



An
Bord
Pleanála

Inspector's Report ABP-303514-19

Development	Construction of a building containing swimming pool, dressing rooms and ancillary facilities.
Location	11 Arden Heights, Tullamore, Co. Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	18/358.
Applicant(s)	Joe Bergin.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Multiple 3 rd Party v grant of permission.
Appellant(s)	Joe & Mary Conway Arden Heights Residents Assoc.
Observer(s)	None.
Date of Site Inspection	02/04/2019.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located within the existing residential area of Arden Heights, approximately 700m to the north west of the town of Tullamore. Arden Heights is located to the west of the Kilbeggan Road, the R421. To the east of the Kilbeggan Road is the Midland Regional Hospital and the area around the subject site comprises a variety of uses including residential community and public open space. The Tullamore Tennis Club grounds are located to the north of the entrance to the Arden Heights estate and the site is located approximately 1km to the east of the Srah Industrial Estate which is home to a designated SEVESO site.
- 1.2. Arden Heights is a well established, linear residential estate comprising 37 detached houses. These houses are primarily single storey in their style and scale and generally include generous front and rear gardens in the context of an urban estate. The house backs onto an undeveloped area of land which is currently zoned R1, Residential, while the lands backing onto the houses to the north of the estate road are zoned G5 Open Space.
- 1.3. The subject site is located to the south of the Arden Heights estate and approximately half way along the cul-de-sac estate road. The existing house on the site is a single storey family home which has a detached garage to the east of the house. There is a second metal clad shed constructed to the south western corner of the rear garden. The existing house has an overall height of approximately 5.4m and a stated floor area of 130m².
- 1.4. The site has a stated area of 0.1ha.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a single storey building, approximately 131m² in size and approximately 4.4m high, containing a static swimming pool, dressing rooms and ancillary facilities, located within the rear garden space of the existing dwelling site, including all associated site works, with access through existing dwelling site entrance all at 11 Arden Heights, Tullamore, Co. Offaly.
- 2.2. The Board will note that following a request for further information, the floor area of the proposed swimming pool building was reduced to 92m² with the overall height

reduced from 4.505m to 4.158m. The signage proposal was also amended following the request for further information.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission for the proposed development subject to 11 conditions including condition 2 which requires the swimming facility to be occupied as a single unit with the existing dwelling.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The initial planning report notes that the site is zoned Residential in the Tullamore Town and Environs Development Plan 2010-2016 as extended. The report considers that the scale of the proposed development is not in accordance with the plan requirements, as it is approximately the same size as the house on the site. The report also raises concerns in terms of parking, residential amenity and water service issues.
- The final Planning Report noted the response to the FI request and concluded that the proposed development of a therapy swim facility with limited numbers of customers in a residential area is acceptable. The recommendation of the Planning Officer formed the basis of the PAs decision to grant permission.

3.2.2. Other Technical Reports:

Internal:

Area Engineer: Further information in relation to parking.

Following the submission of the response to the FI request, no objections to the proposed development subject to conditions and no on street parking.

Environment Water Services: Inadequate information in relation to water services. Further information required.

Chief Fire Officer: No objections to the proposed development subject to obtaining a fire cert.

External:

HAS: The Health & Safety Authority does not advise against the granting of permission.

Irish Water: Further information required.

Following the submission of the response to the FI request, no objections to the proposed development subject to conditions.

3.2.3. Third Party Submissions

There are two third party objections to the proposed development noted on the Planning Authority file. The submissions are from the two appellants and the issues raised reflect those raised in the appeals. Issues raised are summarised as follows:

- Not in keeping with the pattern of development
- Scale of the building
- Residential amenity issues including loss of open space and lack of car parking
- Noise issues
- Signage issues
- Environmental impacts associated with the operation of a pool.

4.0 Planning History

4.1. Subject site:

PA ref TU37470: Permission granted for the construction of a house on the site in 1971.

