



An  
Bord  
Pleanála

## Inspector's Report PL15.248452.

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<b>Development</b>	Elderly / Nursing Home.
<b>Location</b>	Millgrange, Greenore, Co. Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	17/130.
<b>Applicant(s)</b>	Eamonn & Hugh Crilly.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	1. Jim & Angela Thornton 2. Andrea & Pierre McDonagh 3. Anna & Ken Pearson
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	01/08/2017.
<b>Inspector</b>	Karen Kenny.

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## 1.0 Site Location and Description

- 1.1. The site is located at Milgrange, Greenore, County Louth. Greenore is a small village on the southern shore of Carlingford Lough and at the eastern end of the Cooley peninsula. The appeal site is located in a rural area c. 1 kilometre south west of the village core.
- 1.2. The site is accessed from the R175 Regional Road north east of the intersection of the R175 (road to Greenore) and R176 (road to Carlingford). The site is a backland site that is set back from the public road. There are a number of residential units bordering the site to the north and east and a combination of dwellings and agricultural fields to the west. The site is bounded to the south by a wetland of c. 5.5 hectares. There is a drainage ditch along the northern boundary of the wetland bordering the appeal site and the Greenore River (Millgrange Stream) flows along the eastern boundary of the wetland and via a culvert under the entrance to the appeal site. Greenore Golf Course is located to the north.
- 1.3. The site has a stated area of 4.039 hectares and consists of a single grassed field. The site is bounded by hedge planting and wooden post and wire mesh fencing. Ground levels undulate gently within the site and the majority of the site is at an elevation of between 2.0 metres to 2.5 metres. There is a small depression close to the northern boundary that contains rushes and a mound (rock outcrop) close to the southern boundary that incorporates mature hawthorn trees.

## 2.0 Proposed Development

- 2.1. Permission is sought for a 118 no. bed nursing home and supporting facilities with a stated gross floor area of 6,826 square metres as follows:
  - The development incorporates 108 accommodation units including 80 no. en-suite single bedrooms, 10 no. en-suite twin / double bedrooms, 10 no. own door access independent living units (with care) and an 8 no. bedroom Alzheimer's facility. The independent living units incorporate a double / twin bedroom, living area with balcony and separate toilet / shower room.
  - The development comprises a single building that is set out over an 'L' shaped footprint. The structure can be broadly described as two connected

rectangular blocks. One block runs along a north – south axis and is c. 89 metres by c. 26.5 metres. The other runs east – west and is c. 85 metres by c. 26.5 metres. The blocks are of contemporary design with a flat roof over. The blocks are 7.75 metres high with a parapet height of 11.45 OD. Entrances and stair cores punch above the main parapet to 12.5 metres OD and 13.49 metres OD.

- Internally the nursing home comprises a centrally located services area at ground floor containing the main entrance to the facility, a reception and administration area, service and staff areas, dining and lounge areas and an oratory. There are accommodation areas above the services area and to the south and east.
- It is proposed to raise the level of the building and associated services and roads above the prevailing ground level of 2.0 metres to 2.5 metres OD for flood mitigation. The building would have a finished floor level of 3.85 metres OD, while the carpark and roads in the vicinity would be set at 3.5 metres OD.
- External finishes consist of stone, timber, render, glass and zinc. Stone is used as a plinth at ground level, timber forms the main gable ends to the east and south and there is a mixture of render and timber finishes at first floor level.
- The development is served by an onsite waste water treatment plant and a wetland / attenuation pond system comprising three ponds. It is proposed to discharge treated effluent from the development to the Greenore River (Millgrange Stream).
- A detailed landscaping scheme is submitted that proposes to retain existing planting and introduce new planting.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant Permission subject to 13 no. conditions. The following condition is of note:

- Condition no. 2 (i) requires visibility for a minimum of 215 metres to be made available on either side of the vehicular entrance from a point of 4.5 metres back from the edge of the road carriageway over a height of 1.05 metres above road level.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planning Officers Report reflects the decision to grant permission. The Report notes the following:

