



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307436-20

<b>Development</b>	Revisions to previously approved planning permission number 2865/18 comprising an additional fourth floor level to create additional accommodation and new roof garden over at fifth floor level.
<b>Location</b>	Queen Of Peace Centre, Garville Place, Rathgar, Dublin 6
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4613/19
<b>Applicant(s)</b>	Orwell Healthcare
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Garville Residents
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> October 2020
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 4240sqm comprising a two and three storey nursing home is located along the western side of Garville Place, to the rear of nos. 6-8 Garville Avenue and to the south west of the Church of the Three Patrons on Rathgar Road. The existing residential care home is located in one main three storey block located along Garville Place and five two storey detached blocks located to the rear. There is a garden area located between the residential care home and the rear of Nos. 6-8 Garville Avenue. There is access from the site at two locations onto Garville Lane to the north and a pedestrian entrance gate to the rear of the church at the north eastern boundary of the site. Car parking for the residential care home is located to the front along Garville Place and to the north at the rear of the three storey block. There are a number of two storey mews dwellings located on the opposite side with access onto Garville Place.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

- 2.1. Planning permission was sought on the 3<sup>rd</sup> December 2019 for revisions to previously approved planning permission number 2865/18 comprising an additional fourth floor level to create additional accommodation and new roof garden over at fifth floor level with opaque glazed privacy screens around perimeter to include, extending internal staircases and lift up to proposed roof garden level, extending previously approved stair tower on North East gable up to proposed new fifth floor roof garden level and all associated on site works to existing residential care home Queen of Peace Centre. The application was accompanied by a cover letter setting out the context for the application.
- 2.2. In response to a request for further information the following was submitted on 11<sup>th</sup> March 2020 and may be summarised as follows:
  - **Visual Impact of Roof Garden** – The proposed roof garden is a “transitory room” that will be fully screened by opaque glazed screens that will in effect remove any

possibility of overlooking into neighbouring properties. The impact to Garville Place will be minimal.

- **Management of Roof Garden** – The roof garden will be accessible to residents of the nursing home during the daytime accompanied by staff members. There will be no large gatherings with amplified sounds systems etc.
- **Overall Use, Schedule of Accommodation, No of Rooms, Staff etc** – 13 no units are proposed ranging in size from 32 – 67 sqm, with the two larger units catering for two people. The floor is for independent style living with no additional full-time staff / nursing care required on this fourth floor.
- **HIQA Compliance** – The Nursing Home is registered with HIQA, is subject to regular inspections and is currently compliant. The proposals were presented to HIQA who endorsed the scheme and welcomed the improvement. Upgrading works will be in compliance with all registration bodies.
- **Parking Provision** –The additional floor proposed will not increase the need for additional car parking.

2.3. The response was accompanied by a letter from the applicants Orwell Healthcare, Visual Impact Assessment (using the EIS format) of photomontages and roof garden glazing plans.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

3.1.1. Dublin City Council issued a notification of decision to grant permission subject to 10 no. generally standard conditions.

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

##### 3.2.1. Planning Reports

- The **Case Planner** in their first report sought further information in relation to (1) submission of a Visual Impact Assessment and photomontages, (2) details of management of proposed roof garden, (3) schedule of accommodation, (4) compliance with HIQA National quality Standards for Residential Care Settings for

Older People and (5) car parking provision. Further information was requested on the 5<sup>th</sup> February 2020.

- The **Case Planner** in their second report and having considered the further information recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Dublin City Council reflects this recommendation.

#### 3.2.2. Other Technical Reports

- **Drainage Division** – No objection subject to a condition requiring compliance with all conditions relating to surface water management of the previous grant of permission Reg Ref 2865/18 and 3978/17.

### 3.3. Prescribed Bodies

#### 3.3.1. None

### 3.4. Third Party Observations

3.4.1. There are 4 no observations recorded on the planning file from (1) Residents of Garville Place and Garville Avenue, (2) Philip O'Reilly, (3) Joseph McCaffrey and (4) Cassandra Gleeson.

3.4.2. The issues raised relate to confusion around the modification upon modification of previous applications, further intensification of an already substantial commercial development, inadequate public notices, visual impact, traffic congestion, impact on residential amenity, insufficient information and the lack of details regarding the proposal, the scale and height of the proposal and the detrimental impact of the scheme to the character of the Z2 zoning.

