



An
Bord
Pleanála

Inspector's Report PL19.248715.

Development	Alterations to house and holiday apartments and change of use.
Location	Mill House, Killeenmore, Killeigh, County Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	16/297.
Applicant(s)	Bradbury House Ireland Limited.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Liam Ó hOistín + 2 other appeals
Observer(s)	Mary Carroll Garvan Cleary.
Date of Site Inspection	6 th November 2017.
Inspector	Philip Davis

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1.1. Introduction

This appeal is against proposed extensions and alterations to a small cluster of buildings around a former corn mill in a rural area south-east of Tullamore. The buildings are currently in residential and holiday apartment use. It is proposed to change the use of the site to a residential care complex for people with intellectual disabilities and autism. The grounds of appeal relate to issues of amenity and traffic.

There is a concurrent reference file **RL19.RL2577** with this appeal.

2.0 Site Location and Description

Killeenmore townland is located 5 km due south-east of Tullamore in County Offaly, 6.5 km by road. The area is sparsely populated countryside with a scattering of dwellings and farmhouses on gently undulating topography, served by a single twisting country road (the LS1900441) running south and east from the town. There is a large worked raised bog to the west. Otherwise, the area is primarily farmland, with mid-sized fields in pasture and occasional tillage bounded by ditches and high hedges.

The appeal site is a small cluster of mostly 19th and mid 20th century buildings on what was a Corn Mill, with a Mill stream running north-east directly from the raised bog, and a mill pond to the south of the site. The site is elongated, along the western side of the minor road, with an unpaved farm road on its northern side, the latter leading directly to the raised bog. The site area is given as 0.4224 hectares, with the gross floorspace of existing buildings given as 508 square metres. It is part of a larger landholding which includes farmland and a large agricultural shed.

The existing complex consists of a small dormer cottage, an elongated stone mill building converted to residential use, and four additional smaller stone buildings of various ages, all in holiday cottage use. There is a garden on the north-western side, and the entrance and carpark is to the south.

To the **west** of the site is a large modern agricultural building, with open fields between this and the conifer plantation and extraction area of the former raised bog. To the **north** is an unpaved farm track leading to the bog, with open land beyond that. **East** of the site and across the road is a large open field, with three dwellings

about 130 metres away. **South** of the site is the junction with a minor road running east. Just over 60 metres south of the site is a trio of relatively modern bungalow dwellings, with more open farmland beyond these.

3.0 Proposed Development

A first floor extension to rear of existing dwelling house, alterations to existing holiday apartments and single storey extension to existing garage and all associated site development works. The development includes change of use of buildings (existing dwelling house, apartment building, office and garage as indicated as buildings 01 to 04 on site layout plan) to a residential care complex for people with disabilities and comprises of 9 number 1 bed units, communal living rooms, educational/training areas and offices.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 5 no conditions. Most are standard conditions – condition 2 states that the facility shall be occupied and used by persons with autism and intellectual disabilities only and associated staff and shall not be occupied by persons with mental health illnesses.

4.2. Planning Authority Reports

4.2.1. Planning Reports

There are two planning reports on file, the second one addressing items of further information requested in the first.

- States that the site has been used for holiday apartments since the 1990's.
- The first report noted that while the development plan is disposed favourably towards mental health facilities (Policy CSCP-23), but concerns expressed at location in open countryside. It states that a total of 141 submissions were received with a wide variety of concerns expressed (the planning report sets

these out in a detailed table). Requests for clarification were sent out with regard to policy, traffic safety, water services and design.

- The second report notes the response. The report notes that the applicant confirms that the site is to be used for users with autism and intellectual disabilities only and no security measures are required. The revised information on access arrangements and wastewater treatment was considered acceptable. Planning permission was recommended.

4.2.2. Other Technical Reports

Appropriate Assessment. Notes the site is 5.5 km from SAC 000571 – Charleville Wood SAC. There are no identified significant effects so an NIS is not required.

Environment Water Services. No objection subject to standard conditions.

Road Design. No objection, but vegetation must be removed to keep sightline triangle free of obstruction.

4.3. Prescribed Bodies

HSE: No objection subject to standard conditions (note, this is solely in relation to the technical aspects of the proposal, it is not a letter of support from the HSE).

4.4. Third Party Observations

Although not all on file, the planners report indicates around 141 objections to the proposed development.

5.0 Planning History

The planning report notes a number of previous permissions from the 1990's including **9477**, for a private office and boiler room for the house, **9479**, the extension to the dwelling house and new entrance lobby, and **95140**, garage and carpark and **957**, conversion of existing block into 3 no. holiday flats.

