



An
Bord
Pleanála

Inspector's Report ABP-309527-21

Development	Demolition of a 28 bed single storey nursing home and construction of a detached 61 bed two storey nursing home.
Location	Silvergrove Nursing Home, Main Street, Clonee, Co Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA200396
Applicant(s)	Silvergrove Nursing Home.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Silvergrove Nursing Home.
Observer(s)	No observers.
Date of Site Inspection	10 th June 2021.
Inspector	Elaine Sullivan

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1.0 Site Location and Description

- 1.1. The subject site is located in on the southern side of the R147, (Main Street, Clonee), and on the eastern side of Clonee Village. It is mainly rectangular in shape, extending around the rear of the adjoining site to the west in an 'L' shape. It has a stated area of 0.35ha and currently comprises a single storey nursing home with a car parking area to the front.
- 1.2. The site is flanked by residential development to the east and west with commercial development in place along the northern side of the R147. Directly opposite the site and to the north is an Aldi store with adjoining car park. To the north of this development is the M3 with the River Tolka beyond this again. To the rear of the site is agricultural land and the Meath/Dublin county border runs along the north-western boundary of these lands.
- 1.3. The nursing home itself has expanded incrementally over the years and comprises a series of interconnected structures with courtyards in between. An access road is in place along the eastern site boundary and a communal garden for the use of residents is in place in the south-western corner of the site. The site boundaries comprise dense hedgerows of varying height to the east, south and west. The northern boundary is formed by a low-level wall with a line of semi-mature Silver Birch trees positioned behind the wall.
- 1.4. The topography of the site is mainly flat although the site is slightly elevated from the adjoining road level with a difference of 0.98m from the level of the main road at the site entrance to a point in front of the main doorway. (Ref. Existing Site Layout, No. P101).

2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of the 28 bed single storey nursing home of 1,041.05 sqm and the construction of a 61 bed, two storey nursing home of 3,070 sqm in its place.
- 2.2. The building was significantly altered following a request for further information. The amended proposal replaced a pitched roof with a flat roof profile. A total of 14

surface car parking spaces would be provided to the front of the site, (this was reduced from 16 under F.I.). 20 bicycle spaces would also be provided along the eastern boundary. External finishes to the building would be a mix of brick and render.

- 2.3. Additional works would include alterations to the existing vehicular entrance to reduce the width from c. 7m to 5.5m with the replacement of existing piers and the installation of a sliding metal and timber slatted gate. The foul drainage for the development would be connected to the existing combined sewer located in the road to the front of the site. Surface water run-off would be attenuated within the site through the use of SuDS in the form of a sedum roof on top of the building, permeable paving and soft landscaping. An attenuation area would be installed in the south-western corner of the site and the surface water would be discharged via an existing surface water drain located on the southern boundary which discharges to a stream. A Hydrobrake Optimum Flow Control would be fitted to the outfall surface water manhole to limit outflow to 2 litres per second.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the PA for the following reasons;

1. The proposed development is in an area which is at risk from flooding. It is the policy of the County Council Development Plan 2013-2019 (as varied), 'To have regard to the "Planning System and Flood Risk Management – Guidelines for Planning Authorities" (DoEHLG/OPW, 2009) through the use of the sequential approach and application of the Justification Tests for Development Management and Development Plans, during the period of this Plan', (policy WS POL 29) and 'To ensure that a flood risk assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the "Planning System and Flood Risk Management – Guidelines for Planning Authorities" (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to the potential development', (policy WS POL 32).

The Flood Risk Assessment date received 17/12/20 including a Justification Test has been reviewed within the context of the aforementioned Guidelines. The applicant has not satisfactorily demonstrated that the proposed development satisfies the Justification Test and in particular that safe access and egress will be provided for the proposed development in accordance with sections 2(ii) and 2(iii) of Box 5.1 of the Guidelines. The proposed development, if permitted, would be contrary to the aforementioned Ministerial Guidelines and would contravene policies WS POL 29 and WS POL 32 of the Meath County Development Plan (as varied).

2. It is an objective of the Meath County Development Plan 2013-2019 (as varied), *To secure the provision of an appropriate level of vehicle parking facilities in new developments in accordance with the standards set out in Chapter 11 Development Management Standards and Guidelines*, (TRAN OBJ 13). The applicant has not demonstrated that adequate car parking spaces, including access to same, can be provided within the curtilage of the site in addition to the access and circulation of emergency service vehicles including fire tenders.

The proposed development, if permitted, would be contrary to the parking standards set out in Section 11.9, would contravene objective TRAN OBJ 13 of the Meath County Development Plan (as varied) and would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Two reports are on file from the Planning Officer. The first report of the 7th July 2020 recommended that further information be requested and the second report, from the 27th January 2021 assessed the information submitted.

The first report (7th July 2020) included the following;

- The subject site is zoned 'A1 – Existing Residential' in the Dunboyne – Clonee – Pace LAP. Under this zoning Residential / Sheltered Housing is listed as a 'permissible use' and 'Retirement Home / Residential Institution / Retirement Village' are open for consideration.
- The proposed development is acceptable in the context of the zoning objective and the national and regional policy objectives to support compact development in urban centres.
- The proposed 2 storey building shares a similar footprint to the existing building but would have a marginally lower FFL at 61.885m OD. Separation distances between the property to the west have been improved but have been reduced to the east. There is some concern regarding the extent of landscaping to be removed.
- Concerns regarding the bulk and mass of the building and its impact regarding overshadowing are noted.
- The site is located within Flood Zones A and B. A site-specific FRA was submitted with the application but a Justification Test was not. Considerable flood depths are predicted on main street Clonee for Critical Flood Events. This should be addressed.
- An AA Screening Report was not submitted with the application. The site is vulnerable to flooding which gives rise to a potential hydrological / S-P-R link to Sandymount Strand/Tolka Estuary SPA (Ref. 0004024) via the River Tolka which is c. 150m to the north of the site, albeit separated by the M3 motorway. The PA cannot conclude that the proposed development would not be likely to have a significant effect on the European Site.
- It is recommended that further information be requested with regard to the following issues;
 - A reduction in the bulk of the proposal by replacing the roof profile,
 - The impact of the proposal on adjoining properties in terms of Daylight and Sunlight,
 - Landscaping on the site – a tree survey and landscaping / boundary treatment plan is requested,

- Impact of the proposal on European Sites – a Stage 1 – AA Screening Report is requested,
- Car parking requirements – clarification is sought on the quantum proposed based on the number of staff and justification of any shortfall,
- Flood Risk – the development management Justification Test shall be applied as per Chapter 5 of the OPW Flood Risk guidelines.
- Surface Water Drainage,
- Irish Water Observations.

The second report dated the 27th January 2021 included the following;

- The proposal to replace the pitched roof with a flat roof has significantly lessened the visual impact.
- An additional objection was raised regarding shadow cast in a westerly direction on zoned residential lands where it is intimated that shadows cast could prejudice development. Previous concerns regarding undue overshadowing have been adequately addressed by the proposed design solution.
- Revised proposal would adequately integrate with the streetscape.
- The loss of trees is mitigated with the proposed landscaping plan which includes acceptable hard and soft landscaping treatments and native rootball tree planting in addition to a new beech hedgerow.
- In consideration of the Stage 1 AA Screening Report, the PA are satisfied that the development, by itself or in combination with other plans and projects, will not have a significant effect on the Sandymount Strand/Tolka Estuary SPA or any other European site.
- The site-specific FRA is lacking in some information. It is the opinion of the PA that the Justification Test has not been passed as the issue of access and egress to the site has not been addressed comprehensively.
- Information submitted with regard to the Surface Water Drainage broadly meets the requirements of the PA.