- The development would not appear to be consistent with the general Nursing Home policies of the Development Plan. It is in compliance with a site specific zoning objective for “Nursing Home & Analogous Services”.
- The discharge of effluent from the development will require a discharge licence under Section 4 of the Local Government (Water Pollution) Act, 1997.
- Portions of the site are vulnerable to Coastal and / or Fluvial Flooding. The applicant has submitted a Site Specific Flood Risk Assessment that demonstrates that the development is not at risk of flooding nor will it exacerbate flooding elsewhere.
- Access to the proposed development will be directly onto the R175 a “Protected Regional Route”. It is a policy of the Development Plan to prohibit the creation of new accesses or intensification of existing accesses onto protected routes, save in exceptional circumstances that are listed in the Development Plan (Table 7.2 refers). The Report concludes that Exemption 2 relating to major development of national, regional or local importance, would apply.
- The Stage 1 Screening Assessment submitted with the application concludes that there will be no negative impacts on Natura 2000 sites.

The Planning Officers Report recommended that permission be granted subject to 13 no. conditions.

### 3.2.2. **Other Technical Reports**

Environment: No objection.

Infrastructure: No objection, subject to adequate visibility on either side of the entrance.

### 3.3. **Prescribed Bodies**

Loughs Agency: Concerns in relation to the proposed effluent treatment and assimilative capacity of receiving waters to cope with the proposed discharge volumes. Applicant must provide full details and associated calculations in a future Section 4 consent under the Local Government (Water Pollution) Act 1977.

Irish Water: No objection.

### 3.4. **Third Party Observations**

4 No. submissions were received. The issues raised are similar to those set out in the grounds of appeal below.

## 4.0 **Planning History**

### **PA Ref. 91/314:**

Outline permission sought for three houses on the appeal site. Application withdrawn.

## 5.0 **Policy Context**

### 5.1. **National – The Planning System and Flood Risk Management - Guidelines for Planning Authorities, DEHLG and OPW, 2009**

The Planning System and Flood Risk Management – Guidelines for Planning Authorities, DEHLG and OPW (2009) require a systematic approach to flood risk management at each stage in the planning process. Table 3.1 of the guidelines

indicate that residential institutions are a highly vulnerable development class and Table 3.2 indicates that such development can only be considered in Flood Zone A or B, where it meets the criteria of the Development Management Justification Test detailed in Chapter 5 of the guidelines.

## 5.2. Development Plan

5.2.1. The Louth County Development Plan 2015-2021 is the relevant statutory plan. The following sections are considered relevant.

### **Zoning:**

The site is located in a rural area that is c. 0.2 kilometres outside of the settlement boundary of Greenore a Level 4 (Village) Settlement. The site is in rural Development Zone 5 with an objective *“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”*.

The appeal site is also subject to a site specific zoning objective for *“Nursing Home and Analogous Services”* (Map 3.1 and Map 2.38 refer).

### **Nursing Homes:**

Section 4.18.3 of the Plan states that there is a presumption against nursing home developments in the open countryside for reasons relating to unsustainability, poor accessibility, social exclusion and visual intrusion. The following policies apply:

- Policy RES 45: 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: To ensure that all applications for nursing homes / analogous services comply with the guidelines outlined in Section 4.18.3.

### **Roads and Transportation:**

- **Policy TC 10:** To prohibit the creation of new accesses or the intensification of existing accesses onto Protected Regional Routes that are listed in Table 7.3 of the Development Plan, subject to a number of exemptions. The R175 Regional Route is a Protected Regional Route.
- Table 7.4 sets out minimum visibility standards for new entrances onto Regional Routes.
- Table 7.6 sets out car parking standards for Nursing Homes at a rate of 1 no. space per employee and 0.5 per bed space.

### **Environment**

- **Policy ENV 18:** To require that on lands identified for non-domestic development and where no public waste water facility exists or is proposed, that the wastewater be adequately treated and discharged to suitable receiving water, subject to a discharge licence.

