



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312037-21

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<b>Development</b>	Construction of 60 no. two-storey dwellings.
<b>Location</b>	Ardan Road , Ardan, Tullamore , Co. Offaly.
<b>Planning Authority</b>	Offaly County Council
<b>Planning Authority Reg. Ref.</b>	21462
<b>Applicant</b>	Sheila Doorley
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Sheila Doorley
<b>Date of Site Inspection</b>	21 <sup>st</sup> February 2022
<b>Inspector</b>	Dolores McCague

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## 1.0 Site Location and Description

- 1.1.1. The site is located at Ardan Road (townland Ardan) in the northern outskirts of the town of Tullamore, Co. Offaly. The site is part of a large urban expansion area which is undeveloped, except for major roads. Currently there is only a scattering of one-off houses and similar development in the vicinity. The site is located east of the R421 Ardan Road and north of Ardan Way R443. It gains access from a spur road off the R421 to the north, from which a distributor road, yet to be developed, will extend through greenfield lands. The site extends close to the R443, a recently developed major through road, but is separated from that road by a drain and field boundary/corner. To the north the site bounds agricultural lands, the subject of a current application/appeal, formerly in the same family ownership, and a rectangular plot of land crossed by overhead powerlines. To the west the site bounds Ardan Road and individual sites of detached residential properties fronting that road.
- 1.1.2. The site is relatively flat but undulating and in use as pasture. A high voltage power line crosses the eastern part of the site.
- 1.1.3. The site is given as 3.63ha.

## 2.0 Proposed Development

- 2.1.1. The proposed development is described as:
- 1) the construction of 60 no. two-storey dwellings comprising of; 12 no. one-bedroom apartments (types A1, A2), 16 no. two-bedroom terrace houses (types B1 , B3, B4), 1 no. three-bedroom detached house (type D1), 28 no. three-bedroom semi-detached houses (types E, F1, F2), 2 no. four-bedroom semi-detached houses (types G, H1), 1 no. five-bedroom detached house (type J2), with each dwelling to include option for solar panel on roof slope;
  - (2) provision of private amenity space and 2 no. within-curtilage car parking spaces for each dwelling;
  - (3) landscaped public open space;

- (4) associated boundary treatments;
- (5) public lighting layout;
- (6) ESB unit substation & pumping station;
- (7) distributor road from the existing roundabout and spur road at Ardan Road (R421) and distributor road to the southern boundary of the application site and associated surface water drainage connection via a wayleave to the existing surface water network adjacent to the roundabout at Ardan Road;
- (8) surface water connection to the existing watercourse south of the development;
- (9) wastewater connection to the existing wastewater sewer at Ardan Road (R421) to the west of the development;
- (10) water supply connection via a wayleave to the existing water network adjacent to the roundabout at Ardan Road (R421 );
- (11) SUDS drainage and all associated site development works necessary to facilitate the development.

2.1.2. The application was accompanied by:

Drawings etc by C&W O'Brien Architects - site layout plans, building drawings, etc.

Drawings etc by ORS - combined civil services drawings, traffic layout, road construction details, attenuation tank details, surface water manhole details.

Drawings etc by Coffey Consulting Engineering - public lighting layout, contours and calculations, proposed ESB Diversions Layout,

Drawings etc by Independent Tree Surveys - tree survey/constraints plan, tree protection plan,

Drawings etc by Landmark Design & Consultancy – landscape design; combined tree, boundary treatment and engineering design; landscape details,

Civil Engineering Planning Report by ORS,

Traffic and Transport report by ORS,

Tree Survey Report by Independent Tree Surveys,

Public Lighting report by Coffey Consulting Engineering,

Energy & Sustainability report by Coffey Consulting Engineering,  
Architectural Design Statement by C&W O'Brien Architects,  
Housing Quality Assessment by C&W O'Brien Architects,  
Part V Proposal by C&W O'Brien Architects.

2.1.3. The response to the request for further information (FI) (1/10/2021) included:

Drawings etc by C&W O'Brien Architects - site plan combined masterplan, site plan masterplan, site plan combined open space masterplan, site plan open space masterplan, site plan combined phasing masterplan, site plan phasing masterplan, site plan combined net density masterplan and site plan density masterplan.

Drawings etc by ORS - masterplan traffic layout, traffic layout, traffic details, typical watermain connection and boundary box locations, additional watercourse boundary survey and typical concrete headwall.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse planning permission for 2 reasons:

1 The proposed development is located in an area where the stated zoning objective in the current development Plan (the Offaly County development Plan 2021-2027), is for Business or Technology Park / Strategic Employment Zone. The purpose of this objective is to facilitate large scale employment in a sequential manner to promote sustainable compact growth in tandem with the delivery of infrastructure and enabling services.