3.2.2. Other Technical Reports

- Transportation Department – Two reports were prepared by the Transportation Department. The first report dated the 20th May 2020 recommended that further information be requested with regard to the number and size of car parking spaces proposed and the provision of a public footpath. The second report dated the 27th January 2021 and, in response to the AI submission. It was noted in the report that the proposed number of car parking spaces was not considered adequate to meet the anticipated parking demand for the size and scale of the development. The layout would restrict fire tender and service vehicle access. A 1m verge and 2m footpath was not provided. It is recommended that the applicant be requested to increase the number of car parking spaces and to demonstrate that the amended layout can accommodate fire tender and service vehicle access.
- Flooding, Environment & Water Services – Comments were issued on two occasions. Initial comments issued on the 7th July 2020 recommended that further information be requested with regard to the preparation of a Justification Test as set out in Section 5 of the Flood Risk Guidelines. Comments issued on foot of the FI submission and dated the 27th January 2021, recommended that planning permission be refused as the requirements of the Justification Test as set out in the Flood Risk Guidelines had not been met with particular regard to Sections 2(ii) and 2(iii).
- Heritage Officer – Comments received on the 27th January 20121 state that based on the scientific data provided, the scale and nature of the works proposed, that it can be concluded that there will be no significant effects (direct or indirect) on the qualifying interest of any Natura 2000 sites.
- Water Services - Two reports were prepared by the Water Services Department. The first report dated the 23rd April 2020 recommended that further information be requested with regard to the proposals for surface water treatment. The second report dated the 20th January 2021 stated that the development broadly meets the requirements of the PA with regard to the

orderly collection, treatment and disposal of surface water and recommends that conditions be attached to any grant of permission.

- Public Lighting – No objection.
- Fire Service Department – A Fire Certificate Application is required for the development under Part III of the Building Control Regulations.

3.3. Prescribed Bodies

- Irish Water – No objection.
- Department of Tourism, Culture, Arts, Gaeltacht Sport and Media – The removal of trees and hedgerows and the removal of the building has the potential to disturb nesting birds and the roosting habitat of significant bat species listed under Annex IV of the EU Birds Directive. In order to mitigate these potential impacts, no felling or vegetation removal should take place between 1st March – 31st August. A bat survey should be carried out by a suitably qualified ecologist during the active bat season and any destruction of bat roosting site(s) must be done by a suitable qualified bat ecologist and under licence granted by the Minister of Housing, Local Government & Heritage.
- Inland Fisheries – The proposed development is located in the catchment of the River Tolka, an important salmonoid system. The Tolka system supports a resident population of Brown Trout (*Salmo trutta*) and a migratory population of Sea Trout. A suite of mitigation measures are outlined to protect the receiving aquatic environment.

3.4. Third Party Observations

Two third party observations were received by the PA; one during the initial public consultation phase and one following the readvertisement of the development as per Article 35 of the Planning and Development Regulations. The observations included concerns regarding the following issues;

- The demolition and construction works would be very disruptive to adjoining residential development, especially as the works would be so close to the boundaries.
- The proposed development would result in overlooking and overshadowing of adjoining residential properties.
- There is a question regarding the exact location of the site boundary in relation to the adjoining site at No. 2 Mainstreet Clonee.
- There is insufficient parking for staff and visitors.
- The site to the west is zoned residential and the potential impact of the building should be considered on this site.

4.0 Planning History

4.1. Relevant planning history for the site is listed as follows;

DA/120198 – Extension of Duration for PA Ref. DA/60605 to the 14th day of May 2017 granted by the Planning Authority on the 8th day of May 2012.

DA/60605 – Planning permission granted by the PA on the 10th day of April 2007 for the construction of a 35 bedroom extension to the rear of the existing nursing home in both single and two storey construction.

Recent planning history in proximity to the site;

ABP304342/19 (PA Ref. RA180228) – Planning permission granted for a 3 storey mixed use building comprising a ground floor retail unit with 2 apartments on the upper floors and 2 semi-detached, 2 storey houses to the rear with 8 car parking spaces & associated works.

ABP306842/20 (PA Ref. 190648) – Planning permission granted for the demolition of an existing public house and the construction of a 4-5 storey mixed use building with 3 commercial units at ground floor level and 27 apartments above with 33 car parking spaces & associated works.

5.0 Policy Context

5.1. Meath County Development Plan 2013-2019

Clonee is identified as a Village in the settlement strategy for the Meath CDP. The aim for Villages is to ensure that they cater for local growth with development in keeping with the local character and context.

Section 11.2.6 - Nursing Homes - In general these facilities should be located close to a range of easily accessible facilities in towns and villages where the residents can more easily access local services.

In determining planning applications for nursing homes, the following factors should be considered;

- Compliance with the standards as laid down in Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2009 and the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2010 (or any such other relevant standards and legislation that may be enacted).
- The affect on the amenities of adjoining properties,
- Adequacy of off-street car parking,
- Suitable private open space,
- Proximity to local services and facilities, and,
- The size and scale of the facility proposed – the scale must be appropriate to the area.

SOC POL 30 - To encourage, support and facilitate the provision of a range of services for the aged population. The Council is committed to accommodating the needs of older people in rural areas by the provision, or facilitation of nursing homes and sheltered housing developments. These facilities should be located within settlements in order to enhance overall quality of life, increase their links with, and accessibility to, local amenities, and therefore reduce the likelihood of social isolation.

Section 11.9 - Car Parking Standards - Nursing Homes – 1 per 3 beds and one space per employee.

Note;

- The above car parking standards shall be applied at the discretion of Meath County Council in the County's rural towns and villages having regard to the availability and adequacy of on street parking, existing or proposed off street parking to serve the development and the status of the town/village within the settlement structure of Meath.
- Non-residential car parking standards are set down as 'maxima' standards.

TRAN OBJ 13 - To secure the provision of an appropriate level of vehicle parking facilities in new developments in accordance with the standards set out in Chapter 11 Development Management Standards and Guidelines.

11.9.2 – Cycle Parking

Secure cycle parking facilities shall be provided in new office, residential, retail and employment generating developments.

The number of stands required will be a third of the number of car spaces required for the development, subject to a minimum of one stand.

Section 7.15 – Flood Risk Management

Meath County Council will assess planning applications for development in accordance with the provisions of the 'Planning System and Flood Risk Management – Guidelines for Planning Authorities'. The Council will ensure that only developments consistent with the overall policy and technical approaches of these Guidelines will be approved and permission may be refused where flood issues have not been, or cannot be, addressed successfully and where the presence of unacceptable residual flood risks to the development, its occupants or users and adjoining property remains.

Policies:

WS POL 29 - To have regard to the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009) through the use of the sequential approach and application of the Justification Tests for Development Management and Development Plans, during the period of this Plan.

WS POL 32 - To ensure that a flood risk assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to the potential development.

Appendix 6 – Strategic Flood Risk Assessment for County Meath

Within the SFRA for County Meath a significant amount of the lands in Clonee Village are shown as within Flood Zone A and also within an ‘Area Benefiting from Defences’, (Fig. A.14, Dunboyne, Clonee, Pace).

Dunboyne Clonee Pace Local Area Plan 2009-2015

- The site is zoned objective A1 in the LAP, the objective of which is ‘To protect and enhance the amenity of developed residential communities’.
- Within the A1 zoning objective, Residential / Sheltered Housing is listed as a ‘Permitted Use’ and a Retirement Home / Residential Institution is listed as ‘Open for Consideration’.

Section 8.5 – Flooding;

The Tolka River flows through Clonee and into Fingal. A considerable portion of the central area of the Local Area Plan area comprises the flood plain of the Tolka. While it is a relatively small river, serious flooding of both settlements and the surrounding area has been caused by it.

