



An
Bord
Pleanála

Inspector's Report ABP-302154-18

Development	Change of use from guesthouse to a residential childrens care centre.
Location	River Lodge, Church Hill, Wicklow Town, Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	18372.
Applicant	Misty Croft Ltd.
Type of Application	Permission
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellants	John & Rita McAulay Teresa O'Connor
Observer(s)	None.
Date of Site Inspection	13 th September 2018
Inspector	Philip Davis.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority Decision	4
4.1. Decision	4
4.2. Planning Authority Reports	4
4.3. Prescribed Bodies	5
4.4. Third Party Observations	5
5.0 Planning History.....	5
6.0 Policy Context.....	5
6.1. Development Plan.....	5
6.2. Natural Heritage Designations	5
7.0 The Appeal	6
7.1. Grounds of Appeal	6
7.2. Applicant Response	7
7.3. Planning Authority Response	8
8.0 Assessment	8
9.0 Recommendation.....	12
10.0 Reasons and Considerations	12
11.0 Conditions	13

1.0 Introduction

This appeal is by adjoining local residents against the decision of the planning authority to grant permission for the change of use of a former guesthouse to its use as a children's care home. The building is located in a mature area close to the centre of Wicklow Town. The grounds of appeal relate mostly to amenity and traffic safety issues.

The Board will note that here is an appeal for an extension to the school approximately 100 metres north-west of the site with the Board – **ABP-302160-18**, in which similar issues have been raised by other appellants.

2.0 Site Location and Description

The appeal site is located on a prominent hill overlooking the centre of Wicklow Town. Church Hill is a narrow street extending north-west from Church Street and Main Street, running up to a high point overlooking the town and the Leirtrim River. At the high point is a Church of Ireland graveyard and church (on the site of an apparently much older church), next to a school. Running up to it are a mix of terraces and other dwellings, mostly apparently of 19th Century origin. A number of these buildings are in commercial use, including a medical clinic. There are the remains of a mound fortification just north-east of the church. North-east of the street the levels drop steeply from the rear of the properties down to the banks of the Leirtrim River estuary and Wicklow Harbour.

The appeal site, with a site area given as 0.087 hectares, is a rectangular house site occupied by a large (445 sq. me., 11 no. bedroom), seemingly early mid-20th Century building formerly used as a Bed and Breakfast establishment, now vacant but in good condition. This house is on the northern side of Church Hill, about midway between the junction with Church Street and the graveyard. The front elevation of the house is nearly flush with the main road. It has a vehicular access on the south-east side, leading to a paved parking area to the rear. There are rear pedestrian gates leading down, via steps, to the bank of the river. There are substantial detached dwellings on each side.

3.0 Proposed Development

The proposed development is for the change of use of the residence/guesthouse to a children's residential care centre.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission for the change of use, subject to 2 no. conditions. Condition 1 limits the use to that submitted in documents lodged on the 15th June 2018, condition 2 states that the maximum number of children to be accommodated is 6.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- It is noted that permission had been granted in 2007 to subdivide the building into 6 apartments. A retention permission had been granted for B&B use in 1998.
- The site is in a residentially zoned area, where such uses are typically permitted. Policy NH1 refers to residential and day care facilities – it is policy to encourage them in appropriate locations close to shops and other community facilities.
- Notes several objections for reasons relating to amenity and traffic.
- Notes lack of information on the details of the proposed facility.
- A request for further information was considered necessary.

Following the FI request:

- It was confirmed that the proposed facility is for 6 children aged 12-17, with a maximum of 4 no. staff.
- Vehicular movements based on 9 trips a day.

- Concluded that the scale of the operation would be proportionate to its existing usage and does not represent an intensification. A grant of permission recommended.

4.2.2. Other Technical Reports

None on file.

4.3. Prescribed Bodies

None on file.

4.4. Third Party Observations

A number of residents of Church Hill submitted objections, citing amenity, traffic, and policy concerns.

5.0 Planning History

In July 2007, permission was granted for the conversion of the building to 6 no. apartments, with 9 parking spaces to the rear, subject to 18 no. conditions (**07/3149**).

The planning report indicates that B&B use was granted for retention in 1998 (**98/2269**).

6.0 Policy Context

6.1. Development Plan

The site is within an 'existing' residential' zoned area in the Wicklow Town-Rathnew Development Plan 2013-2019.

6.2. Natural Heritage Designations

The site adjoins 'The Murrough' SPA site code 004127, which includes the estuary area to the north. The Murrough Wetlands SAC (002249) is about 800 metres to the north.