### **Scenic Routes**

- **Policy HER 62:** To prohibit development that would interfere with or adversely affect the scenic routes as identified in Table 5.15.

## **5.3. Natural Heritage Designations**

Millgrange Wetland bounds the appeal site to the south. This site was identified in the Louth County Wetland Survey 2012 as a wetland of national importance. This wetland drains to the Greenore River (Millgrange Stream), which in turn drains to the Carlingford Shore SAC / Carlingford Lough SPA c. 600 metres north of the site.

## **6.0 The Appeal**

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

There are three third party appeals from neighbouring residents. The principal grounds of appeal that are relevant to this appeal are summarised as follows:

- Scale of development is out of character with the surrounding landscape and residential development in the area.



- Increase in traffic volumes along a busy Regional Road and to a backland site.
- Impact on traffic safety arising from the proposed entrance onto a regional road at a point where the maximum speed limit applies and where there is a road bend.
- Public transport services in the area are limited to 1 no. bus service between Dundalk and Greenore which stops at Greenore post office at a distance from the proposed development.
- Impact on visual amenity due to scale of the development. There is a lack of visual imagery for the 'back' of the nursing home, which will be visible to surrounding residential properties.
- Impact on the residential amenity of adjacent properties arising from overlooking, traffic noise, lighting and odours from the wastewater treatment system, which is located proximate to dwellings.
- Potential for significant impact on the adjacent wetland / fen and associated wildlife due to noise, traffic, odour and lighting from the development.
- Environmental impacts arising from proposal to pump treated effluent into a wetland / attenuation pond system and discharge into the Millgrange Stream. Potential impacts on neighbouring properties and local golf course which is prone to winter flooding and the Carlingford Lough (SPA and pNHA).
- Question suitability of site for nursing home given its location at a distance from shops, medical facilities, walking areas and adjoining busy roads.
- Question of need for such an institution in a small rural area.
  - Details provided of existing provision in County Louth are not accurate.
  - Local area served by a facility in Carlingford and permission recently granted for 30 no. managed residential units in the area (PA Ref. 16852).
  - Contradictions in application data in relation to whether the development would serve the local community or a wider catchment and in relation to the level of provision in the wider area, which is at odds with Nursing Homes Ireland data.

- Residents in the home will not be from the local community, instead they will be in a facility, in a rural community, which is not well served by public transport and is 19 kilometres away from the M1. Development not near any local amenities for those living in independent living accommodation on the site.

## 6.2. Applicant Response

- The application is compliant with the sites “Nursing Home & Analogous Services” zoning objective. Planning statement submitted with application demonstrates how the proposal met the Criteria set out in Section 4.18.3 of the Development Plan.
- Supply within the elderly care sector continues to outstrip demand. The proposed development will serve both the local community and wider population.
- The appeal site is not located in an isolated rural area. It is between two regional roads serving Greenore and Carlingford with Dundalk. The site does not sit within pristine rural countryside but is surrounded by large detached residential properties and Greenore Golf Club.
- The site is readily accessed by car along the R175 and by Bus Eireann Rural Service No. 161. The geographic location allows for the proposal to comply with the criteria of Section 4.18.3 and Policy RES 46 of the CDP.
- The scale, massing and overall appearance has been designed to minimise visual intrusion and potential impacts on the surrounding countryside.
- The proposed development will not create a dangerous entrance. The R176 is more than capable of safely assimilating the limited increase in traffic. Drawings of the entrance demonstrate the provision of visibility splays and sightlines fully compliant with DMURS and DMRB and the CDP.
- The application was accompanied by a detailed screening report for AA & Ecological Assessment that concluded that the proposed development would not have negative impacts on the qualifying interests or species of any Natura 2000 site.

