



An
Bord
Pleanála

Inspector's Report

ABP-304293-19

Development	Extension to Nursing Home, 12 car parking spaces and all associated site works
Location	Millbrook Manor Nursing Home, Slade Road, Saggart, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD19A/0039
Applicant(s)	Saggart Developments Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission (1 no. reason)
Type of Appeal	First Party
Appellant(s)	Saggart Developments Ltd.
Observer(s)	Click here to enter text.
Date of Site Inspection	11/07/2019
Inspector	Conor McGrath

1.0 Site Location and Description

1.1. The appeal site is located off Slade Road / Castle Road approx. 500m southwest of Saggart Village, Co. Dublin. The site has a stated area of 1.99 ha and is occupied by an existing nursing home (2,650-sq.m.). This comprises a part single and part-two storey structure constructed around a central courtyard, accommodating 60 no. bedrooms. The northern side of this perimeter block is provided as a two-storey element. The building is finished in a mixture of plaster and stone finish, with slate roofs. The nursing home is connected to public mains water and to sewerage services via a rising main. The site is traversed by the Camac River, which flows in a relatively deep channel through the site.

2.0 Proposed Development

2.1. The proposed development comprises a two-storey over basement (1,962.9-sq.m.) extension to the existing nursing home including the following:

- 36 no. single bedrooms and 2 no. two-bed rooms.
- Basement / lower ground level staff, laundry and storage facilities.
- Additional 12 no. car parking spaces.

The main part of the extension will be aligned with the northern arm of the existing perimeter block, running on an east-west axis. Finishes are consistent with the existing nursing home, except at the western end of the new block where a more modern flat-roof design is proposed. Two new ground floor bedrooms are also proposed as an extension to the southern side of the existing nursing home, with minor additions to a dining area on the northern elevation.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the proposed development on the basis of material contravention of the land use zoning

objective pertaining to the area “RU” (‘To protect and improve rural amenity and to provide for the development of agriculture’), within which nursing home use is not permitted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report reflects the decision of the planning authority and notes the following points:

- The area surrounding the site is rural with dispersed population pattern.
- There is no footpath between the site and the village and the site does not appear to be served by public transport.
- The Camac River runs through the site and no AA screening information was submitted. Parts of the site are located within Flood zones A and B.
- Nursing home use was permissible under the zoning which applied when the previous permission was granted.
- It is development plan policy to locate elderly accommodation on residential / mixed use lands proximate to services.
- The significant increase in accommodation would materially contravene the current zoning objective for the site.

3.2.2. Other Technical Reports

Roads: The development will not materially increase traffic movements and sightlines at the entrance are good. Parking provision is acceptable. Turning provision for fire tenders should be demonstrated on internal roads.

The extension is significant and will generate additional demand for access to services in Saggart. The public road is deficient in footpaths (approx. 320m). Roads require a 2m wide footpath and public lighting between the site and the village to provide safe pedestrian access. Details to be agreed.

The layout should not interfere with the route of the proposed Western Dublin Orbital Route. The route of the proposed Western Dublin Orbital Route (south), passes through the site to the north, however the applicant has incorrectly shown this route

to the south of the site. Roads cannot support this application as the development infringes on a County Development Plan road objective. Landscaping and surface water attenuation are located on the route of the future road objective. Refusal recommended.

Water Services: The SW Infiltration area is too close to the watermain crossing the site and to the stream, and it is also located in an area at risk of 1:100 and 1:1000 year flood events. Revised layout details of the existing SW layout are required. The applicants should submit a justification test as per the flood risk management guidelines. Finished floor levels should be min 500mm above highest known flood levels.

3.3. Prescribed Bodies

Irish Water: No objection subject to conditions.

Inland Fisheries Ireland: The Upper Camac traverses the site and impacts on the watercourse are unclear. This is a recognised salmonid system under pressure from urbanisation. A CEMP implementing best practise should be provided as works have the potential to cause release of sediments and pollutants. SUDS measures proposed are welcomed. There should be no entry of solids to waters during construction.

Dept. of Defence: Due to proximity to Casement Aerodrome, the area may be subject to high levels of noise from aircraft.