It is the policy of the LAP:

FP POL 1 - Require that new development illustrate how it would itself not be subject to an inappropriate risk of flooding or cause / exacerbate such a risk at other locations.

FP POL 3 - To manage flood risk and development in Dunboyne / Clonee in line with policies WS 29 – WS 36 inclusive in Volume I of this County Development Plan.

FP POL 4 - Development located in areas with the benefit of existing flood defences (as identified on the land use zoning objectives maps as an interface with Flood Risk Zones A & B) shall be limited to extensions, change of use and reconstructions.

National Policy

National Planning Framework

The National Planning Framework 2040 was adopted on the 29th May 2018 and seeks compact urban growth. This approach is promoted in order to make better use of under-utilised land and buildings to provide higher housing and jobs densities, which are better serviced by existing facilities and public transport.

The National Planning Framework has a number of policy objectives that articulate delivering on a compact urban growth programme. Of relevance to the subject appeal is NPO 6, which relates to increased residential population and employment in urban areas.

The Planning System and Flood Risk Management; Guidelines for Planning Authorities 2009

These Guidelines for Planning Authorities, published by OPW and Department of Environment, Heritage and Local Government in 2009, address identification and assessment of flood risk, and flood risk management in design of development.

The core objectives of the guidelines are as follows;

- Avoid inappropriate development in areas at risk of flooding,
- Avoid new developments increasing flood risk elsewhere,

- Ensure effective management of residual risks for development permitted in floodplains,
- Avoid unnecessary restriction of national, regional or local economic and social growth,
- Improve the understanding of flood risk among relevant stakeholders.

The Guidelines recommends a risk-based sequential approach to managing flood risk in the planning system.

- The key elements of this are to avoid development in areas at risk of flooding.
- If this is not possible, consider substituting a land use that is less vulnerable to flooding.
- Only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks.
- Inappropriate types of development that would create unacceptable risks from flooding should not be planned for or permitted.
- Exceptions to the restriction of development due to potential flood risks are provided for through the use of a Justification Test, where the planning need and the sustainable management of flood risk to an acceptable level must be demonstrated.

Sec 3.8 – the Justification Test has been designed to rigorously assess the appropriateness, or otherwise, of particular developments that, for the reasons outlined above, are being considered in areas of moderate or high flood risk.

The Development Management Justification Test is relevant to this appeal. It is used in the planning application stage where it is intended to develop land at moderate or high risk of flooding for uses or development vulnerable to flooding that would generally be inappropriate for that land.

Box 5.1 of the Guidelines sets out the considerations to be included in the Justification Test for development proposals and states that the following criteria must be satisfied;

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines.
2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:
 - i. The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;
 - ii. The development proposed includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;
 - iii. The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access; and
 - iv. The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.

The acceptability or otherwise of levels of residual risk should be made with consideration of the type and foreseen use of the development and the local development context.

Note: On the 13th August 2014 a ***Circular Letter PL 2/2014, Flooding Guidelines*** was issued from the Department of the Environment Community and Local Government with regard to

- i. Use of OPW Flood Mapping in assessing planning applications, and
- ii. Clarifications of advice contained in the 2009 DECLG Guidelines for planning authorities – ‘The Planning System and Flood Risk Management’;

The Circular also includes an Appendix which revises the Flood Risk Management, Guidelines. The revised sections with relevance to the subject appeal include;

Section 3.7 – page 26 of the Guidelines – Justification Test 3.7 – Notwithstanding the need for future development to avoid areas at risk of flooding, it is recognised that the existing urban structure of the country contains many well established cities and urban centres which will continue to be at risk of flooding. At the same time such centres may also have been targeted for growth in the National Spatial Strategy, Regional Planning Guidelines and the various City and County Development Plans taking account of historical patterns of development and their national and strategic value.

In addition, development plans have identified various strategically located urban centres and particularly city and town centre areas whose continued consolidation, growth, development or regeneration, including for residential use, is being encouraged in order to bring about compact and sustainable urban development, and more balanced regional development. Furthermore, Development Plan Guidelines, issued by the Minister for the Environment, Heritage and Local Government under Section 28 of the Planning and Development Act 2000, have underlined the importance of compact and sequential development of urban areas with a focus on town and city centre locations for major retailing and higher residential densities.

Section 5.28 – page 52 of the Guidelines – Assessment of minor proposals in areas of flood risk 5.28 Applications for minor development, such as small scale infill, small extensions to houses or the rebuilding of houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings or developed areas, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply.

However, a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities. These proposals should follow best practice in the management of health and safety for users and residents of the proposal.

Section 6.4 - The approach of planning authorities, per 6.4 of the guidelines, is reiterated: *‘Planning authorities must strike a fair balance between avoiding flood risk and facilitating necessary development, enabling future development to avoid areas of highest risk and ensuring that appropriate measures are taken to reduce flood risk to an acceptable level for those developments that have to take place, for reasons of proper planning and sustainable development, in areas at risk of flooding’.*

5.2. **Natural Heritage Designations**

No designations apply to the subject site.

5.3. **EIA Screening**

5.4. Having regard to the existing development on site, the limited nature and scale of the proposed development and 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 grounds of appeal seek to address the issues raised in the two reasons for refusal; Reason 1 relates to the Flood Risk Assessment and the adequacy of the Justification Test and Reason 2 relates to the proposed car parking provision and arrangement. The main points raised are as follows;

- In the 22 years of its existence, Silvergrove Nursing Home has never been flooded. This includes the heavy flooding event in 2003, which led to the implementation of the flood defence scheme on the River Tolka.

- The development is in accordance with A1 zoning objective for the site and, also with SOC POL 30 of the CDP, as it is located within an established settlement with a diverse range of local amenities and services.
- The design and layout of the redeveloped facility and the proposed treatment of the site boundaries have been sensitively considered to ensure that there is no adverse impact on the amenities of adjacent residential properties.

The main findings of the site specific Flood Risk Assessment, (FRA), submitted under a request for FI include the following;

- Site-specific hydraulic modelling demonstrates that the site is outside the 1% AEP, (Annual Exceedance Probability) and 0.1% AEP functional floodplains of surrounding watercourses.
- The site is protected by flood defences along the River Tolka.
- Part of the site is within Flood Zone B, which although not subject to development, required the preparation of the Justification Report,
- The entire area to be occupied by the redeveloped nursing home is within Flood Zone C.
- The PA required that freeboard be applied to the 1% AEP + CC (climate change) including flood defence failure level.
- The Proposed FFL is 61.9m OD, which provides 800mm to the design flood level, 300mm in excess of the PA's ideal freeboard level.
- With regard to site access, a maximum flood depth of 180mm for the specified design event is shown so that emergency access to/from the site is possible.
- It is considered that access outside the direct entrance to the site is outside the scope of the Planning System and Flood Risk Management Guidelines, ('The Flood Risk Guidelines').
- The Justification Test as submitted, indicated that the development is restricted to previously developed and/or appropriate areas, incorporates required flood mitigation as detailed in Table 5.1 of the FRA and will not pose a risk of flooding to lands elsewhere.

The PA did not agree with the conclusion that the consideration of access outside the site was outside the scope of the assessment and were of the opinion that safe access/egress required a safe and appropriate route for emergency vehicles in the vicinity of the site. On this basis it was concluded that section 2(ii) and (iii) had not been satisfactorily addressed and as such the Justification Test had failed.

