



An
Bord
Pleanála

Inspector's Report ABP-310824-21

Development	Construction of two, 2 storey, apartment blocks. a communal/office staff area, bin bay, cycle shelter, parking and all associated site works
Location	Roadstone hours, Dysartbeigh, Mountrath, Laois R32KV40
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	20686
Applicant(s)	Harmony Care.
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Mark and Edel Gorman.
Observer(s)	None
Date of Site Inspection	28 th of March 2022
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1 The subject site is located in the town of Mountrath Co. Laois. It is located outside of the town centre along the R445 (Coote Street). There is a community school further south of the site.
- 1.2 The site contains a large two storey dwelling which is detached, with a large curtilage and outbuildings. The dwelling has been converted to sheltered accommodation with staff facilities. There is onsite parking.
- 1.3 There is a side garden area and a rear garden area.
- 1.4 To the north of the site there is a bungalow on a considerable curtilage. The bungalow has a similar building line to the dwelling on the subject site.
- 1.5 There is a footpath fronting the site, and a pedestrian crossing in close proximity to the splayed vehicular entrance to the site.
- 1.6 The roadside boundary is a low wall. The residual site boundaries consist of fencing a mature trees. The boundary between the site and the appellants property consists of leylandii trees and a 1.8metre timber fence.

2.0 Proposed Development

- 2.1. The proposed development consists of two blocks of apartments, each two storeys in height.
 - **Block 1** : Consist of 4No. one bedroom apartments, stairwell and lift shaft
 - **Block 2** : Consists of 3No. one bedroom apartments, a communal office staff area, bin bay, cycle shelter, parking and all associated site works.
- 2.2 On **9th of February 2021**, the planning authority requested **further information**:
 - Consult with Irish Water in relation to public water/ wastewater;
 - A mix of apartment sizes is required;
 - Contiguous elevations;
 - Potential for overlooking to the north-east and address third party concerns;
 - Asbestos

- Public Lighting, turning facility, Entrance to accommodate two cars, Permeable paving, too close to pedestrian crossing, parking
- Refuse

2.3 The response from the applicant was received on 26th of March 2021, and further clarification of further information was received on 14th of May 2021.

The proposal is for sheltered accommodation. The 7No. apartments are to provide longterm care for adults who have complex needs such as cerebral palsy. Shared living does not work in these instances, this is the reason for single apartments. The contiguous elevations along the streetscape are submitted.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted by Laois Co. Co. on 24th of June 2021 subject to 18No. conditions:

The conditions are standard planning conditions.

A site specific condition is No. 17:

17. (a) The use of the proposed apartment units shall be in accordance with the details received by the planning authority on the 18th of December 2020 i.e. as sheltered housing living accommodation. No change of use shall take place without prior grant of planning permission. Prior to the commencement of any unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority, pursuant to Section 47 of the Planning and Development Act 2000, that restricts the use of all units permitted to sheltered living accommodation.

(b) Section 47 agreement

(c) Section 47 agreement termination

Reason: In the interest of clarity and proper planning and sustainable development of the area.

19. Development Contribution Payable is €28,000

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports***

- The planning authority was satisfied with the proposed development once the further information issued were addressed by the applicant. Permission was recommended.

3.2.2. ***Other Technical Reports***

Roads : No objection

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

The owners of the neighbouring property to the north-east objected to the proposed development on the following grounds:

- Sheltered Housing is commercial in nature and does not satisfy the residential zoning objective.
- Serious traffic issues associated with the general traffic flow at this location
- Carparking does not comply with standards
- Open space is unusable
- Foul drainage problems
- Block 2 located in close proximity to their property, overshadowing
- Bin storage.

4.0 **Planning History**

There is no relevant planning history associated with the site.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the ***Laois County Development Plan 2017-2023***.

The subject site is zoned **Residential 1** – *To protect and enhance the amenity of developed residential communities.*

Relevant policy statements include:

HP1 – Facilitate the provision of housing units to sufficiently cater for social and specialist housing needs over the plan period, as established in the County Housing Strategy.

HP4 – Provision of social and specialist housing shall be progressed through partnership working with voluntary and cooperative organizations, the HSE, as well as agreements with private developers.

HP8 – Promote and support the development of housing for older people and those with disabilities, including the concept of independent living and development of lifestyle housing i.e. housing that is adaptable for people's needs as they change over their lifetime.

