



An
Bord
Pleanála

Inspector's Report

ABP-312967-22

Development	Construction of a two storey 91 bed nursing home.
Location	Barberstown Road, Straffan, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	211758
Applicant(s)	KOCF Limited.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	KOCF Limited.
Observer(s)	No Observers.
Date of Site Inspection	19 th of April 2023.
Inspector	Elaine Sullivan

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1.0 Site Location and Description

- 1.1. The subject site is in the village of Straffan, in the north-east of County Kildare. It has a stated area of 1.09 Ha and is located to the rear of a new housing development called The Darley, at the southern end of Straffan village. Within the wider area, the entrance to the K Club Golf is approximately 500m to the south of the site entrance and the River Liffey is approximately 600m to the south and east of the site. There is a service station located to the north of the site and the Straffan Church of Ireland church, a protected structure, to the west, and across the public road. The Straffan GAA club is located to the north east of the site with two residential properties to the north, adjoining the site boundary. The Darley development forms the remainder of the northern site boundary, and access to the site is from the internal road through the estate. To the south, east and west, the site is bounded by open fields.
- 1.2. A public foul pumping station is located in the south-western corner of the site. This land is within the ownership of the applicant and is accessed via a gated service road along the western boundary of the site. In the subject proposal, this access road would be used as a second entrance to the site for service vehicles. The site has previously been used as a storage compound for materials during the construction of The Darley and the site still contains building materials and storage structures.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a two-storey, 91 bed nursing home with an overall area of 4,572m². The development would include 30 surface, car parking spaces and 12 bicycle spaces.
- 2.2. A new vehicular and pedestrian link would be provided through the Darley residential development, (ABP 303191-18, PA Ref. 171299). The existing service road to the west will be retained and upgraded to provide public lighting and footpath.
- 2.3. The development would be connected to the public water and wastewater systems.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority, (PA), decided to refuse permission for the development for the following reason,

The proposed development is located on land where the stated zoning in the Straffan Village Plan within Volume 2 of the Kildare County Development Plan 2017-2023, is 'Q, Enterprise and Employment', the objective is '*To promote the development of employment generating uses*'. The proposed development is not permitted within this land use zoning and would materially contravene this Q zoned lands and the Kildare County Development Plan 2017-2023. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the Planning Authority was informed by the report of the Planning Officer, (PO), dated the 10th of February 2022 which includes the following,

- The site is zoned objective Q – Enterprise and Employment, which seeks to promote the development of employment generating uses.
- Table 2.6 of Volume 2 of the Kildare County Development Plan, (KDP), 2017-2023 sets out the matrix of uses for each zoning objective. A nursing home is not listed as a permissible use under the Q zoning objective.
- Therefore, the proposal would materially contravene the zoning of the Straffan Village Plan and the KDP. Additionally, the proposal would use up all of the Q-zoned land in Straffan.
- From a design, scale and layout perspective, the PO considered the proposal to be respectful of the particular architecture of Straffan village and appropriate for the site.

- The PO notes that the Transportation Department requested further information and raised concerns regarding a potential conflict between service vehicles and pedestrians.
- A flood risk assessment was carried out for the site and the Water Services Department had no objection to the proposal.

3.2.2. Other Technical Reports

- Environment Section – No objection.
- Heritage Officer – No objection.
- Maynooth District Engineer – No objection.
- Environmental Health Officer - No objection.
- Water Services – No objection.
- Transportation Department – Recommendation that further information be requested regarding details of footpath and pedestrian access to be provided along the front boundary of the development.

3.3. Prescribed Bodies

- Irish Water – No objection.

3.4. Third Party Observations

- No observations received.

4.0 Planning History

4.1. No planning history relating to the subject site.

4.2. On the adjoining site to the north of the subject site -

ABP-303191-18, (PA Ref. 17/1299) – Planning permission granted on the 10th of April 2019 for the removal of existing derelict structures and the construction of 22 houses, (2 of which are live/work units), and a doctor's surgery with 1 apartment.

PA Ref. 21/1223 - Planning permission granted on the 18th of October 2021 for alterations to development permitted under ABP-303191-18, (PA Ref. 17/1299). The alterations comprised changes to the internal arrangements and elevations of Blocks 1-4 with change of house types and minor alterations.

PA Ref. 21/1200 – Planning permission granted on the 16th of December 2021 for alterations to development permitted under ABP-303191-18, (PA Ref. 17/1299). The development comprised one additional 3-bedroom house to the southern end of block 4.