5.0 Policy Context

5.1. Development Plan

5.1.1. The subject site is identified within the Tullamore Town and Environs Development Plan, 2010-2016, extended to 2020. The site is zoned R1 residential and is located within an existing residential estate. This zoning objective provides that 'the use 'Residential' shall be taken to primarily include the use of land for domestic dwellings (including group housing for members of the travelling community), convents and civic institutions.'

5.1.2. Chapter 14 of the Plan deals with Development Standards and Section 14.2.5 deals with Employment uses and advises that the Planning Authority will assess applications for commercial development against a number of criteria. Section 14.2.5.2 of the Plan deals with Small Scale Businesses in Residential Areas and provides that the scale and nature of operations will be taken into account.

5.1.3. It is a stated objective of the plan, TTEO 15-02 refers, 'to ensure that development progresses in accordance with the landuse zoning objectives set out within this chapter (Chapter 15).' The zoning matrix provides that a swimming pool is 'open for consideration' on lands zoned for residential purposes. The surrounding lands are zoned residential.

5.2. Natural Heritage Designations

The subject site is located approximately 2km from the closest Special Area of Conservation, being Charleville Wood SAC, Site Code 000571, which is located to the south west of the site. Charleville Wood is so designated being one of the very few ancient woodlands remaining in Ireland. Some parts of the woodland are considered undisturbed for at least 200 years.

6.0 The Appeal

6.1. Grounds of Appeal

This is a multiple third party appeal against the decision of the Planning Authority to grant permission for the proposed development. The grounds of appeal reflect those issues raised during the PAs assessment of the proposed development and area summarised as follows:

1. Sean Lucy & Associates Ltd on behalf of Joe & Mary Conway:

The appeal provides a background to the proposed development.

- The scale of the development is out of character with the rear garden area.
- The separation of the proposed development from the residence on-site raises significant questions over the operation of the business into the future.
- The lack of any information with regard to noise, odour and emissions.
- The size and scale of the development is contrary to the protection of the appellants long-established residential amenity.
- The physical impact of the commercial development on the appellants rear garden area will have a detrimental impact on the value of the appellants property.
- The information submitted does not accord with the requirements of the Tullamore Town and Environs Development Plan.

2. ABBD on behalf of the Arden Heights Residents Association:

- A grant of permission would set a destructive precedent for further similar enterprises in the quiet residential estate
- There have been issues of privacy and security with the development of the sports field to the north of Arden Heights and concerns raised in relation to the development of social housing to the south of the estate. It is submitted that the accumulative effect of all developments is overly burdensome and unacceptable to the elderly residents of Arden Heights

- Issues raised in relation to the policing of planning conditions
- Traffic issues
- Impacts on future proofing a sustainable community.

6.2. **Planning Authority Response**

The Planning Authority submitted a response to the third party appeals directing the Board to the Offaly County Councils reports on file. The response advises no further observations.

6.3. **Observations**

None

7.0 **Assessment**

Having regard to the nature of the proposed development, together with the information presented in support of the proposed development, I consider it appropriate to assess the proposal under the following headings:

- Principle of the proposed development, compliance with the Development Plan
- Residential Amenity Issues
- Other issues
- Appropriate Assessment

7.1. **Principle of the proposed development, compliance with the Development Plan.**

7.1.1. The Board will note that the subject site is located within a well established residential estate which was constructed approximately 50 years ago. It is a quiet and well maintained development of 37 detached single storey houses, all of which are accessed via a cul-de-sac road of approximately 6.2m in width. The site is zoned for residential purposes in the Tullamore Town & Environs Development Plan, 2010-2016, extended to 2020.

7.1.2. Chapter 14 of the Plan deals with Development Standards and Section 14.2.5 deals with Employment uses, advising that the Planning Authority will assess applications for commercial development against a number of criteria. Section 14.2.5.2 of the Plan deals with Small Scale Businesses in Residential Areas and provides that the scale and nature of operations will be taken into account.