4.0 Planning History

PA ref. S01A/0492: Outline permission granted for a 40-bed care centre and on-site treatment plant.

PA ref. SD05A/0295: Permission refused for construction of 60 bed residential care home and associate works for reasons relating to encroachment on the wayleave of an arterial watermain crossing the site.

PA ref. SD06A/0239: Permission granted for a 60 bedroom residential care home and associated access road, landscaping works and drainage installations. The planners report noted that the principle of development had been previously accepted under PA ref. S01/0492.

PA ref. SD08A/0523: Permission granted for alterations and extensions to previously approved nursing home (PA ref SD06A/0239) to provide ancillary accommodation at basement, ground and first floor levels (314.19-sq.m.). The planners report noted that nursing home user was permissible in principle in this use zone.

PA ref. SD08A/523/EP: An extension of duration of the permission under SD08/0523 was granted in 2014 for five years until Feb 2019, to allow completion of development works.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016-2022

The appeal site is zoned Rural and Agricultural RU: To protect and improve rural amenity and to provide for the development of agriculture. Within this zone, Nursing Home use and residential institutions are not permissible.

With regard to Non-Conforming Uses, Section 11.1.1 of the plan notes that, there are instances where land uses do not conform with the zoning objective. Development proposals that relate to such uses, particularly those that would intensify non-conforming uses, will be permitted only where the proposed development would not be detrimental to the amenities of the surrounding area and would accord with the principles of proper planning and sustainable development. This includes the integration of land use and transport planning.

Section 2.1.2 of the plan considers Housing for Older People. Policy H3, and Objective 1 thereof, seeks to support accommodation in established residential

and mixed use areas proximate to existing services and amenities, including pedestrian paths, local shops, parks and public transport.

Parking provision is required at a rate of 1 space per 8 residents

Transport And Mobility (TM) Policy 4 Strategic Road and Street Network:

TM4 Objective 1: To secure the implementation of major road projects as identified within the relevant strategies and plans for the Greater Dublin Area.

Table 6.6 sets out Medium to Long Term Road Objectives. These are described as corridors that are essential to providing a long-term road network and to provide access between major areas of economic activity and the national and regional road network. Some of these roads have been the subject of preliminary design studies and detailed design will be undertaken and phased according to need. These corridors include:

Western Dublin Orbital Route (south)	New road from Boherboy to Tootenhill.	Link between the N81 and the N4 with a by-pass function around Rathcoole and Saggart.
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(The route of the Western Dublin Orbital Route crosses the appeal site.)

Policy IE3 Objective 3 references the 2009 Flood Risk Management Guidelines for Planning Authorities. For lands identified as being at risk of flooding in the Strategic Flood Risk Assessment, a site-specific Flood Risk Assessment to an appropriate level of detail, is required.

Policy Objective IE8 (6) seeks to limit residential and nursing home development within the Noise Significant Area Boundary for Casement Aerodrome.

The subject is adjoined by a Protected Structure (No. 346 Stone Bridge, Castle Road, Saggart - single arch granite bridge).

5.2. Natural Heritage Designations

There are no national or European designated sites in the immediate vicinity of the subject site. The closest designated site is Proposed Natural Heritage Area (pNHA)'s: Slade Of Saggart And Crooksling Glen, approx. 1.6km southwest and upstream of the appeal site, along the Camac River. The Grand Canal pNHA lies approx. 6km to the north.

The closest European site is Glenasmole Valley SAC (001209), approx. 5.5k to the southeast, to which there is no connection / pathway from the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The first party make the following comments in their appeal against the decision of the planning authority to refuse permission for the proposed development:

- This extension to an established permitted development should not be refused on the basis of a change to zoning.
- The 25% increase in accommodation is aimed at meeting existing demand particularly for high dependency, for bed spaces.
- The development will accord with national standards and the existing home is fully occupied but faces increased operating costs and viability issues.
- 2015 and 2018 pre-planning meetings did not highlight any objections in principle to the development (notes attached).