## 4.0 Planning History

4.1. There was a previous planning application on this site and referred to in the public notices that may be summarised as follows:

- **Reg Ref 2865/18** – DCC granted permission for an additional third floor level with new monopitch roof profile over existing residential care home to create additional

sheltered accommodation, demolition of existing three storey rotunda building to rear and erection of a four storey over basement extension to rear along with revisions to previously approved planning permission number 3978/17 to include revised window configuration to front elevation, render finish to ground floor front elevation in lieu of brick slip finish, relocation of new stair tower from rear to North East gable (and with an additional third floor level) and revised external walkway at first and second floor bedroom's to rear to include third floor level balcony walkway and all associated on site works subject to 12 no generally standard conditions.

4.2. It is noted that Condition No 3 required that the terms and conditions of the permission for the original development; Reg Ref 3978/17 shall be complied with. This planning permission may be summarised as follows:

- **Reg Ref 3978/17** – DCC granted permission for additions and alterations to existing residential care home and new single storey energy centre service building to rear and all associated on site works subject to 9 no generally standard conditions.

4.3. In addition, there was a more recent planning appeal on this site that may be summarised as follows:

- **ABP306345 (Reg Ref 4218/19)** – A third party appeal was made against the decision of DCC to grant subject to conditions a permission to Orwell House Limited for revisions to previously approved planning permissions (2865/18 and 3978/17) (energy centre) comprising relocation of Electricity Supply Board substation from energy centre to ground floor of main building, demolition of existing and provision of new internal staircase, new windows to rear elevation serving new staircase, blocking up of existing windows to south-west gable elevation and new windows/substation doors to front elevation at Queen of Peace Centre, Garville Place, Rathgar, Dublin.
- The Board **DISMISSED** the appeal *having regard to the nature of the grounds of appeal which relates solely to matters of traffic congestion and the car park facility which was determined under planning register reference number 2865/18 and does not raise any substantive planning issues relating to the current case.*

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Dublin City Development Plan 2016-2022**. The majority of the site is within an area zoned **Z1** where the land use zoning objective is *“to protect, provide and improve residential amenities”*. There is a smaller portion of the site, the bin storage area to the rear of No 6 Garville Avenue zoned **Z2** where the objective is *“to protect and/or improve the amenities of residential conservation areas*. Relevant Policy from the Development Plan are as follows:
- 5.1.2. **Section 12.5.5 - Sustainable Provision and Optimum Use of Social Infrastructure**
- **Policy SN21** - To facilitate the development or expansion of community-based healthcare facilities, respite homes and day care centres in residential areas.
- 5.1.3. **Section 16.7.2 – Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development**
- Outer city height limit: Up to 16m (commercial and residential)
- 5.1.4. **Section 16.19 – Nursing Homes**
- There is a continuing and growing need for nursing homes and in particular, because of the ageing population structure in the suburbs, for elder care homes. Such facilities should be integrated wherever possible into the established residential areas of the city, where residents can expect reasonable access to local services.
- 5.1.5. In determining planning applications for change of use of a residential dwelling or other building to nursing/elder care home, the following factors should be considered:
- Compliance with standards as laid down in the Statutory Instrument No. 226 of 1993, Nursing Homes (Care and Welfare) Regulations, 1993
  - Compliance with the Health Information and Quality Authority (HIQA) National Quality Standards for Residential Care, Settings for Older People in Ireland (February 2009), in particular Section 6
  - The effect on the amenities of adjoining properties
  - Adequacy of off-street parking



- Suitable private open space
- Proximity to local services and facilities
- The size and scale of the facility proposed: the scale must be appropriate to the area.

## 5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site.

## 5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development to extend an existing nursing home located in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

6.1.1. The third-party appeal has been prepared and submitted by Kieran O'Malley & Co Led Town Planning Consultants on behalf of the Residents of Garville Place and Garville Place, Rathgar and may be summarised as follows. The appeal was accompanied by photos of Garville Place and Garville Avenue.

- **Planning Regulations** – The planning notices is misleading, is inaccurate and does not sufficiently describe the nature and extent of the proposal as required by the Planning and Development Regulations 2001 (as amended) and is especially misleading for the public to understand the precise nature and scale of this proposal.
- **Insufficient Information** – Particular reference is made to section drawings, the requirement for a sunlight and daylight report, provision of a comprehensive floor area schedule, commensurate increase in staffing levels, requirement for a

transport assessment, submission of a mobility management plan and detailed engineering services report.

