assessment above I recommend that permission for the above described development be granted for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the provisions of the current Limerick County Development Plan and Cappamore Local Area Plan and the site's location on zoned lands within the village of Cappamore, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities or depreciate the value of properties in the vicinity of the site, would be acceptable in

terms of traffic safety and convenience, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 27th day of February 2017, 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.
  - (a) 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.
  - (b) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

**Reason:** In the interest of public health and to ensure a proper standard of development.

3.
  - (a) The internal road network serving the proposed development including junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

(b) The internal road width shall be reduced to 6.0 metres

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

4. The works to the existing access onto Moore Street shall be in accordance with the detailed requirements of the planning authority for such works.

**Reason:** In the interest of amenities and public safety.

5. Details of road signage, warning the public of the entrance and of proposals for traffic management at the site entrance, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

6. Details of all external finishes of the proposed building shall be submitted to and agreed with the planning authority prior to the commencement of any development works on the site.

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

7. (a) The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the retention of the trees and hedgerows on the boundaries of the site.

(b) 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 visual amenity

8. Lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and public safety

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 (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, 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. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

12. Site development and building works shall be carried only out between the hours of 08.00 to 20.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

13. 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:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Details of site security fencing and hoardings;
- (c) protection measures for shared boundary walls and hedgerows;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;



- (f) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (g) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (h) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

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

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

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**July, 2017**