There is a concurrent reference case with this appeal – **RL3577**.

6.0 Policy Context

6.1. Development Plan

The site is in open countryside ('white' land) without a specific zoning in the Offaly County Development Plan 2014. Policy RDP-02 states that it is policy to encourage rural based enterprises. Policies SCSCP-23 and 25 states that it is policy to promote and facilitate the provision of healthcare facilities. Relevant extracts from the development plan are attached in the appendix to this report.

6.2. Natural Heritage Designations

The closest SAC is the Charleville Wood SAC which is just south-west of Tullamore, just under 6km to the west of the site. The Barrow and Nore SAC is just over 10 km to the south the site is not within the watershed of the latter.

7.0 The Appeal

7.1. Grounds of Appeal

Liam Ó hOistín of Cloncon, Tullamore

- It is argued that the area, with a poor quality road access, and a very rural nature and low population is unsuitable for a development of this nature.
- It is questioned as to the nature of the proposed facility and the type of people using it.
- It is argued that the planning authority did not take account of the deep, genuine concerns expressed by local people in their objections.

Niall Stack of Killeenmore

- It is argued that it is contrary to the settlement strategy in the development plan.
- It is argued that the access is unsafe on a narrow and twisting road with an 80kph speed limit and it will result in on-street parking.

- It is argued that it is more appropriate to locate the proposed facility in an area with better amenities and facilities.
- It is argued that it will have an unacceptable impact on neighbouring amenities through removal of hedgerows and the safety of children, etc.
- It is submitted that the site is deficient in private open space.
- It is argued that the site is unsuitable for adults with autism (refers to a National Disability Authority document and other related guidance documents) in that the site is too distant from services.
- It is argued that there are safety issues with regard to the proposal.
- It is argued that the site does not have a functioning wastewater treatment plant and is inappropriate for the proposed upgrade.
- Concerns are expressed at the true nature of the future residents of the facility.
- The submission has a number of attachments, including a letter from a local nurse regarding the suitability of the site and photographs and other documents in support of the arguments submitted.

John Cleary of Killeenmore

- It is argued that the site is unsuitable for a small rural community lacking services.
- Concerns are expressed at flooding of the land and the suitability for wastewater treatment.
- Detailed arguments are set out in relation to the suitability of the local road for further traffic and the safety of the access.
- It is argued that the main entrance to the site is unsuitable for additional traffic and that the maps do not correctly show historic gated accesses to the site.
- Concerns are expressed at the safety and security of the local community and claimed lack of responsibility if anything occurs with the proposed development.

Joan Condron of Killeenmore

- It is noted that in national policy (National Housing Strategy for People with a Disability (2011-2016) it is stated that large numbers of dependent people should not be placed in one location and should have access to community based health services.
- It is argued that it is inappropriate in the light of national and development plan policy to site residential type developments in such rural areas.
- It is submitted that the documents provided by the applicant to the planning authority lacked medical or scientific evidence backing its statements with regard to the suitability of the site.
- It is noted that policies CSPC-23 and 25 emphasises that health services and facilities should be integrated with new and existing facilities.
- It is noted that it is an isolated site with regard to the provision of transport.
- The precedent of appeal reference **PL06F.239001** is noted in respect to the provision of such services outside established urban areas.
- It is argued there is insufficient information about the end users of the site to allow certainty over the planning permission.
- It is questioned whether condition 2 is enforceable or reasonable.
- It is noted that the proposed wastewater treatment system is outside the red line boundary for the site and it is questioned in some detail as to whether the facility could be adequately served by such a system.
- It is argued that the local road network is inadequate for such a facility.
- A number of documents and enclosures are attached in support of the above arguments.

7.2. Applicant Response

The applicant sets out its response which focuses on what is said to be the key issue from objectors – the impact on the existing community.

- It is argued that the term ‘intellectual Disability’ is clear and is defined in the Disability Act, 2005, and ‘Autism’ is a diagnosis so it is denied there is any ambiguity about the nature of the proposed use. It is stated that Condition 2 as set by the planning authority was discussed and agreed between the applicant and PA.
- The applicant outlines in some detail the nature of the proposed redevelopment and states that it is important that the site does not have physical barriers to provide appropriate accommodation – it is stated that it is not suitable for those given to antisocial or criminal behaviour.
- It is noted that it will require HIQA registration as a Designated Centre. It is submitted that accountability for such centres is subject to enforcement by both the planning authority and HIQA.

