



An
Bord
Pleanála

Inspector's Report ABP309193-21

Development	Retain garage on concrete base
Location	33 St Michael's Terrace, Arklow, County Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	201096
Applicant(s)	Andrew Fleming
Type of Application	Permission
Planning Authority Decision	Grant Click here to enter text.
Type of Appeal	First Party
Appellant(s)	Andrew Fleming
Observer(s)	Pamela Ford
Date of Site Inspection	29 th May 2021
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 54m² and comprises the rear garden of 33 St Michael's Terrace, Arklow, County Wicklow. St Michael's Terrace is a terrace of two storey houses with east facing rear gardens accessed over a publicly accessible lane. There is a small triangle of green space behind (approximately numbers 32 to 42) the terrace, there is a commercial use to the south of the triangle of green space behind the remainder of the houses. Arklow docklands are located generally east and southeast of the application site.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of a domestic garage on a concrete base and associated works to the rear of 33 St Michael's Terrace, Arklow, County Wicklow.

3.0 Planning Authority Decision

3.1. Decision

Permission refused.

The site is zoned existing residential in the Arklow & Environs LAP to protect, provide and improve residential amenity. The proposed development comprises the subdivision of a domestic garden and use as a garage unrelated to the house on site. The proposed development would impact on the amenity the area, contravene the zoning objective for the area, set an undesirable precedent for similar development and thereby be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended refusal as set out in the manager's order.

3.2.2. Other Technical Reports

None

4.0 **Planning History**

None

5.0 **Policy and Context**

5.1. **Development Plan**

5.2. The **Wicklow County Development Plan 2016-2022** is the relevant County Development Plan for the area.

5.3. Arklow is designated a 'large growth town II' in the Settlement Hierarchy set out in the plan. These towns are described as smaller in scale (that large growth towns I) but as being strong active growth towns, economically vibrant with high quality transport links to larger towns/city.

5.4. The site is zoned Existing Residential in the **Arklow and Environs LAP 2018-2224**. This zoning objective is "to protect, provide and improve residential amenities of existing residential areas". The LAP further states that this zoning is "to provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development; however new housing or other non-community related uses will not normally be permitted.

5.5. **Natural Heritage Designations**

Not relevant

5.6. **EIA Screening**

5.7. Having regard to the location of the site is an area zoned for residential development and the availability of public piped services to serve the proposed development I conclude that no significant environmental impacts will arise and the requirement for the submission of an EIAR may be discounted at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- The applicant purchased this element of the rear garden of 33 St Michael's Terrace, Arklow, County Wicklow for storage for his classic car. The applicant understood at the time that the construction of a garage/shed of 25m² in floor area to the rear of a house is exempted development. He was subsequently notified by the planning authority that this is not the case.
- The applicant has a right of access over the lane by virtue of his ownership of the application site. This lane is a public lane.
- There is a history of sheds opening onto this lane and some (see 20/21) have commercial uses and not all are related to the site's residential use.
- The zoning objective allows for the construction of domestic scale development in the rear garden – this is a domestic use.
- No different planning impacts arise from the garage over and above those of any other domestic garage.

6.2. Planning Authority Response

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6.3. Observations

- The application site is being used for commercial purposes including, storage of lobster pots, forklift trucks, machinery, trailers.
- This is a residential area and the commercial uses on the site damage the residential enmity of the area.
- The applicant has damaged the boundary gatepost.

6.4. Further Responses

None.

7.0 **Assessment**

7.1. **Background.**

7.2. Relying on the material submitted in relation to this application and appeal it appears that the current applicant purchased about 50% of the rear garden 33 St Michael's Terrace, Arklow, County Wicklow in the relatively recent past. The appeal makes the case that the applicant misunderstood the exempted development regulations and assumed that the erection of the subject garage/building was exempted development. The planning authority issued a warning letter in relation to the structure requiring its demolition and the current application/appeal arises from the applicant's desire to park a classic car in the garage/structure.

7.3. The existing house on site is a two-storey structure and that appears to have retained a reasonable amount of east facing private rear garden to meet the domestic needs of the residents of that house. A pedestrian access has been retained from the main house to the back lane.

7.4. The applicant's case is essentially that he parks a classic car in the building/garage and that this has no additional impact on the amenity of adjoining property over and above that which would occur if the owner of the main house had done so. The applicant is correct that a number of sites in St Michael's Terrace have developed their rear gardens for storage/shed/garage uses but no commercial use was apparent in these rear gardens when I carried out a site visit.

7.5. I note the points raised by the observers in relation to unauthorised uses and furthermore I note that the enforcement notice issued to the applicant (see copy on planning file) does not state that commercial uses were being carried out on site. On the other hand the site is zoned for residential uses and the amenity of these uses must be preferred over other considerations.

7.6. I recommend a grant of planning permission with a condition limiting the use and duration of the permission to allow the planning authority to assess the impact on the amenity of adjoining residential property.

7.7. **Appropriate Assessment Screening**

7.8. Having regard to the nature and scale of the proposed development, the foreseeable emissions therefrom, and nature of the receiving environment, I am satisfied that 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. I recommend refusal.

9.0 Reasons and Considerations

Having regard to the limited scale of the proposed development and the proposed domestic scale use and subject to the conditions set out below it is considered that the proposed development would not seriously injure the residential amenity of nearby property, and would accord with the zoning objective for the area set out in the Arklow and Environs LAP 2018-2024, and 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 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>The application site shall be used solely for the storage a motor car.</p> <p>Reason: In the interests of the residential amenity of nearby property.</p>
3.	<p>The building and concrete slab shall be demolished and removed from the site within 3 years of the date of this order unless a further permission for the building/slab and permitted use shall have been granted by that date.</p>

	<p>Reason: To allow the planning authority to assess the impacts on the residential amenity of nearby property.</p>
4.	<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. 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.</p> <p>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.</p>

. Hugh Mannion
Senior Planning Inspector

31st May 2021.