- The development does not “Materially” contravene the development plan, based on the criteria contained in the Development Management Guidelines.
- The PA decision is at variance with previous decisions of the Board and decisions of other planning authorities for nursing home developments.
- The site is not used for agriculture currently. There is no material contravention of the development plan or impact on the amenities of the surrounding area.
- The development accords with development plan policy for housing for older people.
- The site is located 500m from the village centre, with a shuttle bus available if required, however, the extension is mainly for high dependency accommodation so that convenience to community facilities should not be an issue.
- The development will significantly improve amenities for residents and staff.
- The development footprint could be modified / reduced if required by the Board and revised design details are provided in this regard, comprising a 40% reduction in proposed floorarea (508-sq.m. / 20 bedrooms).
- There are no third party objections to the proposal.

6.2. Planning Authority Response

The planning authority response to the appeal submission refers to the contents of the Roads Dept Report of 29/03/82019 which recommended refusal of permission on the basis of incompatibility with roads objectives for the area.

6.3. Further Responses

6.3.1. First Party comments on the Planning Authority response:

- The route of the orbital distributor road would cross the site north-south as indicated in the Rathcoole / Saggart Distributor Road Survey, published by SDCC as part of a Part 8 process.
- This is reflected in the application drawings and the proposed development does not impinge upon the road objective as set out in the development plan.

- There is 12.27m separation between the extension and the road edge, and 4.25m separation from the embankment edge.
- The Council indicate that there is no part of this road has been constructed, approved or funded.
- Road reports do not raise an objection in principle to extension of the existing use on the site.
- High dependency patients will not have a significant demand for access to community facilities and a shuttle service is available if required.
- The applicants are prepared to provide pedestrian facilities along their own site frontage.

7.0 Assessment

I have reviewed the documentation on the file and consider the main issues arising can be considered under the following broad headings:

- Land use and development principle.
- Roads and access.
- Drainage
- Flooding
- Material Contravention

7.1. Land Use and Development Principle

7.1.1. The appeal site is zoned RU in the South Dublin County Development Plan 2016-22, wherein nursing home use is not permissible. The proposed development constitutes a significant intensification of existing nursing home use on the site, increasing the number of bedrooms by 40 no., from 60 to 100 bedrooms. While the development plan acknowledges instances of non-conforming uses, it provides that intensification of same will not be permitted where such uses would be detrimental to the amenities of the area and would not accord with the principles of proper planning and sustainable

development, including integration of land use and transport planning. The plan clearly seeks to direct housing for older people to areas which are proximate to services and amenities, including pedestrian facilities and public transport.

- 7.1.2. While it is stated that this development will cater for high dependency residents, I would concur with the planning authority with regard to the location of this development. I consider that the scale and intensification of this use on the site would be contrary to the principles of proper planning and sustainable development and contrary to the provisions of the development plan, having regard to the location remote from community services and facilities and the absence of pedestrian and other sustainable transport options.
- 7.1.3. The appellants cite previous decisions of the Board as a precedent for granting permission in such circumstances, in particular 2007 case PL06F.221465. The subject case should be considered on its own merits and the cited case does not provide a sufficient precedent in this case having regard to the location of that development and the provisions of the relevant development plan for that area applying at that time.

7.2. Roads and access

- 7.2.1. The initial planning authority Roads Department report did not identify an issue with the alignment of the Western Dublin Orbital Route through the site, however, a subsequent report dated 29/03 recommends refusal on the basis that the development infringes on this long term roads objective for the area. That later report was not referenced in the planners report on the case, however, in response to the first party appeal the planning authority do highlight this issue.
- 7.2.2. The site plans submitted with the application show a road reservation running northwest to southeast through the western part of the site. The development plan road reservation runs west – east through the site to the north of the existing nursing home. The proposed surface water disposal

arrangements are located within this area, while the nursing home extension is in close proximity to this northern road line.