In response to refusal Reason 1, McCloy Consulting were engaged to prepare a response and rebuttal to points raised in the comments from the PA's Environment Section. The response includes the following comments;

- The PA expressed concerns that the scenario for climate change for the undefended situation on site and in the area was not examined in detail. The undefended scenario is considered solely to inform the delineation of flood zones as per the Flood Risk Guidelines. Flood zones establish the principles of appropriate land use but at defended sites, are not a rational basis for the assessment of risk.
- The likelihood of a complete failure of all flood defences represented by an 'undefended scenario' is extremely unlikely and as such the risk associated is not significant.
- The SSFRA also considered the climate change, undefended scenario as part of an assessment of residual risk as requested by the PA. The undefended 1% AEP + CC flood level at the site is used to assess flood depths for access and egress. Further justification is not considered necessary, and it is unclear as to how that could be provided.
- In response to the comment that an analysis of a culvert blockage for the River Tolka was not undertaken, the applicant states that hydraulic modelling to assess a 50% blockage of the River Tolka culvert as well as a 50% blockage of both culverts downstream of the site gives a maximum flood level at the site of 61.8m OD. This is below the 61.9m OD FFL of the development, which confirms that it will be resilient.
- In response to the PA's contention that a safe access and egress would necessarily require a safe and appropriate route for emergency services, (to include the public road), the applicant contends that the application of the requirement that wider safe access / egress to a specified depth for an

undefended scenario is not rational and does not represent sound planning judgement for a site protected by OPW designated flood defences.

- The undefended scenario is solely to inform the delineation of flood zones, which confirms that the area where development is proposed lies within Flood Zone C, while other areas of the site are within Flood Zone B. Furthermore, the area where development is proposed is also unaffected by the undefended scenario, (1% AEP), including climate change.
- The purpose of using an undefended scenario to establish acceptable land use is to prevent intensification of use in areas where flood hazard as a result of overtopping or flood defence breach causes a particular risk due to the rapid inundation that would occur. Where overtopping or a breach occurred, it would be localised. The likelihood of a complete failure of all flood defences is unrealistic and is unnecessarily conservative for evaluating risk.
- Furthermore, the flood defences are OPW designated and maintained and as such there is no reasonable expectation of failure.
- The Justification Test outlines that protection, such as OPW designated and maintained defences, contribute to adequate mitigation of flood risk. It is not reasonable to omit the effect of the OPW maintained flood defence that provides an adequate Standard of Protection when considering whether access and egress to or from a site is safe during a flood event.
- There is no reasonable expectation that any private developer could undertake work to raise road levels or undertake other work to reduce flood levels outside of their respective application sites.
- If the PA's logic regarding flood risk to the public road was to be applied throughout, development land in Flood Zone C would be sterilised where it directly accessed a road affected by flooding.
- The Flood Risk Guidelines outline that the Justification Test requires an applicant to demonstrate that adequate flood measures are in place. The SSFRA contends that OPW designated flood defences are more than sufficient mitigation for re-development on an existing site. In addition,

freeboard to design flood levels and surface water drainage as flood risk mitigation is discussed.

- It is contended that failing a Justification Test due to flood levels on a public road for an unspecified distance between the site and emergency services depot in a climate change scenario with removal of all flood defences, for a site that does not flood in that scenario and is protected by OPW designated flood defences, is unrealistically onerous and extends significantly beyond the standard of protection required by the Flood Risk Guidelines.

In summary, as detailed in the SSFRA;

- The parts of the site where development is proposed lies in Flood Zone C
- The proposed development is unaffected by flooding for 1% AEP and 0.1% AEP floods, including when the protection of flood defences is omitted.
- The proposed development is unaffected by flooding for 1% AEP and 0.1% AEP floods including for the effect of climate change.
- Dry access and egress to and from the site is available during a 1% AEP and 0.1% AEP flood, including the effect of climate change, due to the effect of the OPW flood defences.

In response to refusal Reason No. 2, which relates to car parking provision and access for emergency vehicles, a submission was prepared by ILTP Consulting which contains the following;

- ILTP undertook a detailed Travel Survey of the existing Nursing Home as part of the FI response to the PA. A Mobility Management Plan was also prepared.
- TRAN OBJ 13 was referenced in the refusal reason and relates to Chapter 11 of the CDP which sets out the parking requirements. In respect to non-residential development the car parking requirements are only intended to as guidance and are maximum requirements.
- The assertion of the PA that the proposed car parking would materially contravene objective TRAN OBJ 13 is clearly not correct and is not supported by the CDP.

- The use of maxima standards in Development Plans allow for flexibility for different regions within the county. Parts of Meath lie within the Dublin Metropolitan Area, therefore car parking standards need to be flexible to account for different areas and to promote sustainable development in proximity to areas served by public transport.
- The proposed development is situated in the heart of Clonee Village, within the Greater Dublin Area and is well served by existing bus services.
- With reference to the submission prepared at FI stage, ILTP are of the opinion that the car parking proposed is sufficient to meet the needs of the proposed development having regard to the Staff Survey Results, the findings based on the site visit, other parking standards, and having regard to the siting of the proposed development within the GDA which is served by good public transport.
- Based on the Staff Travel Survey findings ILTP recommend to the Board that an appropriate condition could be attached to any grant of permission requiring the applicant to implement a Mobility Management Plan including a workplace Travel Plan and that same could be reviewed within one year following the completion of the development.
- In response to the PA's comments, ILTP have prepared an AutoTURN assessment for the car parking layout. This demonstrates that all car spaces are independently accessible and that cars can access and egress the development in a forward manoeuvre.
- The proposed access is in accordance with the Design Manual for Urban Roads and Streets, (DMURS).
- An assessment of emergency access for fire tenders and ambulances was also prepared and demonstrates that an emergency vehicle, (fire tender), can appropriately access the proposed development by reversing into the site, which is the appropriate way to access sites adjoining public road.
- It is noted that under previous permitted development there was no requirement that Fire Tenders enter and turn within the curtilage in response to an emergency.

6.2. Planning Authority Response

A response from the PA was received on the 25th March 2021 and included the following;

- The PA has reviewed the issues raised by the 1st Party as outlined in their submission dated 23rd February 2021 and is satisfied that these issues have been substantively addressed in the Planning Reports dated the 7th July 2020 and the 27th January 2021.
- The main concerns relate to flood risk management and internal car parking and circulation, particularly with regard to emergency vehicles during flood events.
- Comments were issued by the Transportation Department in response to the FI submission. These comments requested amendments to the car parking layout. It was considered that to address the amendments by way of condition could alter the design of the proposal and would be contrary to Section 7.7 of the Development Management Guidelines (2007).
- The position of the PA remains that as set out in the Planning Reports and recommends that planning permission be refused.

6.3. Observations

- No observations received.

7.0 Assessment

The main grounds of appeal seek to address the issue raised in the two reasons for refusal which relate to parking and flooding and car parking. Therefore, in my opinion the relevant issues to address relate to the following

- Principle of Development
- Impact on Residential Amenity
- Flood Risk
- Parking & Access

- Appropriate Assessment

7.1. Principle of Development

The appeal site is located within the settlement boundary of Clonee Village as defined in the Dunboyne, Clonee & Pace LAP 2009-2015. Within the Land Use Zoning Objectives for Clonee, the site is zoned objective A1 – *‘To protect and enhance the amenity of developed residential communities’*. Permitted uses within this zoning include ‘Residential/Sheltered’ Housing’ and uses listed as ‘Open for Consideration’ include ‘Retirement Home / Residential Institution / Retirement Village’. I am satisfied that the existing and proposed use is compatible with the land use zoning for the site and is also in accordance with SOC POL 30 which seeks to locate services for the aged population within settlements in order to enhance overall quality of life, increase their links with, and accessibility to, local amenities, and therefore reduce the likelihood of social isolation.

I note the location of the brownfield site within an existing village, and it is my opinion that the proposal is also in compliance with the wider national objectives to consolidate development within urban centres and to provide a range of services and employment opportunities within urban centres. The existing facility on the site also provides a necessary service to the immediate and wider community and its location provides easy access for local residents. Therefore, I am satisfied that the principle of the development, which is an intensification of an existing use, is acceptable.