- The application included a site specific Flood Risk Assessment and Hydrological Assessment. Locating the building within the higher proportion of the appeal site above the predicted flood level represents the most appropriate flood protection measure. It has been shown that the proposed development will not increase the potential flood risk of adjoining lands and shall not cause any material displacement of flood waters onto other lands in accordance with the Justification Test criteria in Box 5.1 of the Flood Risk Management Guidelines.
- Details of the proposed sewerage treatment and surface water attenuation provision was submitted with the application and considered to be acceptable. The quality of the water to be discharged from the site will exceed EPA standards so as not to cause any impacts downstream. The development will also be subject to a Discharge Licence.
- The proposed development will have no persistent or detrimental impact upon residential amenities. The new structure will be set off the appellant's properties by at least 80 metres. Windows are orientated away from the appellant's properties and there is dense boundary planting. The operation of the development will not give rise to any demonstrable or detrimental increases in ambient noise levels, dust, odours or general disturbance. The sewerage treatment plant will not give rise to undue noise or odours. All traffic will be slow moving and would be no more perceptible than noise from vehicles using the surrounding local road network serving the appellants dwellings.

### **6.3. Planning Authority Response**

No new issues raised.

### **6.4. Observations**

None.

## 6.5. Further Responses

None.

## 7.0 Assessment

I consider that the key issues in this case are as follows:

- Principle of Development and Compliance with Policy
- Flood Risk
- Wastewater Disposal
- Traffic and Road Safety
- Impact on Amenity
- Other Issues
- Appropriate Assessment

### 7.1. Principle of Development and Compliance with Policy

- 7.1.1. The Louth County Development Plan 2015-2021 is the relevant statutory plan. The appeal site is located in a rural area that is c. 0.2 kilometres outside of the settlement boundary of Greenore Village a Level 4 Settlement. The site is in rural Development Zone 5 (Development Zone Map 3.1 refers) and is subject to a zoning objective “*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*”. The appeal site is also subject to a site specific zoning objective for “Nursing Home and Analogous Services” detailed on Map 3.1 and Map 2.38 of the Development Plan. Policy RD39 of the Development Plan sets out the categories of development that will be considered in Zone 5 and limits the consideration of “Nursing Home and Analogous Services” in this zone to the appeal site.
- 7.1.2. Section 4.18.3 of the Development Plan sets out general policy in relation to the development of nursing homes and analogous services. This section of the Development Plan states that there is a presumption against nursing home

developments in the open countryside for reasons relating to unsustainability, poor accessibility, social exclusion and visual intrusion. Policy RES 45 is *'to require that nursing homes and analogous services are located within Dundalk, Drogheda, Ardee, Dunleer and Level 3 Settlements. In exceptional circumstances the re-use of existing buildings shall be considered'*. This policy is clearly aligned to the Core Strategy of the Development Plan, which seeks to direct population growth over the Plan period into Level 1 Settlements (Dundalk / Drogheda), Level 2 Settlements (Ardee / Dunleer) and Level 3 Settlements and to restrict residency in Level 4 Settlements and in the open countryside to persons who comply with local need criteria.

- 7.1.3. There is a clear conflict in the Development Plan between the general policy in relation to nursing homes and analogous services and the site specific zoning objective for a nursing home development that pertains to the appeal site. The appeal site is located in a rural area, beyond the settlement boundary of a Level 4 Settlement. The proposed development would not therefore comply with the general locational requirements for nursing homes set out in Section 4.18.3 of the Development Plan. The locational requirements are considered to be reasonable for reasons of sustainability, accessibility, social inclusion and proximity to services. Notwithstanding the site specific zoning objective that pertains to the appeal site, I consider that the proposed development would be contrary to the general locational requirements for nursing homes set out in the Development Plan and that it would represent unsustainable form of development in an un-serviced rural area.