7.0 The Appeal

7.1. Grounds of Appeal

Teresa O'Connor of 'Stella Maris' Church Hill

- It is argued that the proposed use is entirely different in nature than the existing use and represents a significant intensification of use.
- It is argued that the parking provision shown is significantly short of requirements.
- It is argued that it is contrary to the zoning objective to ensure maximum privacy for residents.
- It is argued that the application is invalid as the submitted plans are inadequate.
- It is argued, with respect to the zoning designation, that the proposed use is not listed under residential, and therefore should be deemed 'not permitted'.
- It is argued that it is contrary to development plan policy to permit such developments that would interfere with residential amenity in such zoned areas.
- It is argued that there is inadequate parking in terms of the requirements for parking under Section 2, Chapter 3 of the development plan.
- It is argued that the access and sightlines to the property are inadequate and that its use would result in a hazard, in particular to pedestrians.
- It is argued that it is inadequate with regard to disabled access (Section 4, Chapter 8 of the development Plan).
- It is argued that there is no provision for private open space.
- It is argued that it should have been subject to a full flood risk assessment.
- In conclusion it is emphasised that the development plan focuses on the protection of privacy and amenity. It is argued that the proposed development is contrary to this objective.

John & Rita McAulay

- It is argued that the access is inadequate and dangerous. The assumption by the planning authority that the traffic generated by the proposal is similar to that of the existing guesthouse is questioned.
- It is argued that the proposed development would significantly increase parking demand and car movements.
- It is argued that it will significantly impact on their amenities (they live in the adjoining house).
- It is argued that there is insufficient information on the layout of the proposed use, including issues such as building regulation and HSE regulatory requirements.
- It is argued that there will be additional overlooking due to the different nature of the proposed use.
- It is argued that it is contrary to the zoning designation objective to protect residential amenities.
- It is submitted that it is contrary to policy on Tourism and Recreation (Chapter 7 of the development plan) with regard to the loss of B&B bedspaces and to encourage tourism in Wicklow Town.

7.2. Applicant Response

- The use of the proposed development, for up to six children seeking asylum, supported by on site staff, is confirmed. It is stated that the applicants are contracted to Tusla to provide this service.
- The details as previously submitted to the planning authority is confirmed.
- It is argued that it is consistent with the zoning designation and Objective NH1 with regard to the provision of residential and day care facilities.
- It is noted that no physical alterations are proposed.
- It is argued that there is no intensification of use.
- It is argued that the local area is ideal for such a use having regard to the proximity of services and its attractive location.

7.3. Planning Authority Response

The planning authority did not respond to the grounds of appeal.

8.0 Assessment

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

- Principle of Development
- Amenity
- Traffic
- Flooding
- EIAR
- AA
- Other issues

8.1. Principle of Development

The site is within an area zoned as 'existing residential' in the Wicklow Town-Rathnew Development Plan 2013-2019. In such areas 'Residential Institutions' are 'typically permitted' (Table 13.2 of the Plan). With regard to residential and day care facilities, the Development Plan states the following (page 92):

Residential and day care facilities can take many forms, ranging from day time activities / services to care / nursing homes, to assisted living units to independent (but supervised) living units and it is not therefore always possible to craft policies that will address all development types. All applications for development will be considered on their merits with particular regard to their location and the type of service being provided.

I would consider the proposed use to be a residential institution within the context of the Development Plan. All such developments are subject to the general policy objective within the Development Plan to protect residential amenities.

The appeal site appears to have originally been a large individual dwelling, but has been used as a Bed and Breakfast establishment for a significant number of years. At the time of my site visit the building was vacant but in good condition – it is

unclear as to how long its use as a B&B has ceased but it is likely to have been quite recently. The rear 'garden' has been largely paved over for parking and has a small detached utility building.

The proposed use is as a residential home for children seeking asylum. There are no indications that the residents would have specific needs. The Development Plan states (Policy NH3) that such uses should be within areas with good access to infrastructure and facilities. The appeal site is within a mature residential area very close to the Main Street and within easy walking distance of most of the towns shops, community facilities and schools – as such I would consider it a very good location for such a use.

The appellants have argued that the specific impacts of the proposed use would represent a significant intensification of use from the existing permitted use. I will address this in more detail in the relevant sections below, but I would conclude that it is very hard to see how a residential children's facility, if run appropriately, could have a greater overall impact than a Bed and Breakfast with a similar or greater potential number of guests. Either type of use can have specific impacts depending on the nature of the clientele and the quality of management, but in general terms I would consider that the uses are broadly similar in terms of amenity and traffic impacts.

The Development Plan also sets out an objective to promote more tourist accommodation (TA1 and TA2 of the Development Plan). While the proposed development represents a loss of such rooms, there is no evidence that this would have a serious impact on the overall tourism strategy for the area, I would consider the impact to be generally negligible.

I would therefore conclude that the proposed development is in accordance with the zoning designation and is consistent with the overall policy context set by the Development Plan and related national and regional guidance.

