



An
Bord
Pleanála

Inspector's Report ABP – PL19.249152

Development	Permission for construction of a 2 storey dwelling connection to a public sewer and ancillary services.
Location	31 Ashley Court, Tullamore, Co Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	17/206
Applicant(s)	James Spollen Ltd
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions.
Type of Appeal	Third Party
Appellant(s)	Liam Holton.
Observer(s)	None
Date of Site Inspection	24 th November 2017.
Inspector	Brid Maxwell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.056 hectares comprises a vacant site within the Ashley Court residential estate to the south of Bachelor's Walk south east of Tullamore Town Centre. The site is relatively flat and adjoins residential development to the west and north. The established dwellings in the vicinity comprise an eclectic mix of single storey and two storey dwellings. A footpath fronts the site with a post and wire fence along this boundary. The western site boundary with the established dwelling is defined by a mix of walling and hedging whilst northern and eastern site boundaries are undefined.

2.0 Proposed Development

- 2.1. The proposal involves permission for the construction of a two storey dwelling, connection to public sewer and ancillary services. The proposed dwelling has a floor area of 153sq.m. is single storey on its western side and two storey on its eastern side. External finishes include coloured render dark coloured roof tiles or slates.

3.0 Planning Authority Decision

3.1. Decision

By order dated 31st July 2017, Offaly County Council decided to grant permission subject to 12 conditions including.

Condition 3 Boundary walling

Condition 4. External finishes.

Condition 6. Development Contribution €3,010

Condition 7. Undergrounding of cables.

Condition 12. Works in accordance with Recommendations for Site Development Works in Housing Areas, DECLG 1998.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

Planner's report notes that issues raised in third party observations regarding non-compliance with terms and conditions of governing permission are subject to ongoing discussion between the developer and Local Authority. Permission recommended subject to conditions.

3.2.2. Other Technical Reports

Environment Water Services report. No objection subject to conditions,

Area Engineer's report - No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water submission indicated no objection subject to conditions.

3.4. Third Party Observations

Submission of the appellant notes that the estate has been in development for over thirty years and is now substantially complete however the basic amenities have not been provided. Appeal site previously served as open space for residents prior to being fenced off. Major health and safety issues arise due to non-compliance with terms and conditions of governing permissions. The development of the estate has occurred in an arbitrary piecemeal manner without reference to the original outline permission.

4.0 Planning History

There have been numerous permissions on within the overall landholding including the following of particular note:

17/249 Permission granted 28/8/2017 to James Spollen Ltd. for two storey dwelling on site no 46.

17/250 Permission granted 28/8/2017 to James Spollen Ltd. for two storey dwelling on site no 47.

TU3008 Permission for detached two storey dwelling to James Spollen Ltd.
6/5/2008.

PD890 - Condition 3A required that bungalows only shall be constructed on the plots numbered 1-6 inclusive and 57-69 inclusive with floor levels approximating to existing ground levels.

PD3353 Refusal of Approval for the erection of a dormer dwelling at Site No 33 Ashley Court. 30/7/99 for the following reason:

“The proposed development would materially contravene condition No 3A of An Bord Pleanala’s decision dated 28th June 1978 (file ref no PD 890 refers) and would be seriously injurious to the amenities of existing and proposed houses in the vicinity because of the two storey nature of the proposal and because bedroom windows at first floor level in the gable of the proposed dwelling house would closely overlook the curtilage of adjoining sites.

Evidence has not been submitted to the council that satisfactory arrangements are in place to provide and maintain services including access to the site of the proposal. The proposed would thus be seriously injurious to the amenities of the persons occupying the dwelling houses.”

PL233012 TU6908 Permission granted to James Spollen Ltd for 122 houses at Ashbrook off Oakfield, Tullamore Co Offaly.

5.0 Policy Context

5.1. Development Plan

The Tullamore and Environs Development Plan refers. The site is on land zoned residential. The use 'residential' shall be taken to primarily include the use of land for domestic dwellings (including meeting housing needs of members of the travelling community), religious and civic residences. It may also provide for a range of other uses particularly those that have the potential to foster, enhance and supplement the development of new residential communities for example, schools, crèches, local convenience store, doctor/dental surgeries, open space (formal and informal) etc.

5.2. Natural Heritage Designations

Charleville Wood SAC Site Code 000571 approximately 2km west of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is submitted by Liam Holton, 28A The Lodge Ashley Court. Tullamore.

Grounds of appeal are summarised as follows:

- Decision does not comply with terms and conditions of earlier permissions.
- Planning Authority failed to address issues raised in observations regarding haphazard and piecemeal nature of the development of the estate.
- No evidence that compliance issues are or will be resolved.
- Offaly County Council have failed to take action to resolve issues regarding substandard estate with serious health and safety issues for the residents.
- Precedent for further such development.