7.1.3. It is a stated objective of the plan, TTEO 15-02 refers, 'to ensure that development progresses in accordance with the landuse zoning objectives set out within this chapter (Chapter 15).' The zoning matrix contained within the Plan provides that a swimming pool is 'open for consideration' on lands zoned for residential purposes. The surrounding lands are zoned residential. In principle, therefore, the proposed development is permissible.

7.1.4. Section 14.2.5.2 of the Tullamore Town & Environs Development Plan, 2010 deals with Small Scale Businesses in Residential Areas and the Board will note that such developments will be considered where:

- The use of the house for business purposes is secondary to its use as a dwelling and the floor area of the business should reflect this.
- Adequate parking requirements are satisfied.
- No loss of residential amenity to adjoining residences in terms of general disturbance, noise, traffic generation etc.

In terms of the above, the following is relevant:

7.1.5. Scale of the development:

- The development proposes the demolition of an existing detached garage on the site which has a floor area of approximately 24m² and following a response to the further information request issued by Offaly County Council, the proposed building will have a floor area of 92m². I note the overall height of the proposed building has also been reduced to 4.158m. It is proposed that the pool building will be finished to match the existing house with a sand cement nap plaster finish. The roof will be finished using insulated panels fixed to slotted sheeting rails.
- In support of the proposed development, it is submitted that the proposed pool development is to be used to provide one-to-one professional swimming

lessons, water-based physical therapy and video analysis to a number of demographics including professional swimmers and triathletes, persons with physical disabilities, persons with mental disabilities, persons with special needs and persons with obesity / reduced mobility issues.

- It is envisaged that the maximum number of people within the swimming area at any one time will be 3 and the space will be used by appointment only. The applicant, and intended operator of the pool facility, currently resides with his mother in the house on the site and it is his intention to continue residing there. In addition to the reduced scale of the proposed pool building, the applicant has submitted that the signage as originally proposed will be omitted and replaced by two small plaques to identify the pool facility.
- In terms of the above, and having regard to the nature of the proposed business, I am generally satisfied that the scale of the development is such that it is secondary to the residential nature of the site. I also note the condition no. 2 included by the Planning Authority in terms of the operation of the facility only as part of the residential use of the site. I have no objection in principle to the proposed development.

7.1.6. Adequate parking requirements are satisfied:

- The Board will note that the third party appellants have raised concerns in terms of the potential impact of the development on roads, traffic and parking in Arden Heights estate. Certainly, the development of a commercial enterprise would suggest that visiting members of the public will increase in the area. However, I have had regard to the business model presented in support of the proposed development and would accept that no more than 3 people will be present at the pool facility at any one time.
- In terms of traffic movements generated, I note that the applicant and his mother already reside at the site and therefore, the development will give rise to a maximum of 2, and more likely 1, additional cars arriving at the facility. While the length of the lessons proposed has not been indicated, it is reasonable to suggest that the car movements would be generated per hour.
- The proposed development will provide for 4 parking spaces to service the house and the pool facility. I note that the Area Engineer of Offaly County

Council has raised no objections in this regard. I am satisfied that the development will not give rise to significant roads or traffic issues in the Arden Heights estate and that adequate car parking is proposed to service the development as presented.

7.1.7. No loss of residential amenity to adjoining residences:

- In terms of the boundaries of the site with adjacent houses, the existing boundary to the east is approximately 1.8m in height to the front of the site with the boundary to the rear of the garage comprising a hedge. The development proposes to extend the 1.8m high wall to the rear of the site. The existing boundary to the west comprises a 1.8m high wall. The proposed building is to be located 1.5m from the eastern boundary of the site and the wall of the proposed building will rise to 3m at this location. I am satisfied that the development is acceptable in this regard.
- With regard to the potential for noise from the development, I note that the construction is to be block with insulation. In addition, I note the conditions included in the PAs decision to grant permission. Having regard to the nominal scale of the development, I am satisfied that the development is acceptable.
- In terms of visual impacts associated with the proposed development, I am satisfied that the development is acceptable given the intended materials to be used on the exterior of the building.