Whilst the development proposal seeks to extend the existing land use on the site, it would result in doubling the site of the existing development and as such its impact should be assessed against Section 11.2.6 – Nursing Homes, of the CDP. This section requires the following factors to be considered in determining applications for nursing homes or an older persons care home.

- Compliance with the standards as laid down in Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2009 and the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2010 (or any such other relevant standards and legislation that may be enacted).

- The affect on the amenities of adjoining properties,
- Adequacy of off-street car parking,
- Suitable private open space,
- Proximity to local services and facilities, and,
- The size and scale of the facility proposed – the scale must be appropriate to the area.

These issues, as well as others, are discussed below.

7.2. Impact on Residential Amenity

The proposed development would be positioned in the same orientation and position within the site and would have a similar footprint. In response to a request for FI during the initial application stage, the roof of the building was changed from a pitched roof to a flat roof in order to reduce the bulk and mass of the building. In my opinion this design approach represents an acceptable response within the context of the site and the adjoining low-rise development.

To the front of the site, the proposed building would retain the existing building line formed by the properties on either side, and it would be set back from the eastern and western boundaries by varying depths. To the west the building would be 10.4m from the gable wall of the neighbouring dwelling and to the east it would be 4.3m at the narrowest point. On the occasion of the site visit a section of the boundary hedge along the eastern side was at a low level and the views between both sites were clear. The hedge along the western boundary was much higher and completely shielded the adjoining site from view.

The Landscaping Plan, prepared by Landmark Designs Ltd., (Drawing 00), notes that the existing 4m high hedgerow along the western boundary is in good condition and gives excellent screening and is to be retained. Along the eastern boundary a 14.5m section of the existing hedgerow would be removed and replaced with a 2m block wall. The remainder of the hedgerow, ranging in height from 2 -4m would be retained. The proposed wall would be located adjacent to the area to the rear of the adjoining house and as such would provide screening to the development. I am

satisfied that the landscaping proposals as shown would be sufficient to provide screening to the new building and to prevent direct overlooking of adjoining properties.

In my opinion the two-storey scale of the proposal is acceptable for the site and within the context of the adjoining development. Therefore, given the bulk and massing of the proposal, any potential and significant impacts from the building would be as a result of overshadowing or loss of light.

In order to address the potential impact of overshadowing a Sunlight Analysis was prepared by CQA Design & Build and submitted in response to the FI request. The analysis was prepared in accordance with the standards set out in the 'Site Layout Planning for Daylight and Sunlight. A Guide to Good Practice', (British Research Establishment Report, (BRE Guidance)), and in particular with Section 3.3 of the document which relates to 'Gardens and Open Spaces'.

Section 3.3 of the BRE Guidance recommends that, with regard to the existing development proposal, that at least half of the amenity area / garden to the rear of the house, should receive at least 2 hours of sunlight on March 21st.

Given the orientation of the site and the proposed layout of the building, the most sensitive receptor would be the dwelling located directly to the west of the subject site. Drawings P109-AI and P108- AI which form the basis of the Sunlight Analysis, confirms this and show that the site to the west would be mostly overshadowed in the morning hours of March 21st. However, the analysis clearly shows that from 11.00 to 18.00 more than 50% of the garden area to the rear of the adjoining site is in receipt of sunlight or sun on the ground following the construction of the new building. In contrast, the site to the east would experience some overshadowing from the proposal in the hours after 16.00 on the 21st March but would be largely unaffected during the day.

Having reviewed the analysis submitted against the recommendations contained in the BRE Guidance, and having visited the site, I am satisfied that the private open space to the rear of the dwellings to the east and west of the subject site would achieve in excess of the recommended minimum amount of sunlight as per the BRE Guidelines and would not suffer from any significant impact as a result of overshadowing.

7.3. Flood Risk

Refusal reason No. 1 of the PA directly relates to the potential for flooding on the site and states that *'The applicant has not satisfactorily demonstrated that the proposed development satisfies the Justification Test and in particular that safe access and egress will be provided for the proposed development in accordance with sections 2(ii) and 2(iii) of Box 5.1 of the Guidelines'*.

The village of Clonee has a history of flooding, with significant flood events occurring in 2000 and 2002. On foot of these events flood defences were installed around Dunboyne and Clonee. The works were completed in 2009 and comprised flood defence walls and embankments along the Tolka River and a diversion of the Clonee Stream under the M3 Motorway. Further embankments were placed along the Castle Stream with channel deepening/widening also carried out. When combined these works provide protection against a 100-Year flood (1% Annual Exceedance Probability) for 332 properties.

Whilst the subject site has no history of flooding, and was unaffected during the flood events of 2000 and 2002, it is located within Flood Zone A and Flood Zone B as per the OPW maps prepared as part of the Catchment Flood Risk Assessment Management (CFRAM) Programme. I note to the Board that the OPW online portal, (floodinfo.ie), currently shows the maps for the Clonee area as 'Under Review'.

The Flood Risk Guidelines set out the process whereby development proposals can be assessed in areas where flood risk occurs. As the site is located within Flood Zone A & B and the proposed (and existing) land use is listed as 'Highly Vulnerable' within Table 3.1 of the Guidelines, a Justification Test is required for the development. The Development Management Justification Test is used where it is intended to *'develop land at moderate or high risk of flooding for uses or development vulnerable to flooding that would generally be inappropriate for that land'*. A Site Specific Flood Risk Assessment, (SSFRA), was also carried by McCloy Consulting and submitted to the PA as Further Information during the planning application process.

As part of the SSFRA hydraulic modelling was carried out for the site to analyse a number of scenarios which analysed the potential impacts on the River Tolka, which

is culverted under the R147 and the M3, approximately 420m west and 180m northwest of the site, and, for an unnamed watercourse that flows approximately 35-40m from the south-eastern extent of the site. This watercourse is culverted under the R147 and the M3 and joins the River Tolka on the north side of the motorway. The results of the scenarios are summarised below.

Pre-development

- Present day – with flood defences - The existing 'present day' scenario takes account of the flood defences and show that the site is not affected by flooding. Flood levels for the 1% Annual Exceedance Probability, (AEP), (i.e. the 100 year flood event) and the 0.1% AEP, (1000 year flood event) were assessed and the results of the model show that flooding is held in the bank along the unnamed watercourse and does not overtop the River Tolka flood defences.
- Present day – without flood defences – When the hydraulic model was run using a geometry without flood defences, the results show that the northern and south-western extents of the site would be affected by Flood Zone B, (0.1% AEP), from the River Tolka via overland flow. However, the area of the site to be developed is not located within Flood Zone B and is within Flood Zone C.
- Present day – defended scenario + Climate Change - As per the Flood Risk Guidelines, the model was run to include the effects of climate change, which allows for a 20% increase in design flows. In this scenario the 1% AEP + Climate Change, (CC), flood event is held within the channel in both the unnamed watercourse and the River Tolka. However, in the 0.1% AEP + CC scenario the water remains within the channel of the unnamed watercourse but overtops the defences along the River Tolka and through overland flow, causes flooding of a minor part of the site to the northern edge of the site and adjacent to the R147. Within this scenario the area of the site to be developed remains within Flood Zone C.

Post Development Scenario

The SSFRA notes that within the post-development scenario, the proposed development will include changes to site levels to achieve required freeboard to adjacent design flood levels.