It is an objective of the Council (LUZO-15) to support the development of Strategic Employment Zones at Ardan Road to cater for the expansion of Midland Regional Hospital Tullamore and its continued development as a Teaching/ University Hospital, and/or a Med or Bio Technology Park with linkages to the Hospital.

Having regard to the stated zoning objective for the area and LUZO-15 which seeks to protect the subject lands for strategic employment, the proposed development would materially contravene the zoning objective and LUZO-15. The proposed

development would therefore be contrary to the proper planning and sustainable development of the area.

2 The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009, includes key criteria for housing development, including context, connections, layout, public realm and distinctiveness. The Design Manual for Urban Roads and Streets (DMURS) provides further guidance on the design and layout of streets in terms of the creation of sense of place.

It is considered that the proposed development is dominated by roads and results in a poor design concept for the site that is substandard in its form and layout, fails to establish a sense of place, and includes a poor quality of urban and architectural design. The development would, therefore, be injurious to the residential amenities of future occupants and would be contrary to the provisions of the Urban Design Manual - A Best Practice Guide, in particular criteria number 2 Connections, number 5 Efficiency, number 7 Layout, and number 12 Detailed Design and provisions 2.2.1 of the Design Manual for Urban Roads and Streets. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.1.1. The decision was in accordance with the planning recommendation.

## **3.2. Planning Authority Reports**

3.2.1. Planning Reports

3.2.2. The first planning report, 17/09/2021, recommended a further information request, which issued 17<sup>th</sup> September 2021, on 11 points. The information requested as FI was under the headings: density, open space, EIAR screening, design and layout, phasing, Part V housing, water, foul (sewerage), storm sewer, archaeology, and roads.

3.2.3. The assessment was set out under the headings: planning guidelines which includes development plan standards/policies (Tullamore Town & Environs Development Plan 2010-2016 extended to 2020); siting and design; roads and traffic safety; part V;

archaeology; tree survey; public health & services; EIA screening; appropriate assessment and other screening.

- 3.2.4. The report includes – the site is zoned for residential use – the principle of the development is acceptable. The 2021 – 2027 Development Plan for the county was recently made (10.9.21) and is not yet in effect. The relevant zoning is TT&EDP.

Tullamore Town & Environs Development Plan 2010-2016 extended to 2020:

The site is located within the identified Masterplan Area, Tullamore North Eastern Environs, chapter 5 is referred to and SO3, SO4, SO6, SO11, SO12.

It is the policy TCSP-02 that future residential development proposals shall develop sequentially from the centre of the existing settlements and maintain the existing pattern and character of settlements..’ while this policy is noted, significant residential developments have been granted and built to the west of the R421.

The site is located within Ardan Node – specific objectives AN1, AN2, AN3, AN4, AN5, AN6 and AN7 apply, re. public services, amenity of buildings, tree and hedgerow protection and phasing.

Transportation policies TTEP 08-07 and TTPE 08-08 apply. The site is subject to two distributor roads.

Density – the site is considered an outer suburban / greenfield site where generally densities of 35-50 dwellings per hectare are encouraged.

### 3.3. Other Technical Reports

- 3.3.1. CFO, 26<sup>th</sup> August 2021 – no objection.

- 3.3.2. Architects Dept, 31<sup>st</sup> August 2021 – under the heading of layout –

The road network should be reduced as currently the scheme is dominated by vehicular roads. Consider smaller scale roads within the scheme. Narrow shared and paved pocket roads can create more attractive environment for future residents. Refer to DMURS.

A number of internal roads could be completely replaced by cycle/pedestrian lanes. It is sufficient to have one vehicular access road to every dwelling and therefore options to circulate around are inefficient and not friendly to the environment.

The proposed vehicular access directly from Arden Road should not be considered suitable due to its limited length and close proximity to private dwelling which can create dangerous environment. This access might become a preferred route creating extensive traffic at the junction.

Proposed number of raised beds at most of new junctions should be replaced with more suitable speed control features. Minimum vehicular network with narrow roads and number of shared areas and pocket arrangements is more attractive and more effective.

Main public open green space for this scheme is located along main Arden Road. Potential replacement of units 48 to 58 with public open space, along with adjustments to vehicular network could offer attractive public open space that link many units and also open space that is stepped back from the main Arden Road. Attractiveness and safety can be a benefit to any proposal.

Provide overall masterplan for full area under ownership of the applicant.

Proposed units located along new access road (units 48 to 58) should not be considered suitable. Private garden exposed directly onto new road with its back walls located opposite proposed Nursing Home cannot create attractive and safe arrangement.

Note that according to DMURS – to reduce the visual impact of parking the number of parking spaces per bay should generally be limited to three parallel spaces (including loading areas) and six perpendicular spaces.