- **Scale** - The applicant has the benefit of three planning permissions at this site that would result in a significant increase in the nature and scale of the development. The cumulative impact of the four proposals would see the centres capacity increase from 45 residents to 124 residents (175% increase) and the gross floor area of the facility would more than double from 2,863sqm to 6,115 sqm. This latest application would add a further 2,094sqm of floor area (52% increase).
- **Traffic Impact** - There is substantial intensification proposed as part of this latest application and the three extant approvals on site. There are no proposals to address deliveries and collections at Garville Place which will only get worse to the detriment of residents. It would result in a significant increase in commercial traffic associated with the development and would significantly adversely impact on the residential amenity and privacy of the adjoining residents.
- **Visual Impact** - The latest proposal is to further intensify the scale of the development by 52% creating a substantial and inappropriate six storey structure that would be visually overbearing on the two storey mews dwellings at Garville Place and detract from the visual amenities of the residential conservation area. The proposal would not make a positive contribution to the streetscape. It would be a monolithic building with long interrupted walls directly in front of the Z2 Residential Conservation Area at Garville Place and its form, massing, height and scale would not integrate in a cohesive manner with the adjoining residential conservation area.
- **Residential Amenity** - The overall mass and size of the proposed building, the additional two storeys, and its close proximity to adjoining residential properties at Garville Place would significantly increase overshadowing and result in a loss of daylight and sunlight at the Z2 residential conservation area. The proposal would also affect amenity and privacy by way of overlooking.

## 6.2. Applicant Response

### 6.2.1. None

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

6.3.1. None

### 6.4. **Observations**

6.4.1. None

### 6.5. **Further Responses**

6.5.1. None

## 7.0 **Assessment**

7.1. This assessment is based on the plans and particulars submitted to DCC on the 3<sup>rd</sup> December 2019 as amended by plans and particulars submitted by way of further information on the 11<sup>th</sup> March 2020.

7.2. I note the concerns raised in the appeal that the planning notices are misleading, inaccurate and do not sufficiently describe the nature and extent of the proposal. Matters pertaining to compliance with the Planning and Development Regulations 2001 (as amended) is not a matter for An Bord Pleanála and is therefore not material to the consideration of this appeal. I further note the concerns raised that there is insufficient information lodged with the planning application that hasn't been remedied in the further information. I am satisfied that together with my site inspection there is adequate information on the file to determine this application.

7.3. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Visual Amenity
- Residential Amenity
- Traffic Impact
- Appropriate Assessment

- Other Issues

#### 7.4. Principle

- 7.4.1. Planning permission is sought for the refurbishment and alterations to the existing nursing home facilities at the Queen of Peace Centre. This proposal is for a further floor of patient facilities and rooms and the provision of a roof garden. It is stated that the premises have been in existence in excess of 30 years and no substantial upgrade has been made to the facility during this time. It is further noted that the site has benefited from a number of recent planning permissions to extend the facility. In June 2017 planning permission was granted for an additional third floor level and erection of a four storey over basement extension to rear along with revisions to previously approved planning permission number 3978/17 (Reg Ref 2865/17 refers). Permission was also granted in December 2019 for revisions to previously approved planning permissions (2865/18 and 3978/17) (energy centre)) (Reg Ref 4218/19 refers). Taken together with the previously permitted development the proposed scheme now before the Board will result in the existing 3 storey building rising to five storeys with basement and a roof garden enclosed with opaque glazed screening forming what would essentially be a six storey building.
- 7.4.2. As documented in Section 5.1 above the majority of the appeal site is within an area Zoned Z1 Sustainable Residential Neighbourhoods where the land use zoning objective is *“to protect, provide and improve residential amenities”* with a smaller portion of the site (bin storage area to the rear of No 6 Garville Avenue) Zoned Z2 Residential Neighbourhoods (Conservation Areas) where the objective is *“to protect and/or improve the amenities of residential conservation areas”*. Taken together with the existing nursing home on site and associated planning history I am satisfied that proposed works comprising an extension to an established use is acceptable in principle.

#### 7.5. Visual Amenity

- 7.5.1. Concern is raised in the appeal that the proposed development would have an overbearing and detrimental visual impact on the setting of Garville Place which is

situated within a Z2 residential conservation area and that it would not make a positive contribution to the streetscape.