- Proposed flood risk – Present day defended scenario – The development as proposed would lie entirely within Flood Zone C as well as outside the functional fluvial floodplain of the River Tolka and would be unaffected for 1% AEP and 0.1% AEP flood events. The proposed development, including Finished Ground Levels, (FGL's), and Finished Floor Levels, (FFL's), that meet freeboard requirements, would have no effect on flood risk elsewhere as effective flood storage and conveyance capacity would be unaffected for 1% AEP and 0.1% AEP flood events.
- Proposed flood risk – flood defences + climate change – The results of this scenario are similar to those listed above in the 'Present Day – defended scenario + climate change'. The most northerly extent of the site, adjacent to the R147 would be within Flood Zone B in the 0.1% AEP event. However, the area where development is proposed would be unaffected by flooding for 1% AEP and 0.1% AEP flood events including allowance for climate change. The SSFRA states that the development, including FGL's and FFL's that meet freeboard requirements, would have no effect on flood risk elsewhere as effective flood storage and conveyance capacity would be unaffected for 1% AEP and 0.1% AEP flood events. In this scenario the 1% AEP + CC flood event is held within the channel in both the unnamed watercourse and the River Tolka. However, in the 0.1% AEP + CC scenario the water remains within the channel of the unnamed watercourse but overtops the defences along the River Tolka and through overland flow, causes flooding of a minor part of the site to the north and adjacent to the R147.
- Proposed flood risk – culvert blockage – As per the Flood Risk Guidelines, the impact of culvert blockage on the development was modelled using the standard 50% blockage for the downstream culvert. The unnamed watercourse is culverted under the R147, downstream of the site. A 50% blockage increases the flood level and flood extent adjacent to the site as flows are restricted upstream. For the 0.1% AEP event the water levels at the

model nodes, (shown in Figure 3.2 of the SSFRA), upstream of the site, at the mid-point and downstream of the site would be 61.33, 61.33 and 61.32m OD respectively. This is below the proposed FFL of 61.90m OD. As part of the Grounds of Appeal, an assessment of the culvert blockage of the River Tolka was also carried out and the results show that the maximum flood level at the site would be 61.8m OD. As the FFL of the development would be 61.9m OD, it would be resilient to culvert blockage.

Under a specific request from Meath Co. Co. consideration was given to the following scenarios;

- Proposed risk – Flood defence failure –Consideration was given to the proposed climate change scenario with complete flood defence failure. In this scenario the proposed development would not be located in an area at risk from flooding. However, sections of the site to the north and south and south-west would be located within Flood Zone B. This would include the access / egress to the site from the R147.
- Residual Risk – Access & Egress - An analysis of flood depths on access roads to the site during a combined climate change / flood defence failure scenario was requested by the PA. In this scenario the site entrance at the R147 is affected. Analysis shows that the 1% AEP + CC flood level (61.10m OD) causes flooding at a maximum depth of 180mm on the access road at the site entrance.

Surface water from the site would be dealt with through the use of SuDS measures which include the installation of a 1,500m² sedum roof on top of the building, the installation of permeable paving and soft landscaping. An offline attenuation tank would be installed in the south-west corner of the site. Surface water would be discharged via an existing surface water drain located on the southern boundary which discharges to a stream. A Hydrobrake Optimun Flow Control limiting outflow to 2 l/s would be fitted to the outfall surface water manhole.

In summary the findings of the SSFRA are as follows;

- The parts of the site where development is proposed lies in Flood Zone C.

- The proposed development is unaffected by flooding for 1% AEP and 0.1% AEP floods, including when the protection of flood defences is omitted.
- The proposed development is unaffected by flooding for 1% AEP and 0.1% AEP floods including for the effect of climate change.
- Dry access and egress to and from the site is available during a 1% AEP and 0.1% AEP flood, including the effect of climate change, due to the effect of the OPW flood defences.

The PA queried the robustness of the SSFRA with regard to the flood levels of the River Tolka, the lack of analysis regarding a culvert blockage on the River Tolka, and the justification of the flood levels at the R147. These issues are addressed in detail in the grounds of appeal and additional Flood Maps, (Ref. FL11 and FL12) were submitted and show the water depths for the River Tolka and the unnamed stream to the south-west during the 1% AEP (Flood Zone B) and the 0.1% AEP (Flood Zone A) events. An assessment of the culvert blockage of the River Tolka was also carried out and the results show that the maximum flood level at the site would be 61.8m OD. As the FFL of the development would be 61.9m OD, it would be resilient to culvert blockage. The applicant confirms that the maximum flood depth at the site entrance would be 180mm during the undefended 1% AEP + CC flood event.

Concerns were also expressed by the PA regarding the level of detail contained in the SSFRA with regard to the scenario of climate change for the undefended situation on site and in the area. The PA contends that safe access to and from the proposed development would require a safe and appropriate route for emergency services. Given the potential for flooding at the entrance to the site and adjacent to the R147 during certain scenarios, this would not be possible.

In response to these issues, the applicant argues that the 'undefended' scenario is considered solely to inform the delineation of flood zones as per the Flood Risk Guidelines. The defined Flood Zones establish the principles of appropriate land use but at defended sites, are not a rational basis for the assessment of risk.

Furthermore, the likelihood of a complete failure of all flood defences represented by an 'undefended scenario' is extremely unlikely and as such the risk associated is not significant.

In my opinion the SSFRA has demonstrated that the proposed development will not be at risk from flooding and would not increase the flood risk to other areas. The presence of flood defences in the area is noted, and in my opinion, cannot be discounted as they form part of a combined and concerted effort between the OPW and the Local Authorities to reduce the risk of flooding to vulnerable areas. I note that technical guidance contained in Appendix A of the Flood Risk Guidelines makes allowances for the consideration of flood defences in the preparation of SSFRA's and states the following;

'Actual flood risk is the risk posed to an area, whether it is behind defences or undefended, at the time of the study. This should be expressed in terms of the probability of flooding occurring, taking into account the limiting factors, both natural and manmade, preventing water from reaching the development'.

Residual risks are the risks remaining after all risk avoidance, substitution and mitigation measures have been taken. Examples of residual flood risk include: The failure of flood management infrastructure such as a breach of a raised flood defence, blockage of a surface water channel or drainage system, failure of a flap valve, overtopping of an upstream storage area, or failure of a pumped drainage system; and A severe flood event that exceeds a flood design standard such as, but not limited to, a flood that overtops a raised flood defence.

Assessment of flood defence breaching should generally be undertaken on the basis of a design event of the appropriate design standard (such as 1% AEP for river flooding and 0.5% AEP for flooding from the sea), including an allowance for climate change. Assessment of overtopping of flood defences should generally be undertaken on the basis of the 0.1% AEP event, including an allowance for climate change.

In my opinion the SSFRA has been prepared in accordance with the technical guidance outlined above, which does not explicitly state that flood defences should be completely discounted. The findings of the SSFRA state that in the event of a 0.1% + CC flood event, with existing defences in place, the entrance to the subject site would flood to a level on 180mm. Therefore, the residual risk is that access and egress to the site might be hindered during an extreme flood event.

I note that the site is currently developed with a 28-bed nursing home in place. Whilst the existing land use would be intensified by the proposed development, the existing residual risk of flooding to the site would not change. Under an extreme flood event, as outlined in the scenario above, the existing access to the site would be located within Flood Zone B, which could compromise access to and from the site. Therefore, any current residual risk from flooding remains unchanged.

Section 6.4 of the Flood Risk Guidelines states that, *'Planning authorities must strike a fair balance between avoiding flood risk and facilitating necessary development, enabling future development to avoid areas of highest risk and ensuring that appropriate measures are taken to reduce flood risk to an acceptable level for those developments that have to take place, for reasons of proper planning and sustainable development, in areas at risk of flooding'*.