Overall application offers a good concept and attractive dwellings. Careful approach towards vehicular network and its flow should be the key to final improvements. Reducing traffic impact along with retaining more soft landscaping should be fundamental for all successful schemes.

3.3.3. Water Services and Environment 31/08/2021 - further information required – feasibility certificate from IW.

Water:

Watermain layout showing watermains laid in the footpath fronting each house being supplied.



Junctions on the watermains within the scheme are required to be fully valved to facilitate isolation of sections of the mains.

Show all individual boundary chambers within the curtilage of the site and connections from boundary chambers to the public watermain. No individual connection to pass through third party lands.

Show on the layout plan, an electromagnetic bulk flow meter at the main site access on the proposed watermain. Show details of the flow meter and a minimum of 1.2m diameter chamber for the flow meter.

The applicant is responsible for ensuring that legally binding wayleaves are obtained and registered in the applicant's favour including a letter of consent and associated maps. Wayleaves are required for rights of way for construction, use and maintenance of all pipelines (water supply, foul sewer & storm sewer) which will traverse private property other than that of the applicant.

Appropriate wayleave agreements are required to be submitted for the approval of the planning authority.

Dead ends are not permitted; watermains are to be looped.

Foul:

Applicant to liaise directly with IW:

The proposed foul sewer layout to indicate the size and gradient of each section of sewer.

Existing sewer lines and manholes are to be indicated with invert levels to ordnance datum.

Foul drains serving 2 or more houses are required to be a minimum of 225mm in diameter.

Provide foul sewer longitudinal sections with cover and invert levels shown to OSI datum as well as pipe diameter and materials. The longitudinal sections should be drawn to a horizontal scale of 1 to 500 and a vertical scale of 1 to 100.

All foul sewers servicing more than one property must be located on public space. Each house is required to have its own individual connection to the main sewer, which is required to be shown on the plan. A house boundary chamber is required on the service pipe, within the house site, not more than 12 metres from the junction

with the main foul sewer. The applicant is requested to ensure that no individual house connection passes through private lands.

The applicant is requested to provide full details of any proposed foul pumping station such as layout and sections, inlet level, pump start/stop levels, rising main outlet level, emergency overflow level and diameter (if any), rising main diameter and material, plan of rising main showing distance to discharge point, level of discharge point, details of proposed pumps, pump start/stop times, pump running times per day, pump flowrate etc. The applicant is requested to provide details of any high level alarms, personnel responsible for responding to alarms and proposed response times from alarm activation until overflow.

Provide, except in exceptional circumstances, a minimum cover of 1.2m in roads and 0.9m in grass and footpaths to all sewers.

Storm sewer:

Use permeable paving within the curtilage of private dwellings for external areas.

Connect roof rainwater runoff to permeable paving to encourage direct infiltration.

Collect and attenuate all runoff from public roads and footpaths with controlled discharge flow, rated to existing greenfield runoff.

Road gullies are required to be shown on the plans.

A surface water drainage layout for the site will be required. All surface water sewers servicing more than one property must be located on public space. Each house is required to have its own individual connection to the main sewer, which is required to be shown on the plan. A house boundary chamber is required on the service pipe, within the house site, not more than 12 metres from the junction with the main foul sewer.

The applicant is requested to submit longitudinal sections of all main surface water sewers with cover and invert levels shown to OSI datum as well as pipe diameters and materials. The longitudinal sections should be drawn to a horizontal scale of 1 to 500 and a vertical scale of 1 to 100.

The surface water drainage system should be designed so as to restrict surface water run-off, by means of an attenuation system, from the impervious areas (ie roofs, roads, paved areas etc) so that the ultimate discharge is equivalent to the green field run-off from an equal area. The applicant should calculate the greenfield

run-off rate in accordance with the Institute of Hydrology Report 124 as referenced in the Greater Dublin Drainage study (GDSDS). Note  $Q_{bar}$  should be calculated for 50 hectares and linearly interpolate the flow rates for smaller catchment areas.

The applicant should submit design calculations of the required storage for a 1, 30 and 100 year storm event using the permissible discharge rates for each event. The graphs showing inflow vs outflow, storage volume and storage depth should be provided for the critical storm as well as all other relevant criteria such as rainfall ratio, 5-60 rainfall value, etc.

The applicant should include a climate change factor of 20% (Met Eireann) for rainfall in the attenuation calculations.

The applicant should submit details of the proposed flow control device and attenuation unit. Details should show how the depth storage relationship together with the head discharge relationship will be suitable for the proposed attenuation system.

The applicant should assess the proposed development site for the use of additional SUDS methods (permeable paving, rainwater harvesting, etc refer to CIRI suds Manual 2007) and submit design details for additional SUDS methods to be installed. Details should be indicated on the revised drainage layout plan.