8.2. Amenity

As I have noted above, the proposed development is substantially similar to the existing permitted use. The dwelling is large and spacious, although it has a minimal front garden, and the adjoining dwellings on either side are very close. The proposed development does not include any alteration to the layout or external appearance of the building. While it is understandable that neighbours are

concerned about a potential use involving children, it is difficult to see how this could create an amenity issue potentially greater than a guesthouse/B&B, which, similar to a residential centre, could have amenity and nuisance impacts either inconsequential, or relatively high, depending on the quality of management and control.

While the proposed centre would apparently be privately operated, it would be under the regulatory competence of the HSE/Tusla. There is no reason to indicate that there would be behavioural or other issues of concern with the clients of the facility.

The appellants raise a number of concerns about the suitability of the building for such a use, and the applicability of Building Regulations. In terms of planning issues, I consider that the building fulfils the stated objectives of the development plan, and is otherwise appropriate, having particular regard to its large size and very good location near the town centre. It is a matter for other regulatory agencies as to whether it should be approved for such a use or whether internal modifications are needed in accordance with the Building Regulations.

The only issue of concern I would have for its proposed use is the relatively small area of useable of private open space available for residents. The rear garden (largely paved over) is however very well oriented with its own access to the riverside path, and is generally in an area with good amenities, so I would not consider this an impediment to its use as a residential home.

I would therefore conclude that the proposed development would not seriously injure local amenities and would provide an adequate level of amenity to its users.

8.3. Traffic

The site faces a road which is narrow and twisting and appears to date to at least the 18th Century if not earlier. It narrows at the top of the hill where the road squeezes between the churchyard and some older buildings. As with many such roads, it is substandard in regard to modern traffic layouts. I observed relatively low levels of traffic during my site visit, mostly due to a very narrow constriction of the road between the site and the churchyard. This has the effect of being a natural traffic calming measure, which is certainly needed due to the narrow substandard footpaths and the primary school opposite the church.

The appeal site has a narrow vehicular access which is certainly substandard with regard to sight line standards that would be applied to new-build in a suburban or rural area. It is not proposed by the applicant to alter the entrance. The appellants have argued that the proposed use will generate additional traffic, but this seems highly unlikely as only staff (if they drive) or delivery drivers would need to access the site. While the Bed and Breakfast may not in recent years have been used up to its permitted capacity, the reality is that this was a permitted use which implied quite a significant use of the access, with potentially many visits a day from drivers who may not have been particularly used to the local layout. I would consider it much more likely that the proposed use would de-intensify the use of the access and so improve local safety.

I would therefore conclude that the proposed development (having specific regard to its planning history and long established layout) would not have any significant impact on traffic safety, traffic movements, or local congestion.

8.4. Flooding

The site is, as the address would suggest, on the side of a hill, and although it is close to the banks of the estuary/river, it is elevated significantly above the local floodplain. There are no indications that there has been any historic flooding of the site or vicinity, and there are no proposed alterations to the building that might alter local flood patterns or run-off. I therefore do not consider that there are any flooding implications of the proposed development.

8.5. EIAR

The application is for a change of use and does not require any physical alterations to the existing building. The site and lands are not within any area designated for particular environmental sensitivities. I therefore conclude that no screening for EIAR is required.

8.6. Appropriate Assessment

The proposed development does not involve any physical alterations that could lead to pollution or other direct or indirect impacts on nearby watercourses or ecological features or site. The planning authority carried out a Screening which concluded there would not be a significant effect on the nearest European Site, of which there are two, the Murrough SPA site code 004127, which includes the estuary area to the

north and the Murrrough Wetlands SAC (002249), which is about 800 metres to the north. I would concur with the planning authority's conclusion as the nature of the proposed development would not result in any off-site impacts and there are no identifiable pathways for pollution.

I therefore consider it reasonable to conclude 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. 0040127, 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.

8.7. Other issues

The structure is not a protected structure and there are no significant physical works proposed so I do not consider that there are any potential impacts on cultural heritage or on the visual amenities of the area. The planning authority did not consider that the change of use is subject to a development contribution under the adopted Scheme.

9.0 Recommendation

I recommend that the proposed change of use be granted planning permission for the reasons and considerations set out in the schedule below, subject to the conditions set out further below.

10.0 Reasons and Considerations

The proposed development is considered to be a residential institution and is so 'typically permitted' in areas zoned for residential use. Having regard to the planning history of the site, the past use of the site, and the location close to the main amenities of Wicklow Town Centre, it is considered that the proposed change of use from Bed & Breakfast facility to a residential children's care centre would be in accordance with the zoning objectives for the area and would otherwise not seriously injure local amenities or result in a traffic hazard. The proposed development would,

therefore, be in accordance with the 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 maximum number of children to be accommodated within the facility at any one time is six.

Reason: In the interest of clarity.

Philip Davis
Planning Inspector

14th November 2018