5.2 National Planning Policies

The National Planning Framework

There is a greater renewed emphasis on providing “compact development” and the NPF notes that the preferred approach would involve providing development that “focusses on reusing previously developed brownfield land, building up infill sites which may not have been built on before and reusing and redeveloping existing sites and buildings”. National Policy Objective 3A of the NPF seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements and Objective 3B seeks to deliver at least half of all new homes in the five largest cities and suburbs of the states.

5.2. Natural Heritage Designations

There are 5 Natura 2000 sites within 5km of the site including:

Description	Designation	Site Code	Distance
River Barrow and River Nore	SAC	002162	350m E
River Nore	SPA	004233	2.3km SW
Slieve Bloom Mountains	SAC	000412	5km N
Slieve Bloom Mountains	SPA	004160	3.5km N
Knockacoller Bog	SAC	002333	4.6km SW

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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

Mark and Edel Gorman has taken this third-party appeal against the decision to grant planning permission for the proposed development. The following is a summary of their appeal:

- The proposed development can be classified as ‘sheltered housing’ which is open for consideration within the residential zoning objective. The existing building on site is being used for social housing purposes, and the proposed intensification is of a commercial nature, which does not satisfy the development plan zoning criteria. The proposal contravenes the development plan.
- There are serious issues regarding traffic flow/ management at the site location. There are factors contributing to this, the community school, the

residential development on the opposite side of the road, general traffic patterns and accessing the site. This will lead to an increased risk to all road users and pedestrians.

- The carparking provision does not comply with the standards as stated in the county development plan. The staff element must be taken into consideration, and the existing buildings on site also have parking requirements. The minimum carparking provision should be complied with.
- Good Design should provide usable open space provision for active and passive use. The proposed open space provision does not satisfy any of the required criteria and is wholly inadequate both in terms of the amount of open space proposed relative to the overall development.
- There are issues regarding the foul water drainage from the site. At present the sewer line extends from the existing building on site, across their front lawn to a manhole in the front corner of their curtilage. The situation is not acceptable and is a burden on this property. The present sewer line is only 100mm in diameter which is insufficient to cater for the combination of the existing building and the proposed development on the subject site.
- There are concerns regarding the design of the proposed units, in particular Block 2, located to the rear of the property. The proposed unit is positioned in close proximity to the boundary of the subject site. The overgrown trees along the boundary are overshadowing a large section of their rear garden and reduce sunlight into this area. The provision of windows at first floor level facing towards their property will seriously compromise their privacy. The building should be removed as it will impact negatively on their property.
- The provision of bin storage adjacent to their property will result in infestation issues and this should be relocated to an alternative position.
- The finished levels of the proposed development as indicated on the site survey drawings do not appear to correlate with the levels indicated on other drawings. This requires clarification as it negatively impact on their property.

6.2. Applicant Response

The submission is summarised under 4No. headings:

- ***Principle of the Development***

The site is zoned for residential use, and there is a greater emphasis on providing compact development and the National Planning Framework notes the reuse of previously developed brownfield land, building up infill sites and reusing existing sites and buildings. National Policy Objective 3A seeks to deliver 40% of all new homes nationally within the built-up footprint of existing settlements and Objectives 3A of the NPF seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements. Laois County Development Plan, Section 3, Housing Strategy sets out below policies that are relevant to the subject planning application and re-enforce the compliance with national and local policy.

HP1 – Facilitate the provision of housing units to sufficiently cater for social and specialist housing needs over the plan period, as established in the County Housing Strategy.

HP4 – Provision of social and specialist housing shall be progressed through partnership working with voluntary and cooperative organizations, the HSE, as well as agreements with private developers.

HP8 – Promote and support the development of housing for older people and those with disabilities, including the concept of independent living and development of lifestyle housing i.e. housing that is adaptable for people's needs as they change over their lifetime.

- ***Traffic and Carparking***

There is no material impact on traffic as a result of the proposed development. The residents will not need cars, and traffic volume is associated with the staff only. Sightlines are achieved. It is not clear how the development could impact on the community school traffic as suggested.

- ***Building Height and Design***

Chapter 4 of the National Planning Framework addresses making stronger urban places.