PA Ref. 21/1312 – Planning permission granted on the 10th of December 2021 for alterations to development permitted under ABP-303191-18, (PA Ref. 17/1299). The development consists of the provision of one additional house to the eastern end of Block 3.

5.0 Policy Context

5.1. National Policy

5.1.1. The following plans, policies and guidelines are of relevance to the proposed development and have been considered in the assessment;

- **Project Ireland 2040 – National Planning Framework**
- **The Planning System and Flood Risk Management Guidelines 2009.**
- **Climate Action Plan 2023.**
- **Eastern and Midland Regional Spatial and Economic Strategy 2019-2031.**

5.2. Development Plan

5.2.1. The subject site is located within the administrative boundary of Kildare County Council and the Kildare County Development Plan 2023-2029, (KCDP), is the operative Development Plan for the county.

5.2.2. The application was assessed by Kildare County Council in accordance with the policies and objectives of the Kildare County Development Plan 2017-2023, which was the operative Development Plan at the time.

- 5.2.3. On review of the contents of both plans I note that there is a material change in relation to the zoning objective of the site. Under the 2017 County Development Plan the subject site was zoned objective 'Q – *Employment and Enterprise*', which did not permit nursing home use. In the 2023 County Development Plan the site has been rezoned objective 'E – *Community & Education*', which seeks 'To provide for community and educational facilities'. Table 3.6 of the KCDP sets out the land uses for each zoning. A Nursing Home / Retirement Village is listed as 'Open for Consideration' within the 'E' zoning objective.
- 5.2.4. The following sections of the KCDP 2023-2029 are of relevance to the proposed development,
- 5.2.5. The subject site is located within the settlement boundary of Straffan, which is defined as a 'Village' in the Kildare Settlement Strategy, (Chapter 2, Table 2.8 of the Development Plan). The Land Use Zoning Map for Straffan, (Map 3.15, Volume 2), sets out the zoning objectives for the village. This map also shows that the southern portion of the site requires a Flood Risk Assessment. (Objective V ST 19).
- 5.2.6. **Section 10.8.3.1 – Age Friendly Kildare**, contains the following objectives -
- **SC 036** - Provide for nursing homes in urban and appropriately located rural settings in the county and to site residential care facilities for older persons close to community and social facilities (e.g., shops, health services etc.) ensuring older persons can remain part of and contribute to existing communities, subject to AA screening and where applicable, Stage 2 AA
 - **SC 037** - Require a mobility strategy to accompany applications for nursing homes and residential care facilities detailing connections to amenities, parks, open spaces and local town/village/neighbourhood centres for access to services and facilities.
 - **SC 038** - Require nursing home proposals to include appropriately sized open space, gardens and recreational areas that are accessible to residents.

Chapter 15 – Development Management Standards-

Section 15.5.4.3 – Nursing Homes / Assisted Living Accommodation facilities,

- Should be in established neighbourhoods / residential areas that are well served by community infrastructure and amenities (e.g., shops, parks, etc.)

- Should be near high quality public transport links and provide good footpath links from the facilities to same.
- Shall provide at least 20% open space on the overall site area which shall comprise high quality landscaping to include semi mature trees and the creation of native hedgerow linkages with adjacent green infrastructure networks.
- Will have regard to potential impact on the residential amenities of adjoining properties, particularly in relation to overlooking and overshadowing.

5.3. **Natural Heritage Designations**

5.3.1. No designations apply to the subject site.

5.4. **EIA Screening**

5.5. Having regard to 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 relate to the reason for refusal and include the following points,

- The applicant accepts that a nursing home is not permitted within the Q zoning objective. Therefore, the development represents a material contravention of the County Development Plan.
- The applicant requests that the Board consider the proposed development under Section 37(2) of the Planning and Development Act 2000 (as amended). It is their opinion that the development can be considered within the context of subsections (ii) and (iii).

