



Inspector's Report

ABP-311955-21

Development	Change of use of the single storey games room and garage to use as 2 no. one bedspace community dwellings.
Location	Davidstown, Clonalvy, Garristown, Co. Meath A42 CH76
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	21755
Applicant(s)	Nua Healthcare Services.
Type of Application	Planning Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Kevin Reynolds & Others.
Observer(s)	No Observers.
Date of Site Inspection	29th September 2022.
Inspector	Elaine Sullivan

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1.0 Site Location and Description

- 1.1. The subject site is located in a rural area within the townland of Davidstown, approximately 1km to the north-west of Clonalvy. It is approximately 3.58km to the north-east of Garristown and c. 1.36km to the north of the Dublin / Meath border. The site is accessed from a minor local road which runs east to west and connects the N2 with the R122.
- 1.2. It currently comprises a detached two storey house which is set back from the public road by c. 30m. To the rear of the house is a long single storey extension which contains a garage and a games room. Apart from a large, grassed area to the front of the house, a gravel finish has been applied to all of the circulation areas to the side and the front of the house. A laurel hedge has been planted around the site boundary to the front with wooden fencing in place to the areas around the house and to the rear.
- 1.3. The house is on an elevated site which slopes to the north and west. There are detached, one-off houses to the south, east and west with open fields directly adjoining the site to the north.

2.0 Proposed Development

- 2.1. Planning permission is sought for alterations to a dwelling currently in use as a residential care centre. The alterations would also involve a change of use to an existing single storey structure currently in use as a games room and garage to use as two, self-contained, one-bedroom community dwellings with associated fenced-off, private gardens and access footpaths.
- 2.2. The works would involve the formation of new window and door openings on the eastern and western façades, the fitting out of the internal spaces to provide living areas, bedrooms and bathrooms and the provision in of private gardens of c. 70m². The gardens would be enclosed by a 2m high wooden fence.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Planning permission was granted by the PA subject to 6 planning conditions which were mostly standard in nature.
- Condition No. 2 – requires alterations to the vehicular access and site boundary in order to improve sightlines.
 - Condition No. 3 – restricts the use of the self-contained units to the associated house and states that the use of the self-contained units shall cease upon the cessation of the use of the main house as a care facility.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Two reports from the Planning Officer informed the decision of the PA. The first report dated the 14th day of June 2021 requested further information on four points. The second report dated the 18th day of October 2021 assessed the information submitted. The first report included the following:

- The proposed development is for the accommodation of people with ‘intellectual disabilities and mental health conditions’, which is materially different from the development refused under Re, AA/180041.
- Such facilities are supported by policy SOC POL 6 of the Meath County Development Plan 2013-2019. The principle of the development is acceptable.
- The overall design alterations of the games room are considered to be acceptable. However, in the event that permission was granted, a condition would be secured to ensure that when the use ceases, the units would be incorporated into the main house.
- The proposal would not be overly visible from the public road and would not have a harmful impact on visual amenity.

- There are concerns regarding the overall separate nature of the proposal with individual garden areas and separate front doors, which have not been justified.
- The site is not located within a flood zone and is not considered to be a flood risk.
- Further information is requested by the Transportation Section and the applicant is invited to respond to third party submissions.

The second report dated the 18th day of October assessed the information submitted by the applicant and included the following:

- Based on the information submitted, it is believed that 23 people, (resident users, staff, carers and a manager), would occupy the premises at any one time with a provision for 8 people at night. This is acceptable to the PA.
- The sale or division of the centre by the sale of a standalone unit would never be permitted by the HSE or HIQA. A condition can be attached restricting the use of the units can be attached.
- The layout of the proposal has been justified by the applicant and is a response to the specific, individual needs of the residents and service users.
- The applicant's proposal to improve sightlines by altering the entrance to remove sections of the existing wall and to set back a section of fence, is considered to be acceptable.
- It is recommended that permission be granted subject to conditions.

3.2.2. Other Technical Reports

- Transportation Department – The first report dated the 14th June 2021 recommended that further information be requested with regard to the number of parking spaces proposed and the sightlines at the access point. The second report dated the 18th October 2021 states that there is no objection to the proposed development subject to conditions to improve access arrangements and sightlines.

3.3. Prescribed Bodies

- No responses received.

3.4. Third Party Observations

Ten third party submissions were received by the PA. One submission from Cllr Nick Killian was submitted in support of the development. The concerns raised included,

- Additional traffic generated,
- Does not comply with the local need requirement,
- Additional pressure on water and wastewater services,
- Over-development of the site,
- Inappropriate location for the development,
- Refusal reasons for AA/180401 are still relevant,
- Excessive levels of parking.