## 7.2. **Flood Risk**

- 7.2.1. OPW AFA Fluvial and Coastal Flood Extents maps indicates that the subject site is at risk from Fluvial and Coastal flooding. There are small areas of Fluvial Flood Zone A and B within the site, including Flood Zone A at the location of the vehicular entrance. The site is almost entirely within Coastal Flood Zone B and the vehicular entrance is located in Flood Zone A. There are also extensive areas of Fluvial and Coastal Flood Zone A and Zone B adjacent to the site including the wetland to the south and the golf course to the north. The OPW's National Flood Hazard Maps ([www.floodmaps.ie](http://www.floodmaps.ie)) identifies a number of historic flood events in the area.

- 7.2.2. The Planning System and Flood Risk Management – Guidelines for Planning Authorities (DEHLG and OPW) 2009, indicate that residential institutions are a highly vulnerable development class (Table 3.1) and that such development can only be considered in Flood Zone A and B, where it meets the criteria of the Development Management Justification Test detailed in Chapter 5 of the guidelines (Table 3.2).
- 7.2.3. The Flood Risk Assessment submitted with the application acknowledges that the development is vulnerable to flooding and proposes to raise ground levels and the finished level of the building and service areas for flood resilience. The report states that the development passes the Development Management Justification Test of the Flood Risk Management Guidelines. I have assessed the development against the criteria of the Development Management Justification Test set out in Box 5.1 of the Guidelines and would note the following:

*Lands zoned for the particular use in development plan, adopted or varied taking account of these Guidelines:*

The site is subject to a site specific zoning objective. With regard to the zoning taking account of the Guidelines including the Development Plan Justification Test, I would note that the site is not located in a settlement that is targeted for growth under the NSS, RPGs or Development Plan and that the zoning is not required to achieve the proper planning and sustainable development of an urban settlement.

*Development will not increase flood risk elsewhere:*

The FRA states that lands to be raised are outside of the floodplain of all fluvial flood events. In relation to coastal flooding it is stated that the development would not increase flood risk elsewhere due to the floodplain provided by the Irish Sea. Local displacement due to fluvial flooding is not addressed.

*Development includes measures to minimise flood risk to people, property, the economy and the environment:*

It is proposed to raise ground levels over 20% of the site and to raise the finished level of buildings, service areas and roads to protect the development in the event of a flood event. The FRA states that the wastewater treatment plant is contained in a waterproof tank and that the level of access chambers is set above the 0.5% predicted flood level of 2.60 metres. The assessment fails to address impact on the proposed wetland / attenuation ponds and outfall which are outside of the raised area. The vehicular entrance is within Flood Zone A/B and the ground level at the

entrance of 2.15 metres OD is below the predicted flood level of 2.60 metres OD. The applicant has failed to demonstrate, on the basis of the foregoing that the wastewater treatment system and vehicular access to the development, which are critical pieces of infrastructure serving the development are not at risk of flooding. *Development includes measures to ensure that residual risks can be managed by adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access:*

In relation to emergency access, the single vehicular entrance to the development is within Flood Zone A and B and is at risk of flooding.

*Addresses above in a manner that is compatible with achievement of wider planning objectives in relation to urban design and vibrant and active streetscapes:*

I consider that the proposal to elevate the building and service areas exasperates the visual impact of the development.

- 7.2.4. Having regard to the high probability of flooding at this location (Flood Zone A and B) and the highly vulnerable class of development proposed (nursing home), I consider that the development does not meet the criteria of the Development Management Justification Test and I am not satisfied that the development would not be at risk of flooding and that the development would not give rise to an increased risk of flooding of property in the vicinity. On the basis of the foregoing, it is considered that the proposed development would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