6.2. Applicant Response

The response by Sean Lucy & Associates Ltd, Town Planning Consultants on behalf of the first party is summarised as follows:

- Grounds of appeal refer to historical permissions relating to the housing estate which have no bearing on the development proposed.
- Site is fully serviced within a housing estate and the principle of development has been established by numerous previous permissions.
- Proposal complies with the Tullamore Town Development Plan and the proper planning and sustainable development of the area.
- It is acknowledged that the housing estate has developed in tranches over the past 45 years and standards have changed over that time.
- A substantial green area has been provided and accessible to all residents within the estate

- Estate is served by the County Council sewer line.
- Overall lands not developed in an arbitrary manner rather based on the demand for sites.
- As demand increases it is envisaged that a comprehensive planning application that will see the overall site substantially completed.
- Offaly County Council currently in discussions as part of the process of taking estates in charge.
- Third party appeal raises no issue which directly relates to the proposed development.
- Issues raised are wholly concerned with matters relating to the wider estate. Such matters that are more relevant to the ongoing taking in charge process than a planning appeal.

6.3. **Planning Authority Response**

Offaly County Council indicated that it has no further comment to make on the appeal and directs the Board to the Planner's report.

7.0 **Assessment**

- 7.1 As regards the principle of development, having regard to the site history, its location and infill nature and the zoning of the site Residential, the principle of development for a sustainable residential use is in order and is in keeping within the zoning objective subject to compliance with normal planning considerations. The issues raised within the appeal relate to the wider overall development of the lands of which the site forms part. Whilst the slow pace of progress in terms of completion of the overall development on these lands is acknowledged, I accept that it arises in part due to the fluctuating economic climate. I note the commitment of the first party as outlined in response to the appeal to making a "comprehensive planning application that will see the overall site substantially completed" and I would consider that this is

appropriate. Further piecemeal development of individual sites in the absence of a comprehensive layout for the overall lands of which the site forms part should in my view be resisted going forward. I note that issues of compliance and enforcement are beyond the remit of the Board in terms of the assessment of the appeal case to hand on its merit.

7.2 As regards design I note the immediate area is characterised by an eclectic mix of house styles and designs with a variety of evolutions. The narrow character of the site gives rise to a deep plan format and in light of the predominance of single storey dwellings to the west (as required by condition of permission PD890) the proposed dwelling presents as single storey on its western front while a two storey wing is provided on the eastern side. I consider that having regard to the mixed nature of development in the vicinity, the proposed design could not be considered to be out of character. As regards potential for negative impact on adjacent dwellings, in terms of overlooking, overshadowing and visual impact, I consider that the design seek to mitigate overlooking and negative impact. Upper floor windows and rooflights to side elevations serve bathrooms and circulation space therefore should be obscurely glazed. I note that the long largely unrelieved elevation on the eastern side will On balance I form the view that the proposed design is acceptable on this site and subject to appropriate landscaping can be successfully integrated.

7.3 The proposal is clearly in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use resources and economies of scale. As regards the site capacity and standard of amenity provided by the proposed dwelling, I consider that the proposed layout with regard to open space and residential amenity space both internally and externally are acceptable and that an adequate standard of residential amenity is achieved.

7.4 The site is serviced with access to foul services and public water supply and no specific concerns arise in this regard.

7.5 As regards the issue of Appropriate Assessment, having regard to the nature and scale of the proposed development and nature of the receiving environment and proximity to the nearest European site, no appropriate assessment issues arise and

it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European Site.

8.0 RECOMMENDATION

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. The proposed development is considered to be acceptable having regard to the land use zoning objective of the appeal site. The proposed development provides for an adequate standard of residential amenity and is not such as to be injurious to the existing residential amenities of the area. The proposed development would not give rise to a traffic hazard and is considered to be in keeping with the proper planning and sustainable development of the area. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the urban infill nature of the proposed site on lands zoned for residential purposes, the Board is satisfied that the proposed development would be in keeping with the existing character and pattern of development in the immediate area. The proposal would not be seriously injurious to the existing residential amenities of the area, would be acceptable in terms of traffic safety and convenience, would provide an adequate standard of residential amenity, would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

3. (i) Rear garden shall be bounded by block walls, 1.8m in height, capped and rendered on both sides to the written satisfaction of the planning authority.
(ii) Boundary wall forward of the front building line shall consist of a block wall capped and rendered to match the height of the existing wall forward of the adjoining dwelling site to the west.

Reason: in the interest of residential and visual amenity.

4. The road works associated with the proposed development including the setting out of entrance shall be carried out and completed in accordance with the requirement of the planning authority.

Reason: In the interest of traffic safety and orderly development.

5. Upper floor windows and rooflights to side elevation shall be glazed with obscure glass.

Reason: To prevent overlooking of adjoining residential property.

6. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

7. 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.

Reason: In the interest of public health and to ensure a proper standard of development.

8. Construction on site shall be limited to between 08.00 hours and 18.00 hours Monday to Friday and between 08.00 hours and 16.00 hours on Saturday. No work shall take place on Sundays, Bank or Public Holidays.

Reason: In the interest of residential amenity and orderly development.

9. The site shall be landscaped in accordance with details which shall be submitted to and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

10. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning

authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

11. 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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Bríd Maxwell
Planning Inspector
24th November 2017