Eight observations were received on foot of the further information submission.

- No new issues were raised in these observations and raised queries regarding the number of people using the site, traffic movements, parking and the provision of water and wastewater services.

Planning History

AA180401 – Planning permission refused by the PA on the 19th of June 2018 for the retention of ‘as constructed’ elevations in relation to the original permission granted under PA Ref. AA161420 and associated site works. The reasons for refusal are summarised as follows:

1. The retention of the development would materially contravene conditions attached to development permitted under PA Ref. AA161420.
2. The retention of the development constitutes over development of a site in a rural area due to the subdivision of a permitted development.

3. The absence of any documentary evidence regarding the number of occupants and the ability of the wastewater treatment system to permitted under PA Ref. AA161420, would result in a development that would be prejudicial to public health.

AA161420 – Planning permission granted by the PA on the 3rd April 2017 for the demolition of the existing house on the site and for the development of a replacement house, garage, wastewater treatment unit and percolation area and all associated site works, demolish existing dwelling on site including abandoned outbuildings. The permission does not contain any conditions that restricts occupancy.

Enforcement Notices

UD17336 – Warning letter issued by the PA on the 26th March 2018 regarding non-compliance with Condition No. 1 of PA Ref. AA161401.

Section 5 Referral

AA/S52126 – A Section 5 referral was issued by the PA on the 20th May 2021, which stated that the, *'change of use from an existing dwelling to a residence for persons with intellectual, physical and mental illness fall within the scope of Class 14(f) of the Planning and Development Regulations 2001-2020 and the provision of 6 car parking spaces forward of the front building line of the dwelling is exempted development, within the meaning of the Planning and Development Act 2000-2020'*.

4.0 Policy Context

4.1. Development Plan

- 4.1.1. The site is located within the administrative boundary of Meath County Council. The operative Development Plan for the area is the Meath County Development Plan, (CDP), 2021-2027, which came into effect on the 3rd November 2021.
- 4.1.2. The application was assessed by Meath County Council in accordance with the policies and objectives of the Meath County Development Plan 2013-2019, which was the operative Development Plan at the time.

4.1.3. On review of the contents of both plans I note that there are no material changes between the 2013 County Development Plan and the 2021 County Development Plan as they relate to the appeal site and the current proposal. In this regard I consider the proposal in accordance with the guidance and provisions of the operative Development Plan, namely the 2021 – 2027 Meath County Development Plan, (MCDP).

4.1.4. The following sections of the MCDP are relevant to the proposed development;

Chapter 7 – Community Building Strategy

SOC POL 2 - To support the provision and distribution of a range of community infrastructure facilities in accordance with the Settlement and Core Strategies to meet the needs of the County's population in conjunction with other statutory, voluntary, private sector and community groups.

SOC POL 3 - To ensure that, where practicable, community, recreational and open space facilities are clustered, with the community facilities being located in local centres or combined with school facilities, as appropriate. Community facilities should be located close to or within walking distance of housing, accessible to all sectors of the community and facilitate multi-use functions through their design and layout.

4.2. Natural Heritage Designations

4.2.1. No designations apply to the subject site.

4.3. EIA Screening

4.3.1. Having regard to the nature and scale of the proposed development, comprising alterations to an existing dwelling to create two independent units within a community care building / facility, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.0 The Appeal

5.1. Grounds of Appeal

The grounds of appeal include the following:

- Figures supplied by the applicant indicate a high level of daytime occupancy which has an impact on all aspects of the local environment.
- The level of traffic movement at the entrance has created a traffic hazard and endangers public safety.
- Based on the applicants figures there could be currently 54 vehicle movements from the premises per day. This could increase to 62 as a result of the subject development.
- The existing local road is narrow and in bad repair and the level of traffic has made it unsafe for pedestrians.
- The decision of MCC to issue an Exemption Certificate for change of use and parking spaces under PA Ref. AA S52126 was flawed as the development would endanger public safety by reason of a traffic hazard.
- The appellant outlines a timeline of works which, in their opinion, represent unauthorised development.
- There is some ambiguity as to who will use the new accommodation and whether they will be 'resident carers' or 'overnight carers'.
- The area is unsuitable for the development as facilities are few and its location makes it difficult for residents to integrate.
- There will be additional pressure on services, including the water supply which currently has low pressure.
- There is no mains wastewater treatment, and the site is served by an onsite wastewater treatment system. Is this system capable of servicing the additional persons on site?
- The proposed development would constitute overdevelopment on the site due to the subdivision of a development.