### 7.3. **Wastewater Disposal**

- 7.3.1. The grounds of appeal argue that the proposal to discharge effluent from the development into the Greenore River (Millgrange Stream) would have potential impacts on the neighbouring properties, the local golf course which is susceptible to winter flooding and on Carlingford Lough. It is proposed to treat wastewater on site through a proposed wastewater treatment plant and wetland and attenuation pond system. Treated effluent would discharge at a controlled rate to the adjoining watercourse (Greenore River / Millgrange Stream). A Discharge Licence under Section 4 of the Local Government (Water Pollution) Act 1977, would be required for the discharge. The Water Services Section of Louth County Council indicates no

objection to the development. No comment was made in relation to the assimilative capacity of receiving waters. The submission from the Lough's Agency outlines a concern in relation to the assimilative capacity of receiving waters. I would note that the Loughs Agency has a responsibility for monitoring freshwater quality in the Carlingford Lough catchment. A Hydrological Assessment submitted with the application details the outcome of water sampling at the proposed discharge point and indicates that the water quality at this point meets all relevant standards. There is no information provided with regard to the assimilation capacity of the wider receiving waters, including Carlingford Lough. While the requirement to obtain a separate discharge licence for the discharge of effluent will be assessed under a separate code, the disposal of effluent is considered to be an essential element of the proposed development. On the basis of the information submitted with the application and the appeal, it has not been demonstrated that the receiving waters have sufficient assimilative capacity to accept treated effluent from the development, notwithstanding the high level of treatment proposed.

7.3.2. In addition to the above, I consider that the wastewater treatment system including the wetland area, is at risk of flooding and would pose an unacceptable risk of untreated effluent reaching the Greenore River (and Carlingford Lough) in the event of flooding, as discussed in Section 7.2 above.

7.3.3. The proposed development therefore, would pose an unacceptable risk of environmental pollution and would be contrary to Policy ENV 18 of the Development Plan, which requires that wastewater from non-domestic development be adequately treated and discharged to suitable receiving water.

#### **7.4. Transportation**

7.4.1. The Infrastructure Design Details Report submitted with the application forecasts that the development would generate 240 vehicular trips per day (120 in / out trips) and concludes that the development would have a negligible impact upon the existing traffic conditions.

7.4.2. Vehicular access to the proposed development would be from an existing access onto the R175, which is a 'Protected Regional Route' under the County Development Plan. The access is c. 300 metres north east of a busy intersection between the



R175 Greenore Road and R176 Carlingford Road. It is a policy of the Development Plan to prohibit new accesses or the intensification of existing accesses onto 'Protected Regional Routes' subject to a number of exemptions. The applicant argues that the exemptions in relation to major developments of regional importance would apply. I consider that a community facility of the nature proposed would not represent a major development of regional importance and that the exemptions outlined in the Development Plan do not apply. In addition, sightlines from the proposed vehicular access are restricted to the south west due to an acute road bend and dense roadside planting within an adjacent property. The appeal statement proposes to undertake works to improve sightlines and a consent agreement with the adjacent landowner has been submitted to this effect. However, the submitted details fail to detail the nature and extent of works proposed or to detail the landscape features, such as a wooded area, stream and wetland that would be impacted. The works to improve sightlines would have a significant adverse impact on the rural character of the area and on the character of a designated Scenic Route (SR14-R175) under the Development Plan and are therefore considered to be unacceptable. Policy HER 62 of the Development Plan prohibits development that would adversely affect scenic routes. I consider that the proposed development by itself and by the precedent which it would set, if permitted, would create an adverse impact on the safety and capacity of the R175 and other Regional Roads and that it would endanger public safety by reason of traffic hazard.

## **7.5. Visual Impact and Impact on Character of the Area and Designated Scenic Route**

- 7.5.1. The grounds of appeal argue that the development will impact on visual amenity and on the character of the area. The appeal site is a backland site that is located in an undulating rural landscape, in an area that is characterised by one off housing, agricultural fields, a natural wetland and a golf course. Given the topography of the surrounding area, the elevated position of the proposed structure within the site, together with its depth and scale, I consider that the proposed development would form a discordant and obtrusive feature on the landscape at this location and would fail to be adequately absorbed and integrated into the landscape.

## 7.6. Impact on Amenity

7.6.1. The grounds of appeal argue that the proposed development will impact on the residential amenity of adjacent properties due to overlooking, traffic noise, lighting and odours.