7.2. **Other Issues**

7.2.1. Open Space Provision:

The proposed development seeks to construct a pool facility within the rear garden of an existing house site. The development will result in the loss of an existing garage building and the construction of a building with a floor area of 92m². In terms of private open space, the Tullamore Town & Environs Development Plan requires that 60-75m² is provided behind the building line for 3-5 bedroom houses. The existing site will retain a private open space area to the rear of the house, well in excess of the minimum recommended in the Plan and I am satisfied that the development is acceptable in this regard.

7.2.2. Services

There is no issues arising in terms of the servicing of the subject site and the Board will note no objections to the proposed development subject to conditions, from the Area Engineer, Environment or Water Services sections of Offaly County Council. Having regard to the nature of the proposed development, I note that the applicant has engaged with Irish Water and no objection has been raised to date.

The existing road network is in place and is adequate to accommodate the development as proposed. Should the Board be minded to grant permission in this instance, I recommend that the conditions indicated by the Area Engineer be included in relation to parking.

7.2.3. Local Authority conditions

The Board will note the inclusion of condition 3(a) in the PAs decision to grant permission which requires the extension of a fully enclosed corridor from the front building line of the house. I have considered the comments of both the applicant and the Planning Officer in this regard and I consider that the requirements of the condition are excessive. I also, note that the existing boundary wall is approximately 1.8m in height and if a roofed corridor was to be constructed, this would need to be increased. Such a requirement would impact on the existing residential amenity of the adjacent property and is unnecessary in my opinion.

7.3. **Appropriate Assessment**

The subject site is located approximately 2km from the closest Special Area of Conservation, being Charleville Wood SAC, Site Code 000571. Charleville Wood is so designated being one of the very few ancient woodlands remaining in Ireland. Some parts of the woodland are considered undisturbed for at least 200 years.

Having regard to the nature and scale of the proposed development and the nature of the receiving brownfield site within the wider established residential 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 or projects on a European site.

8.0 Recommendation

- 8.1. It is recommended that the proposed development be granted for the following stated reasons and considerations and subject to the stated conditions.

9.0 Reasons and Considerations

Having regard to the nature, scale and proposed use of the development, and the location of the subject site within the existing Arden Heights estate, together with the pattern of development in the area and the zoning afforded to the site in the Tullamore Town & Environs Development Plan, 2010-2016, extended to 2020, the Board is satisfied that, subject to compliance with the following conditions, the proposed development would be acceptable in terms of servicing, traffic safety and would not injure the existing visual and residential amenities of properties in the vicinity of the site. It is further considered that the development would be acceptable in terms the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars submitted on the 22nd day of November, 2018, 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.

Reason: In the interest of clarity.

2. The proposed pool facility shall be operated and occupied solely as part of the existing dwelling on the site and shall not be sold, let or otherwise transferred save as part of the dwelling. No other commercial use shall be carried out on the site without the benefit of a further planning permission.

Reason: To restrict the use of the site in the interests of residential amenity and the proper planning and sustainable development of the area.

3. 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.

Reason: In the interest of public health.

4. Prior to the commencement of any development on the site, full details of signage shall be submitted for the written agreement of the Planning Authority.

Reason: In the interests of visual and residential amenity.

5. Noise emissions arising from the proposed development shall accord with the requirements of the Planning Authority and full details of the proposed pool system to be employed on the site shall be submitted for the written agreement of the Planning Authority prior to the commencement of any development on the site.

Reason: In the interest of public health and residential amenity.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling and in the interest of the amenities of the area.

7. 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.

Reason: In the interest of sustainable waste management.

8. Landscaping and boundary walls shall be constructed prior to the operation of the pool facility.

Reason: In the interests of residential amenity.

9. Hours of operation for the pool facility shall be 8am to 6pm Monday to Friday, excluding public and bank holidays, and 9am to 2pm on Saturdays.

Reason: In the interests of residential amenity.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

A. Considine
Planning Inspector

30th April, 2019