Design changes regarding overshadowing and overlooking were incorporated into the further information. The minimal height of the buildings and orientation, in particular windows/ balconies to the north/northwest to protect privacy. Densities should be higher in urban areas and create a more compact development. The height is modest at two storeys and there is adequate separation distance. There has been a Daylight Analysis and Overshadowing report submitted as part of the planning application.

- ***Wastewater Provision***

Irish Water were consulted, and a pre-connection enquiry has been made. There are no issues regarding the capacity of the storm or wastewater. The route of the infrastructure is beyond the remit of the application.

6.3. Planning Authority Response

There was no further submission from the planning authority apart from the content of the planning application.

6.4. Further Responses

The third-party appellants made another submission which raised no new issues, and their appeal was re-iterated. The third-party appellant refutes the site is an infill site, and the proposed development represents an excessive form of development within an existing residential site.

The proposal is overdevelopment of the site, it will negatively impact on their privacy, and it will overshadow their property.

7.0 Assessment

7.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the Planning Authority's decision to grant planning permission with conditions, the rebuttal arguments set out in the third-party appeal. I consider the Board should address the following issues in determining the current application and appeal before it.

- The Principle of Development

- Design and Layout
- Impact on Adjoining Single Storey Dwelling and curtilage
- Open Space
- Access/ Carparking
- Appropriate Assessment

7.2 Principle of Development

7.2.1. The subject site is zoned Residential 1 - to protect and enhance the amenity of Residential Communities. Sheltered accommodation such as that proposed under the current application, is to cater for young adults with special needs with longterm complex needs such as cerebral palsy, brain injuries, intellectual disabilities and physical disabilities. The existing house on the site is currently in use as sheltered housing and also accommodates staff. The one-bedroom units in both of the proposed blocks will ensure each client will have their own apartment and living space. Shared living arrangements is not usually successful in terms of sheltered living, and this is the reason the development does not include a mixture of units. The applicant was requested to revise the proposed development from all one bedroom units to a mixture of units, but this does not work with sheltered accommodation.

7.2.2 Under the provisions of the Laois Development Plan 2017-2023 the following is relevant:

- Section 4.3 Mountrath Village Plan
- Map 4.3 (A) zoning Map whereby the subject site is zoned Residential 1.
- Map 4.3 (b) A specified objective beside the site states *Traditional Lighting*.
- The Land Use Zoning Matrix indicated Nursing Home/ Sheltered Accommodation is *Open to Consideration* under the Residential 1 zoning.

In addition, the National Planning Framework places greater emphasis on providing new development, particularly residential development within the existing footprint of built-up areas. There is a greater renewed emphasis on providing “compact development” and the NPF notes that the preferred approach would involve providing development that “focusses on reusing previously developed brownfield

land, building up infill sites which may not have been built on before and reusing and redeveloping existing sites and buildings". National Policy Objective 3A of the NPF seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements and Objective 3B seeks to deliver at least half of all new homes in the five largest cities and suburbs of the states.

7.2.3 Likewise, there are numerous policies in the Laois County Development Plan which seek to promote residential development at sustainable urban densities throughout the towns and villages of the county and to promote sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area.

7.2.4 Furthermore, as referred to above under policies HP4 and HP8 – the development plan aims at promoting and supporting the development of housing for older people and those with disabilities, including the concept of independent living and development of lifestyle housing i.e. housing that is adaptable for people's needs as they change over their lifetime.

7.2.5 On the basis of the relevant local and national planning policies, I consider the principle of development is entirely acceptable on the subject site. The Board will also note that there is a precedent for similar type development on the subject site whereby the existing use of the dwelling on the site is for sheltered housing.

7.3. Design and Layout

7.3.1. There is a two storey dwelling on the site with a detached shed to the rear of it. In addition, there is a side garden and a rear garden to the original house with a number of outbuildings that are to be removed as part of the planning application. The existing dwelling addresses Coote Street and has a similar building line to the neighbouring detached bungalow to the north.

7.3.2 The proposed development consists of two contemporary two storey blocks of a similar building envelope to the structure on site. There is ample setback between the three buildings to ensure the massing of the development on the site is minimised. There will be carparking on site for staff and pockets of open space areas.

The design and layout are compact in form with adequate separation distances from building internally on the site and externally on adjoining sites.