In my view the subject site, which is zoned objective A1 – 'Existing Residential', is well located to provide an enhanced and necessary service to the local community and to the wider area. The proposal would be in accordance with national guidance to consolidate services and employment within urban settlements in order to promote sustainable development. Whilst there may be some residual risk to immediate access to the site in extreme events, this risk would appear to be low and is an existing risk that would not be increased by the proposed development. Therefore, it is considered that the flood risk within the site can be managed and that the proposed development would not increase the flood risk to any adjoining area.

Having reviewed the findings in the SSFRA, I am satisfied that the proposed development is in accordance with the criteria of the Justification Test as set out in Box 5.1 of the Flood Risk Guidelines and that the development would not increase the risk of flooding to adjoining properties or lands. I note that the Water Services Department of the PA had no objection to the methods proposed for the collection, treatment and disposal of surface water.

Should the Board be minded to grant permission for the development I recommend that the detailed implementation of all the mitigation measures proposed in Section 5.2 of the SSFRA, including freeboard levels, be agreed in writing with the PA prior to the commencement of development.

7.4. Parking & Access

The second reason for refusal relates to the provision of car parking and access to the development and states that ‘the applicant has not demonstrated that adequate car parking spaces, including access to same, can be provided within the curtilage of the site in addition to the access and circulation of emergency service vehicles including fire tenders’.

It is proposed to provide 14 no. car parking spaces to the front of the development. Based on the car parking provision for Nursing Homes as listed in Table 11.9 of the CDP, (1 space per 3 beds and 1 space per employee), the maximum number of spaces allowable for the development would be 43, (20 for residents / visitors and 23 for employees). There are currently 8 car parking spaces serving the 28 bed nursing home, which is well below the maximum of 23-24, (based on 28 beds and 14 staff members), car spaces allowable under Table 11.9 of the CDP.

Whilst the existing quantum of parking is well below the CDP standards, the informal nature of the parking area does provide space for some additional vehicles along the eastern boundary of the site. I note that there is the closest public parking to the site is approximately 200m to the west of the site and comprises on-street parking in the village. The Aldi development and associated car parking area is directly opposite the site.

In order to justify the provision of parking a report was prepared by ILTP Consulting and submitted with the application on foot of a request for FI by the PA. The results of the report were based a Staff Workplace Travel Survey which was carried out by the consultants. Responses to the survey were received from 20 of the 33 no. staff members. The survey took place during the Level 2 Restrictions for Covid-19 and the results showed that, at that time, 30% of the respondents were driving to work, with a further 30% travelling by foot and only 5% using the bus. Pre-Covid-19, 55% of respondents had driven to work with 10% travelling by bus.

The current number of staff required on site at one time to cater for the 28 bed facility is 14, which would increase to 23 on completion of the proposed development. Based on the results of the Travel Survey, 8 spaces would be required for staff in the proposed development. The applicant notes that as the facility is a nursing home, car parking is not required for residents. However, it is acknowledged that the

requirement for visitor car parking would increase. It is proposed that an additional 2 visitor car parking spaces would be appropriate based on existing visitor patterns to the Nursing Home pre-Covid -19, which is based on information provided by the applicants. This information is not detailed in the report and has not been submitted within the grounds of appeal. Therefore, I am not satisfied that the quantum of parking for visitors has been justified.

The consultants contend that the proposed car parking spaces, (8 for staff and 6 for visitors, including 1 accessible space and dedicated set down area), should be sufficient to serve the needs of the development given its location, existing travel modes and the nature of the proposed development. A set of measures were also recommended for the Nursing Home to promote sustainable travel patterns. ILTP recommend that an appropriate condition be attached to any grant of planning permission requiring the applicant to prepare and implement a Workplace Travel Plan and to undertake a review of same within one year of opening.

On the occasion of the site visit, which took place mid-morning on Wednesday the 9th June 2021, there were 3 cars parked at the nursing home. However, I note that visiting restrictions to the nursing home were in place at this time due to Covid-19.

Concerns were raised by the PA that the justification for the quantum of parking is based on the figure of 30% of employees driving not work during the pandemic restrictions and not the 55% figure from the pre-pandemic modal split. Based on the pre-Covid figures from the survey the proposed development could require 12 spaces for staff members at any one time. However, in my view, the results of the survey are imprecise and serve to indicate travel behaviours rather than extrapolate true figures for car parking requirements. For example, the survey received responses from almost two thirds of the staff members and the remainder of the results are extrapolated from that. Also, not all of the respondents that regularly drive may be working at the same time. However, the survey does show that staff travel behaviours can be altered by circumstances and therefore changes to modal split may be encouraged by incentives and mobility plans.

In my opinion, the maximum amount of 43 car parking spaces is excessive for the proposed development given its location within an urban settlement that is well served by public transport which provides connections to neighbouring settlements.

Whilst there may be adequate provision for staff car parking based on current or more recent travel behaviours, I would have a concern that adequate spaces are provided for visitors. However, I note that the historical images from Google Street View show that the existing car park was not operating to capacity when images were taken in 2009, 2018 & 2019. Clonee village is currently served by a number of bus routes which connect the village to Dublin City and also to the wider Meath area. There are also plans to enhance bus services through Bus Connects. Therefore, based on the existing staff travel patterns and the location of the site within an urban settlement that is served by public transport, I am satisfied that the proposed quantum of car parking will be sufficient to serve the proposed development.

In order to demonstrate that adequate sightlines for the development can be achieved, Drawing No. 003, 49m Sightline Assessment Drawing as per DMURS, was submitted with the report. Having reviewed the drawing and observed the conditions on site, I am satisfied that the minimum required sightlines of 49m setback 2m from the edge of the road as set out in the Design Manual for Urban Roads and Streets, (DMURS), can be achieved and as such access and egress from the development would not result in a traffic hazard.

A set of AutoTURN drawings were prepared for the development by ILTP Consulting and submitted with the appeal. The drawings demonstrate that all car spaces are independently accessible and that cars can access and egress the development in a forward manoeuvre. An assessment of emergency access for fire tenders and ambulances was also prepared and demonstrates that an emergency vehicle, (fire tender), can appropriately access the proposed development by reversing into the site and exiting in a forward motion. I am satisfied, based on the information submitted, that there is sufficient space for vehicles to safely manoeuvre within the site and for emergency vehicles to access the site safely.

7.5. Appropriate Assessment

The application is accompanied by a Stage 1 Screening Report which was prepared by Noreen McLoughlin MSc, Environmental Consultant and submitted as part of a request by the PA for further information. The applicants AA Screening Report concluded that, *'...this application, whether individually or in combination with other*

plans and projects, will have no significant effects upon the Natura 2000 sites identified. It is the opinion of this author that this application does not need to proceed to Stage II of the Appropriate Assessment process’.

Having reviewed the documents, submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Stage 1 – Screening

The site itself is not located within any designated European site and does not directly adjoin or abut any such site. The closest Natura 2000 designated site is the Rye Water Valley / Carton SAC, (Ref. 001398), which is approximately 5.8km to the south-west. However, this site has no direct pathway or hydrological connection to the subject site and as such, I am satisfied that it is outside the zone of influence and that impacts from the development are unlikely.

The River Tolka provides a hydrological link to the South Dublin Bay and River Tolka Estuary SPA, (Ref. 004024), North Bull Island SPA, (Ref. 004006), North Dublin Bay SAC, (Ref. 000206), South Dublin Bay SAC, (Ref. 000210). Although the subject site is approximately 130m from the River Tolka, the hydrological link to these sites warrants further investigation given the historical flooding in the area.