- Section 37(2)(b)(ii) allows for the Board to consider material contravention of the Development Plan where ‘there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned’.
- It is argued that the core aim of the Q zoning objective is to promote the development of employment generating uses and to promote the development of local employment. The proposed nursing home would succeed in doing this as it would create approximately 95-130 jobs during the operational stage.
- The applicant contends that the conflict occurs between the Q zoning objective and the fact that a nursing home is not permitted. They also note that a ‘Medical Consultant/Health Centre’, is open for consideration and would be a similar use.
- Section 37(2)(b)(iii) allows for the Board to consider material contravention of the Development Plan where it is considered that the development should be granted having regard to national, regional and Ministerial guidelines.
- The applicant contends that the development is in accordance with the National Planning Framework, (NPO 30, NSO 10 and NPO 11), Section 28 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), (Chapters 4 & 6), Regional Spatial and Economic Strategy for the Eastern and Midland Region, (RSES), 2019, (RPO 9.23). The findings of a report prepared by the ESRI – Projections of Demand for Healthcare in Ireland, 2015-2030, (2017), for the basis for Government policy and support the case for the development.
- The applicant notes that the preparation of a new Development Plan affords the opportunity to zone more land in Straffan for employment use if the PA is concerned that the development will use it all up.
- The appeal includes Drawing RD-002, Proposed Access Arrangements at The Darley, which addressed the concerns of the Transportation Department concerning a footpath and internal circulation.

- The appeal also includes a letter from the agreed operator of the proposed nursing home and a letter of support from the County Kildare Chamber of Commerce.

6.2. Planning Authority Response

- A response was received from the PA on the 7th of April 2022. The PA confirmed its decision to refuse planning permission and had no further comment to make.

6.3. Observations

- No observations.

7.0 Assessment

7.1. I consider the relevant issues to be addressed in the appeal relate to the following,

- Principle of Development
- Compliance with Development Plan Standards
- Residential Amenity
- Services & Drainage
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The application was assessed by Kildare County Council in accordance with the policies and objectives of the KCDP 2017-2023, which was the operative Development Plan at the time. This plan has been replaced with the KCDP 2023-2029, which came into effect after the appeal was lodged and is the relevant plan to assess the proposal against.

7.2.2. Under the 2017 Plan the site was zoned objective '*Q – Employment and Enterprise*', which specifically stated that nursing homes were not permitted. In the 2023 Plan the site has been rezoned to objective '*E – Community and Education*'. A Nursing

Home / Retirement Village is listed as 'Open for Consideration' within this zoning. I am satisfied that the development proposal can be assessed on its merits within this zoning, and against the policies and objectives of the KCDP and national policy where it relates to such matters.

7.3. Compliance with Development Plan Standards

- 7.3.1. I am satisfied that the proposed development is generally in accordance with the policies, objectives and development management standards as set out in Sections 10.8.3.1 and 15.5.4.3 of the KCDP. The layout, design and external finishes of the proposed building have been well considered. Although the development would not be visible from the public road, the finishes have been chosen to provide a contemporary reference to the existing architecture in the village as well as reflecting the adjoining housing development.
- 7.3.2. The site is in an established village, close to services and with pedestrian connections from the site through the village. There are two bus stops less than 300m from the development, on either side of the L5049 and outside St. Brigid's Church. These stops are served by the No. 120, Bus Eireann Service which provides a regular service from Edenderry to Dublin City Centre. A Landscaping Plan has been prepared for the development and provides a mix of hard and soft landscaping with facilities and amenities for the residents and employees of the nursing home. Car parking for 30 cars and 12 bicycles would be provided at surface level. The quantum of car parking is in accordance with Table 15.8 of the KCDP. However, depending on the number of persons to be employed, the number of bicycle parking spaces may need to be increased to comply with Table 15.4 of the Development Plan.
- 7.3.3. Access to the nursing home would be through The Darley housing development which has been recently completed and is almost fully occupied. I would have some concerns regarding additional traffic through the development. However, the application states that traffic generated by the development is estimated to be in the order of 14 trips during the AM peak hour and 13 trips during the PM peak hour. This represents a very low level of additional traffic. Furthermore, all service vehicles will

be directed to use the existing service road along the western boundary of the site, which will minimise conflict between the residential and commercial traffic.

- 7.3.4. The Transportation Department of the PA requested further details of the footpath and pedestrian access along the front boundary of the site. The PO also raised a concern that the internal circulation area could create a conflict between service vehicles and ordinary traffic. The applicant has addressed these concerns in the grounds of appeal. Drawings 'RD-002 – Proposed Access Arrangements at The Darley', and 'Drawing (02)001 – Site Plan as Proposed', show details of how the footpath would tie-in with the existing footpaths in The Darley, and where three demountable bollards would be installed to prevent vehicular conflict at the west of the site. It is my view that the issues raised by the PA are minor in nature and have been satisfactorily addressed by the applicant.