The two-storey height is in keeping with the building on the site and will not be out of context or oppressive when viewed from the street or adjoining properties. The contemporary design is simple, with brick panelling detail on front facades.

The third party expressed about the location of the bin storage area, however, I consider it to be acceptable, and the bins will most likely be large wheelie bins which do not attract vermin if managed properly.

7.4. Impact on Adjoining Accommodation

The third-party appeal from the neighbouring bungalow to the north of the site, expresses concerns that the proximity of the proposed block to the rear of the site would adversely impact on the amenity of their residence in particular in terms of overlooking and overshadowing.

7.4.1 Overlooking : The building is only two storeys in height with one window on the side elevation addressing the neighbouring rear garden area. At the present time there are tall leylandii trees along the common boundary, and the appellants garden area and rear of their dwelling is screened from any view or overlooking from the subject site. In the event the tall dense trees are removed, there is one window in the side elevation at first floor level. This is a bathroom window. The balcony at first floor level is not directly overlooking the property, it is at an obtuse angle which is normal with suburban designs.

7.4.2 Daylight Analysis and Overshadowing:

A Daylight Analysis and Overshadowing report was submitted by the applicants by way of additional information. The study demonstrated the rear garden to the northwest of the subject site shows that 100% of the rear garden space will receive at least 2 hours of direct sunlight on the 21st of March passing the BRE guideline level of 50%, therefore the impact therefore in my opinion will be minor.

In general terms the site is located in a built-up area of Mountrath, the proposal is modest on height with sufficient separation distances with no overbearing issues arising.

7.5 Wastewater

A pre-consultation enquiry was made between the applicant and Irish water, there were no issues arising. The route of the sewer beyond the subject site is beyond the remit of this appeal.

7.6 Appropriate Assessment

Having regard to the nature and scale of the proposed development located in an urban area and the nature of the receiving environment, 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 and projects on a European site.

8.0 Recommendation

The recommendation is to uphold the planning authority's decision, and grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the location, nature, scale and design of the proposed development, the pattern of development in the area, and the land use zoning objectives for this site as set out in the Laois City Council Development Plan 2017-2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity, would integrate with the existing development in the area in a satisfactory manner, would be consistent with the sheltered housing provisions set out in the said development plan 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.

8.0 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 16th day of March 2021 and clarification received on 14th of May 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>
2.	<p>Details of all external finishes associated with the proposed blocks shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The proposed units shall be used for sheltered accommodation/ independent living units only.</p> <p>Reason: In the interest of security and residential amenity.</p>
4.	<p>Details of all boundary treatment and landscaping surrounding the blocks shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include the following:</p> <ul style="list-style-type: none">• Details of all proposed hard surface finishes, kerbing on footpath arrangements.• The proposed locations of any trees and other landscaping features including box planting and footpath dishings etc.

	<ul style="list-style-type: none"> • The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme. <p>Reason: In the interest of residential and visual amenity.</p>
5.	<p>Site development and building works shall be carried out only between 0800 hours and 1900 hours, Monday to Friday inclusive, between 0800 and 1400 hours Saturday and not at all on Sundays, bank holidays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where the prior written agreement of the planning authority has been received.</p> <p>Reason: To protect the residential amenities of the area.</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 development. This plan shall provide details of the intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
7.	<p>Prior to the commencement of development, the developer shall submit an obtain the written agreement of the planning authority to a plan containing details for the management of waste (and, or in particular recyclable materials) within the development including the provision of facilities for the storage, separation and collection of the waste and in particular recyclable materials and the on-going operation of these facilities.</p> <p>Reason: To provide appropriate management of waste and in particular recyclable materials in the interest of protecting the environment.</p>
8.	<p>Water supply and drainage arrangements including the 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 and to ensure a proper standard of development.</p>
9.	<p>The applicant or developer shall enter into a water and/wastewater connection agreement with Irish Water prior to the commencement of development.</p> <p>Reason: In the interest of orderly development.</p>
10.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
11.	<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>
12.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] [within each house plot] shall be submitted to, and agreed in writing</p>

	<p>with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
13.	<p>The developer shall pay to the planning authority a financial contribution of €28,000 (Twenty Eight Thousand euro) 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. The application of any indexation required by this condition 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.</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>

Caryn Coogan
Planning Inspector

8th of April 2022