In addition, the applicant attached a further letter addressing the specific planning aspects of the appeal, making points I’d summarise as follows:

- It is noted that the site was historically used as a corn mill and then a holiday complex.
- With regard to safety and security aspects, it is emphasised that the focus on the centre is for ‘person centred’ care and it is argued that physical barriers are inappropriate and unnecessary.
- With regard to enforceability, it is noted that this is the role of the planning authority and HIQA.
- It is stated with regard to other such centres and applications referred to by appellants that the proposed centre will be fully subject to HIQA inspections and will exceed standard metrics in accommodation quality and is not comparable with other such facilities in the region. It is argued that quoted appeal **PL06F.239001** is not applicable as it was located in ‘green belt’.
- Details are laid out about the user profile of potential clients of the facility.
- It is argued that it is not a contravention of the development plan as it is an existing complex of buildings and can be defined as a ‘community facility’.

- With regard to wastewater and traffic issues, it is noted that the site is long established and the Board is referred to file documents regarding traffic and the provision of wastewater treatment.

7.3. Planning Authority Response

The planning authority notes the objections and states that it has considered all relevant issues on which basis it decided to grant permission.

7.4. Observations

Garvan Cleary of Killeenmore

- It is submitted that introducing 'autism' into condition 2 of the grant of permission is disingenuous. It is argued that the applicants have no track record in Ireland and no permission from HSE/HIQA.
- It is argued that the site is too distant from Tullamore or any other town.
- Correspondence attached, including from 'Irish Rural Link' opposing the proposed development.

Mary Carroll of Cloughjordan, Co. Tipperary

- The observer is a registered nurse, and writes from her professional experience to object to the proposed development.
- It is submitted that the site is unsuitable for people on the autistic spectrum for a number of reasons, including:
 - Its isolation from community facilities
 - The noise levels from agricultural activities.
 - The level of staffing in such a small facility.
 - The proposes 3 month turnover.
- It is submitted that the proposal is haphazard and has had no consideration of the local community.
- It is submitted that the Ard Rí facility in Cashel, Co. Tipperary is an ideal, as it has large gardens with recreation space and is within the town of Cashel.

7.5. Further Responses

John Cleary of Killeenmore

- Expresses strong support for arguments submitted that the site and immediate area is inappropriate for a care centre.
- It is argued that there has been a failure by the applicant to communicate adequately with locals.
- Another of other comments are made with regard to the applicant's submission which relate to tone and communication.

Liam Ó hOistín of Cloncon, Tullamore

- Submits an argument that a potential client of the facility could represent a hazard to the community even with no malign intent.
- Expresses concerns at the absence of a track record of the company in Ireland.

8.0 Assessment

Having inspected the site and reviewed the file documents I consider that the appeal can be addressed under the following headings:

- Nature of the proposal
- Principle of development (national, regional and local policy)
- Community safety
- Conservation issues
- Amenity
- Public health
- Traffic safety
- Appropriate Assessment/EIA
- Other issues

8.1. Nature of the Proposal

The precise nature of the proposed development is not laid out clearly in the site notices, but the overall details are apparent from the various submissions to the planning authority and the Board. It does not fall into any neat use category as set out in the development plan or other planning documents as it is a mix of residential, commercial and community care type use.

My understanding from the submitted documentation is that the proposed use would be as a privately operated for profit facility to provide an appropriate short term location for people with autism or intellectual disabilities for holiday purposes. It is not an intensive care facility, for specific courses of treatment, or for long term residential use.

The site is a former corn mill dating from at least the 19th Century, although just the stone buildings remain, there are no other visible remains from its past use. The site was used for, and had full planning permission as a holiday letting complex. The proposed development represents a relatively minor increase in floor area, while changing the use from residential/holiday use to the proposed use does represent in my view a relatively minor alteration in terms of its external impacts. I do not see any evidence that it significantly increases the intensity of use of the site (arguably, the proposed use would lower the seasonal intensity of use relative to short let holiday cottages, especially with regard to traffic).

The appellants, observers, and the original objectors have raised issues regarding the precise type of proposal involved, specifically with regard to the future residents. The planning authority set a condition such that it would only be occupied and used by persons with autism and intellectual disabilities only and associated staff. I understand that the text of this condition was agreed with the applicant. While normally I would consider such a condition to be problematic, I am satisfied that as the term 'autism' is a medical diagnosis and that 'intellectual disabilities' is defined under the relevant Acts, that such a condition would provide comfort that it would not be used by persons with different types of disorder or special requirements. I am further satisfied that there is nothing to indicate that the proposal would be used by people deemed to require secure accommodation or special management. I would therefore recommend that if the Board decide to grant permission, condition no.2 be

repeated as worded in the planning notice in order to provide certainty as to the proposed use.