- 7.2.3. The first party comments on the planning authority appeal response indicate that the development accords with the road line published by South Dublin County Council as part of the Part 8 process for the Proposed Rathcoole Saggart Distributor Road. I note that this road scheme was published in 2006 during the period of the 2004-2010 County Development Plan and that no work thereon has taken place in this area.
- 7.2.4. This proposed distributor road does not reflect the transportation objectives of the current development plan for the area (2016 – 2022), particularly in respect of the Western Dublin Orbital Route, which was not identified as an objective in previous plans. The road line indicated on the proposed plans does not refer to the orbital route which is now an objective of the plan. I do not consider therefore that the proposed development has had adequate regard to the transportation objectives of the current development plan for the area.
- 7.2.5. The line for the Western Dublin Orbital Route is an indicative roadline, subject to specific detailed survey and design. Any development on or in the immediate vicinity of this road line would be premature and would potentially prejudice the achievement of this long-term development plan objective. I consider therefore that the development should be refused on this basis.
- 7.2.6. I note and concur with the concerns raised in Road Dept. reports with regard to the absence of footpath connections between the appeal site and Saggart Village. The site lies outside the 50kph limit for the village. It is not apparent that the required 2m wide, 320m length of footpath can be provided from the appeal site without encroachment onto third party lands, loss of trees etc and I do not consider that this matter is amenable to condition. I note that the first party have not made any proposals in this regard or expressed their agreement to carrying out such works beyond their own site boundary. Similarly, it does not appear that the planning authority have specific plans or proposals in this regard. There are no public transport services in this area.

7.2.7. The appeal describes residents as generally high dependency patients. While such residents may generally have a reduced requirement for access to village services and facilities, the location is not conducive to either residents, staff or visitors accessing the site on foot or other sustainable transport modes. I note that other similar developments in serviced / urban areas generate a demand for public transport services by staff in particular. I would consider therefore that the proposed intensification of use at this location would be inappropriate by reason of remoteness from the settlement and associated services, including public transport, and the absence of pedestrian facilities.

7.3. Drainage

- 7.3.1. The application was accompanied by a drainage report. It notes that wastewater is currently pumped to the existing public sewer in Saggart Village, approx. 650m distant. The report indicates that the existing pump and rising main have adequate capacity to cater for the proposed extension. Upgrading of internal foul sewer is proposed “to allow for unforeseen circumstances”.
- 7.3.2. It is proposed to dispose of surface water on-site, with some use of permeable paving. A new infiltration area is to be provided to the north of the existing nursing home buildings. Percolation test results provided with the application indicate that there is adequate drainage capacity to serve the development. I note, however, that the infiltration area is located 3m from the adjoining stream running north-south through the site and that the drainage does not reference capacity issues in the stream or potential for flooding of this area of the site from the Camac River.
- 7.3.3. This stormwater infiltration area is located within the route identified for the Western Dublin Orbital Route. I note also the planning authority water services report on the application and concerns raised regarding proximity to the arterial watermain crossing the site.
- 7.3.4. Development works on the site have the potential to give rise to the release of sediments to adjoining watercourses. The Camac is a tributary of the

River Liffey which is highly urbanised in its lower reaches. Inland Fisheries Ireland identify the Camac as a salmonid watercourse hosting Annex II species. Any development on the site or in the vicinity of this watercourse should therefore be subject to review of potential impacts, including appropriate construction methodologies, prior to any grant of permission on the site.

7.4. Flooding

- 7.4.1. The appeal site generally falls to the rear / west. The lower parts of the site, including the area of the proposed extension, show evidence of poor drainage characteristics / high water table. During my inspection of the site, I observed two open trial holes and spoil heaps within this area which confirmed these characteristics.
- 7.4.2. The Camac River flows through the subject site and is culverted for approx. 34m under the internal access road. The appeal site, and downstream lands to the north, are affected by the Low (0.1%) – Medium (1%) and High (10%) probability flood zones for the river as defined under CFRAMs studies.
- 7.4.3. The Flood Risk Management Guidelines advise that a precautionary approach should be adopted in terms of avoidance of areas at risk of flooding. Development should preferably be located in areas with little or no flood hazard thereby avoiding or minimising risk. Development should only be permitted in areas at risk of flooding when there are no alternative, reasonable sites available in areas at lower risk. Where development is necessary in areas at risk of flooding an appropriate land use should be selected. Nursing home use would be classified as a vulnerable land use. I note that the application permitted under SD08A/0523 indicated that finished floor levels would be 500mm above flood level of the site, however no information has been provided on flood levels on the site.
- 7.4.4. Given the existing development on the site, strict application of the sequential approach may not be appropriate, however, in accordance with the 2009 Guidelines and County Development Plan, a commensurate flood risk assessment should still be undertaken for the site. Such assessment should

examine the risk to the proposed development and potential risks to other lands arising from the development. This would include proposals for surface water disposal. Subject to the findings of such assessment, the justification test should be applied to the development