- 7.5.2. There are multiple policies and objectives within the Development Plan that seek to ensure the highest standards of built development are brought to fruition and that designated Conservation Areas are protected from inappropriate development. As documented, there is substantial intensification proposed as part of this latest application together with the previous extant approvals on site. I refer to the Visual Impact Assessment of the proposal with photomontages illustrating the proposal from Garville Place and Garville Lane was submitted with the further information.
- 7.5.3. The existing building on site is undistinguishable in architectural terms and offers little by way of design or visual presence. The proposed development is sympathetic in its design and use of materials while also respecting the prevailing scale and variety of architectural language of the adjoining buildings in the area. Given the nature and design of the existing building together with the planning history of the site achieves an appropriate balance between the requirements of the Development Plan, the proposal to extend an established use and the sites context. Overall, I am satisfied that the proposed scheme, will not have a negative impact on the character or visual amenities of the area.

## **7.6. Residential Amenity**

- 7.6.1. Concern is raised that the proposal would be seriously injurious to the residential amenity and privacy of residential properties at Garville Place. This would arise due to overshadowing, loss of sunlight and daylight and overlooking from elevated vantage points.
- 7.6.2. Having regard to the existing building on site together with recently permitted development I do not consider that the scheme would if permitted, form an unduly overbearing or dominant element when viewed from the adjoining properties along Garville Place or surrounding areas. With particular reference to the roof garden it is noted that it will be fully screened by opaque glazed screens in a stainless steel support frame system. I am satisfied that the screening will in effect remove any possibility of overlooking into neighbouring properties from the roof garden and that the impact of the roof garden to Garville Place will be minimal.

7.6.3. Overall I am satisfied that taken together with the nature of the development and future occupants i.e. nursing home that the design, scale, form and positioning of the proposed extension strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings, that it will not result in any significant over shadowing of adjoining properties or any unreasonable loss of natural light or overlooking to neighbouring residential properties.

## **7.7. Traffic Impact**

7.7.1. Concerns are raised that the proposed development will further increase traffic generation, traffic congestion and the congregation of large commercial vehicles on the substandard Granville Place. As observed on day of site inspection Garville Place is a cul de sac with no turning circle that serves the nursing home and the residents of Garville Place and provides access to on street car parking located to the front of the nursing home building.

7.7.2. As documented in the further information there are 15 car parking spaces available outside the Nursing Home on Garville Place with an additional 10-12 parking spaces provided in an inner car parking area accessed by way of an existing drive through. An additional 7-8 car parking spaces are to be provided in an overflow car park to the rear on foot of previously granted planning permission. It is stated that the additional floor proposed will not increase the need for additional car parking that the support vehicles are parked in the nearby HQ facility used for / by visitors and that staff are not allowed to park onsite and are encouraged to use public transport, walk and cycle.

7.7.3. Having regard to the foregoing I am satisfied that the vehicular movements generated by the proposed extension would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area.

## **7.8. Appropriate Assessment**

7.8.1. Having regard to the nature and scale of the development and its distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.9. **Other Issues**

7.9.1. **Development Contributions** – Dublin City Council made a Development Contribution Scheme in accordance with the provisions of Section 48 of the Planning and Development Act 2000 as amended on 2<sup>nd</sup> March 2020; Dublin City Council Development Contribution Scheme 2020-2023. As set out in the application form the development has stated area of 2094 sqm and is not exempt from the requirement to pay a development contribution. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 **Recommendation**

8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **GRANTED** for the following reasons and considerations.

9.0 **Reasons and Considerations**

9.1. Having regard to the residential zoning of the site in the Dublin City Development Plan 2016 – 2022, the nature and scale of the proposed development to extend an existing residential care home, located in a residential area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have a significant negative impact on the visual and residential amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by Dublin City Council on the 11 <sup>th</sup> March 2020
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	<p>by way of further information 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Apart from any departures specifically authorised by this permission, the development, shall comply with the terms and conditions of the planning permissions granted under Reg Ref 3978/17 and 2865/18, and any agreements entered into thereunder.</p> <p><b>Reason:</b> In the interest of clarity.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of</p>



	<p>development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste including any excess soil arising from the proposed excavation of the site.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity</p>
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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**Mary Crowley**

**Senior Planning Inspector**

**17<sup>th</sup> November 2020**