- The appellants have highlighted what they feel are inconsistencies in the information submitted with the planning application.

5.2. Applicant Response

- There is no response on file from the applicant.

5.3. Planning Authority Response

A response was received from the PA on the 8th December 2021 and includes the following,

- All issues raised in the third-party appeal were addressed in the report of the Planning Officer.
- The PA requests that An Bord Pleanála uphold the decision of the PA.

5.4. Observations

- No third-party observations received.

5.5. Further Responses

- No further responses.

6.0 Assessment

6.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Development Capacity of the Site
- Traffic and Transport
- Appropriate Assessment

6.2. Principle of Development

- 6.2.1. The proposed development relates to alterations to a dwelling which is currently in use as a residential care centre for persons with intellectual disabilities and mental health conditions. Planning permission for the dwelling was granted under PA Ref. AA/161420. No planning conditions restricting the occupancy of the dwelling were attached to this permission. The current use of the house was established following a Section 5 referral, (PA Ref. AA/S52126), which was issued by the PA on the 20th May 2021. The Section 5 determined that the change of use from an existing dwelling to a residence for persons with intellectual, physical or mental illness, and persons caring for such persons, fell within the scope of Class 14(f) of the Planning and Development Regulations and is exempted development.
- 6.2.2. The physical works proposed would convert a games room and a garage into two separate one-bed community dwelling units with their own associated private open space. The applicant has stated that the separate units are required in order to provide an appropriate response to the specific living requirements of some of the residents. I am satisfied that the proposed works relate to the existing use of the dwelling as a residential care centre and are proposed as a specific response to the care requirements of on offer at the residence. I note that the PA attached a condition to their decision which restricted the use of the units to the current use as a care centre. Should the Board be minded to grant permission for the subject proposal, I would recommend that a similar condition be attached in order to prevent the subdivision of the site and to restrict the sale or lease of the units independently to the main house. The use of the units shall be connected to the main use of the house as a residential care centre. Should this use cease, the units shall revert into the main house and shall not be independently leased or sold as stand-alone residential units.
- 6.2.3. I am satisfied that the proposed development relates to the established use on the site and that the proposed alterations are acceptable in principle and can be assessed on their merits.

6.3. Development Capacity of the Site

- 6.3.1. The application states that the existing house is connected to a public water main. Planning history also indicates that there is an onsite well located in the north-eastern corner of the site. Wastewater generated from the development is treated on-site through a packaged, wastewater treatment system, (wwts), with mounded polishing filter. This system was permitted in 2017 under PA Ref. AA/161420. The grounds of appeal raised concerns regarding the capacity of the existing system to cater for the number of people using the dwelling. The site characterisation form for the wwts states that the system was designed with a PE of 10. However, in the response to the request for further information, the applicant states that the wwts has a design capacity of 12PE as it was designed with the development proposed under PA Ref. AA180401 in mind. This application was for the subdivision of the property to provide four separate units. The capacity of the units was not clarified in the application documents.
- 6.3.2. Information submitted by the applicant states that the proposed development would allow for six resident service users and for approximately 16 full-time, day-care staff and manager during normal daytime hours. At night, this would reduce to 8 persons, (6 residents and 2 overnight carers). This could result in 23 persons using the development during the day and 8 people at night.
- 6.3.3. Whilst the system may have been designed to cater for a PE of 12, there is a sharp increase in the number of persons using the site during the day, which was not factored into the design.
- 6.3.4. The original Site Characterisation Form was submitted with the application and states that the site is located on a 'Poor Aquifer'. It also notes the 'extreme vulnerability' of the site and an existing on-site well is identified as a potential target at risk. When the site investigation works were carried out in 2016, bedrock, (shale), was encountered at 0.5m below the surface but the water table was not encountered. The site returned a Groundwater Protection Response of R2¹, which indicates that an on-site wastewater treatment system is '*acceptable subject to normal good practice*'. The average T-test returned a result of 9.94mm per 25 minutes and the average P-test result was 9.33mm per 25 minutes, which also

indicated that the site was *'suitable for the development of a septic tank system or a secondary treatment system discharging to groundwater'*, (EPA CoP, 2009).