7.6.2. The general operation of the proposed nursing home by its nature would be unlikely to generate excessive noise levels. While there may be some potential for noise disturbance from vehicular movements during evening and night time periods it is considered that adequate mitigation measures can be put in place to protect the amenities of properties in the vicinity. In terms of overlooking, light spill and odour, it is considered that the development is sufficiently separated from the nearest residential properties such that there would be no undue impacts.

## 7.7. Other Issues

7.7.1. In relation to the construction phase of the development, I would note from the submitted Infrastructure Report and Drawings that it is proposed to raise the ground level over 0.7 kilometres of the site for flood resilience. The prevailing ground level in the area is 2.0 metres to 2.5 metres. It is proposed to raise the building to 3.85 metres and to raise ground levels and roads in the vicinity of the building to c. 3.5 metres. No information has been submitted in relation to the nature, extent and source of fill material to be used. In view of the extreme vulnerability classification of the underlying aquifer and the sites proximity to a wetland system that is hydrologically connected to Natura 2000 sites, I consider that the potential environmental impact of importing soil into this site would need to be addressed. I draw the Board's attention to the fact that this is a new issue which was not raised during circulation of the appeal. I am recommending refusal for other reasons but if the Board consider granting the proposal, it may wish to seek input on this matter from the parties concerned.

## 8.0 Appropriate Assessment

8.1.1. There are a number of Natura 2000 sites within 15kms of the site. They are as follows:

- Carlingford Shore SAC (Site Code: 002036)

- Carlingford Lough SPA (Site Code: 004078),
- Carlingford Mountain SAC (Site Code: 000453),
- Dundalk Bay SPA (Site Code: 004026),
- Dundalk Bay SAC (Site Code: 000455).
- Easter Mournes SAC (Site Code: UK0016615),
- Rostrevor Wood SAC (Site Code: UK0030268)
- Carlingford Lough SPA (Site Code UK9020161). In Northern Ireland Carlingford Lough is designated as a Ramsar Site (UK12004) and Area of Special Scientific Interest (Site Code: ASSI 103).

8.1.2. An Appropriate Assessment Screening Report, dated February 2017, was submitted with the Planning Application.

8.1.3. The only sites where there is any potential for hydrological connectivity, as detailed in the report, are Carlingford Shore SAC and Carlingford Lough SPA. In respect of the other sites mentioned above, I consider that due to the limited value of the vegetation on site, the separation distances of the appeal site from the designated sites and the nature of the proposed development that it is reasonable to conclude, on the basis of the information on the file which I consider to be adequate, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Carlingford Mountain SAC (Site Code: 000453), Dundalk Bay SPA (Site Code: 004026), Dundalk Bay SAC (Site Code: 000455), Easter Mournes SAC (Site Code: UK0016615), Rostrevor Wood SAC (Site Code: UK0030268) and the Carlingford Lough SPA (Site Code UK9020161) in light of the site's Conservation Objectives and that a Stage 2 Appropriate Assessment is not therefore required.

8.1.4. The Screening Report submitted with the application determined that a Stage 2 Appropriate Assessment is not required in respect of the Carlingford Shore SAC (Site Code: 002036) and Carlingford Lough SPA (Site Code: 004078), citing mitigation measures that are incorporated into the project. I consider that there is potential for significant impacts on the Carlingford Shore SAC and Carlingford Lough SPA. The appeal site is hydrologically linked to these Natura 2000 sites through the Greenore River (Millgrange Stream) which flows via a culvert under the vehicular

entrance to the site and the adjacent wetland located to the south of the site which is c. 600 metres from the designated areas of the Carlingford Shore SAC and Carlingford Lough SPA.