7.4. Residential Amenity

- 7.4.1. The entrance to the development would be flanked by two houses and a 2m high blockwork wall would form the northern site boundary. I am satisfied that the residential amenity of the houses in The Darley development would not be unduly impacted by the development in terms of loss of privacy, overlooking or overshadowing.
- 7.4.2. The detached house on the eastern side of the entrance would be the closest to the proposed building and there would be a separation distance of approximately 6 metres between the gable wall of both buildings. The nursing home is designed to step down in height and scale at the point closest to the existing house. This section of the building contains a circulation stair which allows for a reduced height and width. The height of the roof ridge over the stairs would be lower than that of the existing house. The subject site is approximately 1m lower than the level of the existing houses which reduces the impact of the proposal in terms of scale. There will not be a significant difference between the existing and proposed roof ridge heights and the reduced height and scale of the northern elevation will mitigate against any potential overshadowing of adjoining property.

7.5. Services & Drainage

- 7.5.1. The development would be connected to the mains water supply and the public wastewater system. The site is currently drained through a surface water drain at the southern end of the site that flows to the river Liffey, which is approximately 480m to the south of the site. A Surface Water Drainage Plan was prepared for the development and having reviewed all the details, I am satisfied that the surface water run-off can be adequately dealt with within the site. During the operational stage, surface water from the development would undergo primary treatment through oil and/or silt traps and attenuation before being discharged to the same drainage ditch at the southern end of the site. The water would be discharged at the Greenfield Run-Off Rate by a hydro-brake flow-control device to mimic natural drainage. SuDS measures would be utilised throughout the site and would include infiltration systems, permeable paving, filter strips and filter drains, and an attenuation tank which has been designed for a 1 in 100-year storm. I note that the PA reviewed the drainage proposals for the site and had no objections to the proposals.
- 7.5.2. A Flood Risk Assessment, (FRA) was prepared for the development. The proposal is identified as a 'Highly Vulnerable Development' in the 'Planning System and Flood Risk Management Guidelines, 2009', and the Development Plan requires a FRA for a portion of the site. The OPW and CFRAMS maps do not identify the site as being at risk from flooding. CFRAMS mapping identified the current day 1:1000-year flood level. The maximum predicted flood level of the 1 in n1000 year flood would be approximately 0.5m below the proposed finished floor level of the building. All pluvial flooding will be dealt with through the surface water drainage measures proposed above.
- 7.5.3. Having reviewed the details submitted and at hand, I am satisfied that the site does not lie within any identified flood risk area and that the proposed development will not be at risk from flooding or result in any flooding of existing development. I note that the findings of the FRA were accepted by the PA, who had no objection to the drainage proposals for the development.

7.6. Appropriate Assessment

- 7.6.1. A Stage 1 Screening for Appropriate Assessment was not submitted with the application. 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 sites are the Ballynafagh Bog SAC, (Site code 000391), which is approximately 10km to the west of the site, and the Ballynafagh Lake SAC, (Site code 001387), which is approximately 11km to the west of the site.
- 7.6.2. Any potential impacts from the site would be restricted to the discharge of water during the construction and operational stages of the development. However, there is no direct or indirect pathway or hydrological connection from the subject site to the designated sites and as such, I am satisfied that they are outside the zone of influence and that the proposed development would not result in any impacts on the conservation objectives of the designated sites.
- 7.6.3. 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. 000391 and 001387, 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, its distance from the said European sites and the absence of any pathway between the sites.

8.0 Recommendation

- 8.1. I recommend that planning permission is granted for the development.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, for a nursing home within the village of Straffan and on a site which is zoned objective 'E – Community & Education', it is considered that the proposal would be in accordance with the Kildare County Development Plan 2023 – 2029, and subject to compliance

with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and 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 on the 15th day of December 2021 and with the further plans and particulars received by An Bord Pleanála on the 9th day of March 2022, 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>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 and shall be agreed in writing with the PA prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
3.	<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>
4.	<p>The access arrangements and internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works and shall be agreed in writing with the PA prior to the commencement of development.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>

5.	<p>All planting/landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority on the 15th day of December 2021 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>(a) 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] for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</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</p>

	<p>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>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>
9.	<p>Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.</p> <p>Reason: In the interest of residential amenities, public health and safety.</p>
10.	<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</p>

	<p>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>
11.	<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> <p>Reason: To protect the residential amenities of property in the vicinity.</p>
12.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity</p>
13.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of amenity and public safety.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Elaine Sullivan
Planning Inspector

21st April 2023