- 6.3.5. Section 4 of the form concluded that the site was not suitable for a septic tank system. In order to address the shallow depth of subsoil, it was proposed to use a packaged wwts with a mounded polishing filter using imported soil, (with a T-value of 15mm per 25 minutes).
- 6.3.6. The suitability of the site was assessed using the Site Characterisation Form from the *EPA Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses (EPA CoP), 2009*. This guidance document sets out the methodology to be followed for the assessment of site conditions for wastewater systems for single houses with a population equivalent, (PE) less than or equal to 10. For dwellings with greater than 10 people, (i.e. guest houses or cluster developments), the relevant guidance is contained in the EPA manual, *Wastewater Treatment Systems for Small Communities, Leisure Centres and Hotels, (1999)*. No reference is made to these guidelines in the application.
- 6.3.7. A service report for the wwts was submitted with the application and states that the estimated design PE for the system is 12 and noted that, *'mechanically the system looks to be in working order'*, but the tank requires de-sludging as soon as possible. The applicant has not submitted any additional information regarding the capacity of the existing wwts and how the system will deal with the additional loading from the increased number of daytime users.
- 6.3.8. The existing wwts, which is located at the top of a sloping landscape, required the importation of topsoil to construct a mounded polishing filter to treat the wastewater generated for a PE of 10. Within this context, I am not satisfied that sufficient information has been submitted to demonstrate that the existing wwts can adequately deal with the additional loading on the system from the increase in daytime users without resulting in the contamination of groundwater in the area which would be prejudicial to public health. Therefore, in the absence of any information to the contrary, I recommend that planning permission be refused for the development.

6.4. Traffic and Transport

- 6.4.1. The site is located in a rural area and is not served by any public transport. This requires all trips to and from the site to be carried out by car or bus. As all movements to and from the site would be by car or private vehicle, concerns were raised in the grounds of appeal regarding the impact of increased traffic movements on the existing local road network. The applicant has stated that the dwelling would utilise 3-4 house cars for transporting residents and that there would be between 14 – 16 staff members working at the dwelling on any given day. Typically, each house car would make three trips per day and day-time staff members work on a shift basis which would mean that their movements would be outside of peak hours. On the occasion of the site visit, which took place mid-morning on a Wednesday, there were 3 cars parked outside the dwelling.
- 6.4.2. I am satisfied that the number of traffic movements generated by the development would not be excessive within the context of the site and the overall pattern of development, which includes a large number of one-off rural houses along the local approach roads. The level of traffic generated from the site would not be significantly over and above the level of traffic movements along the road, which includes farm and agricultural machinery which was witnessed on the occasion of the site visit.
- 6.4.3. Notwithstanding the above, the existing access arrangement to the site is unsatisfactory and has restricted sightlines to the east when exiting the site. The vehicular access to the site opens onto a local road which has a speed limit of 80kmph. A vehicular opening onto this road would require unobstructed sightlines of 90m in both directions. The existing gate is offset and angled to face south-west which results in the boundary walls to the front of the gate restricting clear views to the east and west. This issue was raised by the PA and was addressed by the applicant in their submission in response to the further information.
- 6.4.4. In order to achieve the appropriate sightlines, the applicant has proposed that sections of the existing wall to the front of the gate will be removed. As well as removing the wall, an 8m section of fence to the right of the gate will be set back to allow a 1m set back from the sightline. I am satisfied that the removal of the sections of the wall will be sufficient to facilitate clear sightlines in both directions along the

road. Should planning permission be granted for the proposed development, I recommend that a planning condition be attached to require the removal of the existing wall to the front of the gate and to ensure that the existing fence is set back to ensure adequate sightlines.

6.5. Appropriate Assessment

6.5.1. The subject site is not located within, or directly adjoining, a designated site. The closest European sites are:

- The River Nanny Estuary and Shore SPA (Site code 004158) - approximately 11km to the north-east of the site.
- The River Boyne and River Blackwater SAC, (Site code 002299) – approximately 13km to the north of the site.

6.5.2. There is no direct or indirect surface water or groundwater connection from the subject site to the River Nanny Estuary and Shore SPA and the River Boyne and River Blackwater SAC. There is also no ground habitat connection as the European sites are at some remove overland from the subject site. Therefore, there is no source-pathway-receptor connection between the subject site and the River Nanny Estuary and Shore SPA and the River Boyne and River Blackwater SAC. The proposed development is minor in scale and having regard to the nature and scale of the proposed development and the location from any designated sites, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

7.0 Recommendation

7.1. I recommend that planning permission be refused.

8.0 Reasons and Considerations

- 8.1.1. The applicant has not demonstrated that the existing wastewater system has sufficient capacity to adequately manage the safe disposal of wastewater from the site in response to the additional daytime users. Having regard to the soil conditions of the site, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of on site. The proposed development would therefore be prejudicial to public health.

Elaine Sullivan
Planning Inspector

3rd October 2022