7.4.5. In the absence of any information or site specific assessment I am not satisfied that the proposed development would not be at risk of flooding or give rise to an increased risk of flooding of downstream lands.

7.4.6. This can be considered to constitute a new issue in the consideration of this appeal.

7.5. **Material Contravention**

7.5.1 The decision of the planning authority states that the development would materially contravene the zoning objective of the site. S.37(2)(a) of the 2000 Act, as amended, states that the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

S.37(2)(b) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

- i. The proposed development is of strategic or national importance,
- ii. There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

- iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.5.2 Having regard these matters, I would comment as follows:

- i. The proposed development is not of scale which would be of strategic or national importance,
- ii. The development plan objectives are clearly stated with regard to extension or intensification of non-confirming uses, particularly with regard to sustainable development including integration of land use and transport planning. Similarly, it is policy to locate housing for older people proximate to services and amenities, including public transport.
- iii. There is no specific guidance or policy objective which indicates that permission for the proposed development should be granted in this instance,
- iv. The current development dates from 2016 and the pattern of development, and permissions granted, in the area since the making of the development plan would not justify a grant of permission in this instance.

7.6. Revised Design Proposals

7.6.1 As part of the first party appeal, the applicants have proposed revised design proposals for consideration by the Board, indicating that these could be subject to condition in any decision to grant permission. In this regard, revised site layout plans and ground floor plans have been submitted which provide for a reduced scale of development, providing 18 no. bedrooms in the extended block in addition to the two no. bedroom extensions to the existing nursing home blocks. The revised site layout shows amended road layout and car parking layout including 42 no. spaces on-site. There is inadequate details available in these revised design drawings to enable a conditional decision of the Board and where the Board are minded to consider such proposals, detailed design proposals would be required.

7.6.2 Notwithstanding the above, I do not consider that these details are sufficient to overcome the fundamental issues relating to land use, conflict with development plan roads objective and concerns regarding flooding. I therefore recommend that the decision of the planning authority be upheld and that permission be refused for the proposed development.

8.0 Appropriate Assessment – Screening

- 8.1. I note that the planning application did not provide any information on screening for appropriate assessment and that no assessment was undertaken by the planning authority. It is noted, however, that the authority issued a refusal of permission for the proposed development.
- 8.2. The closest European site is Glenasmole Valley SAC (001209), approx. 5.5k to the southeast, to which there is no connection / pathway from the appeal site. The features of interest for this site are:
- Semi-natural dry grasslands and scrubland facies on calcareous substrates.
 - Molinia meadows on calcareous, peaty or clayey-silt-laden soils.
 - Petrifying springs with tufa formation.
- 8.3. 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. 001209, 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.

9.0 Recommendation

- 9.1. I recommend that permission be refused for the proposed development for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. The site is located in an area zoned objective Rural and Agricultural (RU) in the current development plan for the area, wherein nursing home use is not permissible. The Board considers that the significant intensification of such use on the site would materially contravene the zoning objective, as set out in this plan and the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The appeal site is affected by a Medium-Long Term Road Objective as identified in the South Dublin County Development Plan 2016-2020 - Western Dublin Orbital Route (south). Development of the kind proposed would be premature pending the determination by the planning authority of a road layout for the area.
3. Having regard to the location of the site relative to the Camac River, and the flood zone extent identified for this river, the Board is not satisfied, on the basis of the information lodged with the planning application, that the proposed development would not give rise to a heightened risk of flooding either on the proposed development site itself, or on other lands. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

(New Issue)

Conor McGrath
Senior Planning Inspector
18/07/2019