8.1.5. In terms of potential impacts:

- It is proposed to discharge effluent to the Greenore River (Millgrange Stream) and there is potential for the discharge of other materials to the water system during the construction phases.
- While the proposed wastewater treatment system would provide treatment to a high standard and details submitted indicate that there will be ongoing maintenance of this system, I am not satisfied on the basis of submitted information that the receiving waters have adequate assimilative capacity and that the system would operate in a flood event.
- The proposal to remove buffer planting and set back the fence line along the R175 in the vicinity of the Greenore River (Millgrange Stream) could increase the risk of pollutants from the roadway entering the watercourse, and in turn entering the SAC / SPA. I am not satisfied that the potential impact has been adequately considered.

8.1.6. On the basis of the foregoing, there are clearly direct source – pathway – receptor linkages between the proposed development and Carlingford Shore SAC and Carlingford Lough SPA and it cannot be excluded that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on a European site or sites. On the basis of the foregoing I conclude that a Stage 2 Appropriate Assessment and Natura Impact Statement would be required.

## 8.2. **Screening Conclusion**

8.2.1. It is reasonable to conclude that on the basis of the information on the file, which I consider to be adequate in order to issue a screening determination that that proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. Carlingford Mountain SAC (Site Code: 000453), Dundalk Bay SPA (Site Code: 004026), Dundalk Bay SAC (Site Code: 000455), Easter Mourne SAC (Site Code: UK0016615), Rostrevor Wood SAC (Site Code: UK0030268) and the Carlingford

Lough SPA (Site Code UK9020161) in Northern Ireland, in view of the site's conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

- 8.2.2. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European Site's Carlingford Shore SAC (Site Code: 002036) and Carlingford Lough SPA (Site Code: 004078), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

## **9.0 Recommendation**

- 9.1.1. Further to the above assessment of matters pertaining to this appeal, including the consideration of the submissions made in connection with the appeal and my site inspection, I recommend that permission be refused for the reasons and considerations outlined below.

## **10.0 Reasons and Considerations**

1. The site is located in a rural area where it is an objective of the Louth County Development Plan 2015-2021 "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". The general locational requirements for nursing homes is to require that such facilities are located within Level 1, Level 2 and Level 3 Settlements. The site specific zoning objective for 'Nursing Home & Analogous Services' pertaining to the site is in direct conflict with the overarching zoning objective for the area and the general locational policy for nursing homes set out in the County Development Plan. Furthermore, having regard to the scale of development proposed and its location on a designated Scenic Route, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape

at this location and would be contrary to policy HER 62 of the Development Plan. It is considered that the proposed nursing home does not accord with the overall zoning objective for the area and the policies set out in the Louth County Development Plan 2015-2021 in relation to the location of nursing homes, the preservation of the rural environment and the visual amenity of scenic routes. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. It is proposed to upgrade an existing access onto the R175 Regional Route at a location where the maximum speed limit applies. Policy TC 10 of the Louth County Development Plan 2015-2021 prohibits the creation of new accesses or the intensification of existing accesses onto 'Protected Regional Routes' including the R175, subject to a number of exemptions. This policy is considered to be reasonable. It is considered that the proposed development fails to comply with the exemptions listed in the Development Plan and that the development contravenes Policy TC 10 of the Development Plan. Furthermore, the development would endanger public safety by reason of traffic hazard due to the additional traffic turning movements the development would generate at a point where sightlines are restricted and in proximity to a busy road junction. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the location of the site in an area which is prone to flooding and on the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the proposed development would not be at risk of flooding and that it would not give rise to an increased risk of flooding of property in the vicinity. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
4. The Board is not satisfied on the basis of the information submitted with the application that the Greenore River (Millgrange Stream) and Carlingford Lough have sufficient assimilative capacity to accept treated effluent from the

proposed on-site treatment plant, notwithstanding the high standard of treatment proposed. The proposed development would therefore pose an unacceptable risk of environmental pollution and would be contrary to Policy ENV 18 of the Louth County Development Plan 2015-2021. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

5. The Board is not satisfied on the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant adverse effect on European Site No. 002036 Carlingford Shore SAC and European Site No. 004078 Carlingford Lough SPA in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

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Karen Kenny  
Senior Planning Inspector

5<sup>th</sup> September 2017