I note that the site will be subject to the regulatory requirements of HIQA. The HSE were consulted in the application but provided no comments beyond recommending standard conditions. It is not clear from the information available on file, or other immediately available information, if the HSE is supportive (or otherwise) of this type of proposal. The Board may wish to consult the HSE directly on this matter, although I do not consider it necessary to address the planning issues raised, as the facility will require a license under the Disability Act 2005.

The observers have raised what I consider to be very reasonable questions regarding the appropriateness and viability of the facility for the type of client proposed. I would consider issues of accessibility and amenity to be very much planning issues, but the question of whether the interior design and layout is appropriate for specific categories of vulnerable or disabled people is, I would consider, beyond the scope of a planning appeal and would most properly be addressed by HIQA under its licensing requirements.

8.2. Principle of development

The appeal site is in open countryside south-east of Tullamore – it is outside the area of the Tullamore Town and Environs Development Plan and is in open countryside as indicated in the Offaly County Development Plan 2014-2020. It is described as ‘white lands’ in the development plan. There are no specific policy objectives for such a facility in such areas. In general, the policy focus is on directing community based uses to existing urban areas, preventing residential uses in unzoned/agricultural areas for those who do not have specific local ties, and in facilitating local business and community uses in these areas. How they apply depend very much on how the proposed use is categorised. I would consider that in overall terms both national and local policy on such facilities is broadly neutral – with a presumption towards locating them in existing built up areas with nearby complementary services and land uses. But I would note in this regard that there is an obvious need for some such services to be located in areas which are quiet and rural in nature. I would therefore consider that the proposed development should be considered on its merits.

The site is an existing residential/holiday let use. The proposed use is in many ways quite similar, so I would consider the use of the site for any type of residential use to be long established and in accordance with previous planning permissions.

The appellants have raised the issue of previous Board decisions. The appeals referred to were refusal for social care homes due to their locations outside established zoned and serviced urban areas. There are certainly a number of precedents for the Board refusing facilities such as nursing homes and other social care provisions due to their locations being inaccessible for visitors or users and being outside established urban areas. For example, in a recent decision for a social care facility in Tallaght (**PL06S.248645**), the Board noted in its decision the importance of such facilities being within easily accessible locations.

I would however note that with this specific application, there is a long established residential use and the complex of buildings are decades or more old. In terms of impact on travel I do not consider that it represents an intensification over its permitted use for holiday cottages. While there is certainly a legitimate argument about the most appropriate location for the potential clients of the facility, I would consider this to be an issue for the licensing authority.

I note that there is a reference case for this site – **RL19.RL3577**. The question in that reference is whether the use of the buildings as accommodation for people with the specified needs is or is not development. While I would recommend that these two files are addressed concurrently, I do not consider that the decision in the reference file would alter my recommendations in this appeal.

8.3. Community safety

The appellants, and the numerous original objectors have raised many concerns about the safety of the rural community which are presumably based on concerns at the type of clients who will stay at the proposed facility and the level of control. I am satisfied from the information on file that there is no evidence whatever that the facility would be used for people who would most properly be housed in a secure facility. For clarity, I would recommend that the Board repeat condition no. 2 as set by the planning authority to provide comfort on this point.

8.4. Conservation issues

The buildings on site most include a number of mill structures from the 19th Century at least – their original date is uncertain but they are clearly visible in the oldest available OS maps. The other buildings date from a variety of periods. None of the structures are on the NIAH and there are no indications that they are of very high conservation value, although I do consider that they are attractive and well preserved. The proposed alterations are, in my opinion, sympathetic to the existing fabric and form and the proposed use is appropriate for such buildings. There are no recorded ancient monuments in the vicinity.

8.5. Amenity

The proposed alterations to the buildings are relatively modest in scale, and in terms of overlooking or overshadowing or other amenity impacts would not have any significant impact on neighbouring properties, the closest of which are the trio of dwellings south of the appeal site. The complex of buildings is quite attractive, but the alterations would not impact on the local landscape as they are barely visible from outside the site. I would consider that any proposal to keep this historic complex in use and in good repair represents a benefit to the local area.