Any potential indirect impacts on European sites from the development would be restricted to the discharge of surface water and foul water from the site. Given the location of the site, and the nature and scale of the proposed development, I consider the following designated sites to be within the zone of influence of the subject site;

European Site	Site Code	Qualifying Interests / Conservation Objectives	Distance
South Dublin Bay and River Tolka Estuary SPA	004024	QI: A046 Light-bellied Brent Goose, (<i>Branta bernicla hrota</i>)	c. 17 km downstream

	<p>A130 Oystercatcher, (<i>Haematopus ostralegus</i>)</p> <p>A137 Ringed Plover, (<i>Charadrius hiaticula</i>)</p> <p>A141 Grey Plover, (<i>Pluvialis squatarola</i>)</p> <p>A143 Knot, (<i>Calidris canutus</i>)</p> <p>A144 Sanderling, (<i>Calidris alba</i>)</p> <p>A149 Dunlin, (<i>Calidris alpina</i>)</p> <p>A157 Bar-tailed Godwit, (<i>Limosa lapponica</i>)</p> <p>A162 Redshank, (<i>Tringa totanus</i>)</p> <p>A179 Black-headed Gull, (<i>Chroicocephalus ridibundus</i>)</p> <p>A192 Roseate Tern, (<i>Sterna dougallii</i>)</p> <p>A193 Common Tern, (<i>Sterna hirundo</i>)</p> <p>A194 Arctic Tern, (<i>Sterna paradisaea</i>)</p> <p>A999 Wetlands</p> <p>CO: To maintain the favourable conservation condition of the species and wetland habitat listed in the Qualifying Interests in South Dublin Bay and River Tolka Estuary SPA.</p> <p>Note: The Grey Plover is proposed for removal from the</p>	
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		list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA.	
North Bull Island SPA	004006	<p>QI:</p> <p>A046 Light Bellied Brent Goose (<i>Branta bernicla hrota</i>)</p> <p>A048 Shelduck (<i>Tadorna tadorna</i>)</p> <p>A052 Teal (<i>Anas crecca</i>) A054 Pintail (<i>Anas acuta</i>) A056 Shoveler (<i>Anas clypeata</i>)</p> <p>A130 Oystercatcher (<i>Haematopus ostralegus</i>) A140 Golden Plover (<i>Pluvialis apricaria</i>)</p> <p>A141 Grey Plover (<i>Pluvialis squatarola</i>) A143 Knot (<i>Calidris canutus</i>)</p> <p>A144 Sanderling (<i>Calidris alba</i>)</p> <p>A149 Dunlin (<i>Calidris alpina alpina</i>)</p> <p>A156 Black-tailed Godwit (<i>Limosa limosa</i>)</p> <p>A157 Bar-tailed Godwit (<i>Limosa lapponica</i>)</p> <p>A160 Curlew (<i>Numenius arquata</i>)</p>	C. 20.4km downstream

		<p>A162 Redshank (<i>Tringa tetanus</i>)</p> <p>A169 Turnstone (<i>Arenaria interpres</i>)</p> <p>A179 Black-headed Gull (<i>Chroicocephalus ridibundus</i>)</p> <p>A999 Wetlands</p> <p>CO: To maintain the favourable conservation condition of the species and wetland habitat listed in the Qualifying Interests in North Bull Island SPA.</p>	
North Dublin Bay SAC	000206	<p>QI: 1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1210 Annual vegetation of drift lines</p> <p>1310 <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>1395 Petalwort <i>Petalophyllum ralfsii</i></p> <p>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>2110 Embryonic shifting dunes</p> <p>2120 Shifting dunes along the</p>	c. 20.4km downstream

		<p>shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>2190 Humid dune slacks</p> <p>CO: To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide, Atlantic & Mediterranean salt meadows & Petalwort in North Dublin Bay SAC.</p> <p>To restore the favourable conservation condition of Annual vegetation of drift lines <i>Salicornia</i> and other annuals, Embryonic Shifting Dunes, shifting dunes along the shoreline with <i>Ammophila arenaria</i>, (white dunes), Fixed coastal dunes with herbaceous vegetation, (grey dunes) & Humid dune slacks in North Dublin Bay SAC.</p>	
South Dublin Bay SAC	000210	<p>QI: Mudflats and sandflats not covered by seawater at low tide.</p> <p>CO: To maintain the favourable conservation condition of</p>	c. 26km downstream

		Mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC.	
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Having examined the qualifying interests and conservation objectives for the South Dublin Bay and River Tolka Estuary SPA, (Ref. 004024), North Bull Island SPA, (Ref. 004006), North Dublin Bay SAC, (Ref. 000206), South Dublin Bay SAC, (Ref. 000210) Rockabill to Dalkey Island SAC, I am satisfied that the proposed development, by virtue of its nature and scale, would not result in any potential for significant impacts on the integrity and conservation objectives of these designated site.

I note that the subject site is does not have a direct pathway to the River Tolka, which forms a hydrological link to the designated sites. The only possibility for a connection would be during an extreme flood event. As flood defences have been installed to protect the village and the site has no history of flooding, this scenario is unlikely. Even so, given the hydrological distance from the site to the designated areas and the estuarine/coastal mixing that would occur, it is unlikely that the proposed development would lead to any significant impact on the conservation objectives or the qualifying interests of the SPA's and the SAC's within the zone of interest. Therefore, the listed sites can be screened out of any further assessment.

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 004024, 004006, 000206 and 000210 or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. This determination is based on the nature and limited scale of the proposed development and its distance from the said European sites.

8.0 Recommendation

8.1. I recommend that planning permission be granted for the proposed development.

9.0 Reasons and Considerations

The subject site is located on zoned lands in the centre of the village of Clonee and is currently developed with a nursing home and associated parking. Having regard to the documentation submitted with the application and appeal, it is considered that, subject to conditions set out below, the development of this brownfield site, would not increase flood risk elsewhere, would be in accordance with the Flood Risk Management Guidelines and the relevant provisions of the Meath County Development Plan 2013-2019 (as extended and varied), would not seriously injure the amenities of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and would constitute an appropriate form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 submitted on the 7th day of December 2020 and by the further plans and particulars received by An Bord Pleanála on the 5th day of March, 2021], 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>Reason: In the interest of clarity.</p>
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2.	<p>Prior to the commencement of development on site the applicant shall submit details for the written agreement of the planning authority of flood resilient measures for the entire development.</p> <p>Reason: In the interest of flood risk management.</p>
3.	<p>Water supply and 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>Reason: In the interest of public health.</p>
4.	<p>The developer shall engage with Irish Water prior to the commencement of development and shall comply with their requirements with regard to the proposed development.</p> <p>Reason: In order to ensure a proper standard of development.</p>
5.	<p>All planting/landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority on the 17th day of February 2020 shall be maintained, and if any tree or plant dies or is otherwise lost within a period of five years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Prior to the commencement of any development works on the site, the applicant shall undertake a bat survey by a competent qualified person or consultancy to ascertain the presence of any bat activity on the site in relation to roosting and foraging and an assessment of any potential impact on the species arising from the proposed development. The nature and methodology of this survey shall be agreed with the planning authority prior to the commencement of the survey. No building, feature or vegetation shall be altered or removed prior to this survey and assessment. Full details of the survey and assessment shall be submitted to the planning authority in advance of any development works on the site. Such the presence of bats be established on the site no development shall occur</p>

	<p>until the necessary permission/ derogation licence has been obtained from the appropriate statutory body.</p> <p>Reason: In the interest of bat protection and to provide for the preservation and conservation of this species</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 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>Reason: 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>
8.	<p>Prior to the opening of the development, a Mobility Management Plan shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking.</p> <p>Reason: In the interest of encouraging the use of sustainable modes of transport.</p>
9.	<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.</p>

	<p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management</p>
11.	<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.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity</p>
12.	<p>The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer’s expense on a daily basis.</p>

	Reason: To protect the residential amenities of property in the vicinity.
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Elaine Sullivan
Planning Inspector

9th August 2021