8.6. Public health

The site is currently serviced by wastewater treatment facilities for an average capacity of 33pe as permitted under the permission for holiday cottages. The existing Puraflo system is located beyond the main house, with a soakaway outside the appeal site (but within the landholding) next to the adjoining agricultural building. The site is served potable water from a Group Water Scheme. The applicants say that the average design load of the house is for 10 persons. The applicant proposes alterations to the storm water drainage system to SUDS standards.

The appellants have raised concerns about the existing system, with complaints about poor treatment and foul water overflows. There are certainly issues with the site, which has developed over many years, not least the lack of room within the complex for a suitably sized percolation area. I note that there is a former watercourse (mill race) running through the site – apparently still flowing, although the mill pond has been infilled (this pond was where the carpark is now located).

I did not observe any issues with the wastewater treatment system during my site visit, but I would have concerns about the proximity of such a system so close to a watercourse. But the existing system appears to be in line with EPA guidelines and is of sufficient scale for a facility of this size. Its maintenance is a matter for planning authority enforcement under the National Inspection Plan (Water Services (Amendment) Act 2012).

Although the former mill race – probably a diverted natural stream arising from the raised bog - runs through the site, there are no indications from available source that there have ever been any floods on or in the vicinity of the site. I would consider the drainage proposals therefore to be acceptable.

8.7. **Traffic safety**

The site is accessed by a minor country road. While the alignment is relatively straight at this point, the road takes a number of sharp blind turns to the north. I would consider it quite a substandard and potentially hazardous road even by the standards of such highways.

The site has a number of separate accesses. One is a gate at the north-east corner at the junction with an unpaved farm lane. This access seems rarely used, although during my site visit was apparently in temporary use for construction and repair works. There is a small pedestrian access and a separate vehicular access to the front of the original dwelling on the site. The main access on the southern side to the carpark on the south of the site. It is proposed that the main vehicular access will be via an improved access to the south.

While this access seems slightly substandard with regards to sight lines, partially because of the building to the north, but mainly due to vegetation to the south, it is an existing access, and was permitted by the previous permission. I am satisfied that the proposed development will not result in more traffic than would be expected from the existing permission – it may actually be less as I would not anticipate that the clients of the facility would be independently mobile. I also note that the poor alignment of the road results in relatively low traffic speeds and there seems little traffic in the area. I would therefore consider the use of the southern access to be appropriate subject to conditions to maintain the hedgerow.

8.8. **Appropriate Assessment/EIA**

The planning authority carried out an AA screening and concluded that no NIS was required.

There is one EU site within 10 km of the appeal site. This is **Charleville Wood SAC (site code 00571)**, which is south-west of Tullamore and just over 5km from the site. This site is designated for its old sessile oak woods and the presence of Desmoulins Whorl Snail.

A watercourse (the former Mill Race) runs through the site, with a larger stream, which also arises from the nearby raised bog, flowing north-west of the site. They both drain to the north, then to the west, past the northern side of Tullamore town, eventually into the Shannon River, which has a number of designated EU sites.

While I note the concerns raised in the submissions about possible run-off from the existing wastewater treatment system, I note that this should be maintained in accordance with statutory requirements.

Having regard to the small scale of the proposed development, the existing use of the premises, and the absence of pathways to the closest designated habitats, I consider it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 00571 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

Having regard to the small scale of the proposed development and the nature of the area I do not consider that the issue of EIA arises.

8.9. **Other issues**

The planning authority did not consider that the proposed works require a financial contribution under the Development Contribution Scheme or other contributions and does not come under Part V.

I do not consider that there are any other planning issues of relevance in this appeal.

9.0 Recommendation

I recommend that subject to the conditions set out below the proposed change of use along with alterations to the buildings should be granted planning permission for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the existing structures and the planning history of the site, it is considered the proposed development is acceptable in principle and does not represent a significant intensification of the use of the site. The Board concludes that, subject to the conditions set out below, the proposed development is in accordance with the policies set out in the development plan, would not injure local amenities, would not represent a hazard to health or a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 facility hereby granted by this permission shall be occupied and used by persons with autism and intellectual disabilities only and associated staff. The facility shall not be occupied by persons with mental health illnesses.

Reason: In the interest of proper planning and in order to clarify the nature

and use of the development.

3. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

5. Vegetation to the south-east corner of 'Building 03' shall be removed prior to the commencement of operation of the facility. The sightline triangle shall be kept free of obstruction at all time.

Reason: In the interest of traffic safety.

Philip Davis
Planning Inspector

7th December 2017