Sustainable Urban Drainage Systems (SUDS) should incorporate an out-fall to a watercourse or sewer to cater for over flow from flash flooding. Please include this out-fall on the revised drainage layout plan.

If interception storage is being proposed, the applicant is requested to carry out surface water percolation testing in accordance with BRE Digest 365 in order to determine a rate of infiltration for the sub-soil and to use this value to determine if the interception storage will perform adequately with respect to BRE 365 drain down times.

The applicant is requested to establish, and show on the drainage layout, the proposed storm drainage discharge point from the development.

Written approval from the OPW is required for any new storm drainage discharge point of any proposed increase in storm drainage discharge at an existing discharge point. The applicant is requested to confirm the route and outfall of the receiving water-course / culvert by means of a topographical survey.

The applicant is requested to provide details of any proposed storm drainage discharge points including outfall pipe diameter, material, line, invert level, headwall details, manhole size and type etc.

The applicant is requested to provide written evidence that she has access to clean and maintain the proposed storm drainage discharge point, and that the County Council will have access and space to inspect, clean and maintain such discharge points in the future, in the event that the storm drainage system is taken in charge by the local authority.

3.3.4. Housing Department 1/09/2021 – re. Part V compliance, Offaly Co Co to be provided with 6 units; acceptable.

3.3.5. Westmeath National Roads Office 1/9/2021 – this planning application is located in the study area for the N52 Tullamore to Kilbeggan Link scheme. The consultants for the proposed scheme are currently undertaking Phase 2 Option selection for the project and have determined 5 no. preliminary route corridor options for the project. These route corridor options have now undergone the 2<sup>nd</sup> non statutory public consultation (PC2). The purpose of PC2 was to make known to the public the 5 route corridor options under consideration and take on board any and all feedback that the public and other stakeholders may submit. The consultants are now undertaking the appraisal of the route corridor options to arrive at an emerging preferred option which will be brought forward to public consultation no. 3. The consultants have evaluated the application and it is considered of very low impact. No objection.

3.3.6. Roads Design 7/09/21 – further information including: review the proposed distributor road layout and submit a working design proposal for the future distributor road which will allow for a connection to the existing roundabout (south east of the site) on the R443 (Arden Way) for the approval of the planning authority.

The applicant to submit proposals that extends all infrastructure (the road, footpath and cycle tracks) to the boundary with the adjacent landholding to facilitate a future link by others to the roundabout on the R443.

The over use of raised tables throughout the proposed development shall be reviewed. The applicant is requested to review the proposed layout and design a more self-regulating street environment before reverting to the use of a raised table

(DMURS section 4, 4.6, 4.4.7 raised tables are supplementary measures) within the proposed development to enforce a lower speed environment.

The footpaths and cycle track on the main access road shall be continued across junctions in order to maintain a degree of pedestrian / cyclist priority. The applicant is requested to submit a proposal that addresses this concern.

The applicant is requested to submit a DMURS Street Design Audit for the proposed development.

The applicant is requested to submit a layout that indicates the location of all surface water gullies. Particular attention should be given to gully locations adjacent to raised tables / pedestrian crossings to ensure adequate drainage is provided to prevent ponding.

The through road to the south-west of the proposed development could lead to excessive speed/circulating traffic. The applicant is requested to submit a proposal that addresses this concern.

Consultation with Offaly Co Co Roads Design Department is recommended in advance of resubmitting the proposal.

- 3.3.7. Municipal Engineer, 7/9/2021 - the proposed development will form part of a strategic distribution (road) network and linkages as per the Tullamore Town & Environs Development Plan (map 8.1 Strategic Distributor Road Network and Linkages – D to F). The applicant shall review the proposed distributor road layout and submit a working design proposal for the future distributor road which will allow for future connection to the existing roundabout on the R443 to the south east of the site. The applicant shall ensure the proposed distribution road and associated cycle and footpath infrastructure is extended to the boundaries of the site for future connection by others.

The report raises similar concerns to those raised in the Road Design report re raised tables, DMURS audit, pedestrian / cycle track crossings, and road gullies.

The boundaries between the proposed development and the existing dwellings to the south-west of the site shall be constructed in such a manner as to ensure that there is no area in between the existing boundaries and the proposed boundaries which could be used for unauthorised or illegal dumping. The applicant shall agree a common boundary with the adjoining property owners. Where hedgerows are to be

maintained in place they shall be strengthened and shall be the sole boundary between existing and proposed development.

The applicant shall submit details in relation to the proposed boundary treatments to the lands to the south and southeast of the proposed development which are not included on the drawing no. 11 (combined tree, boundary treatment & engineering design).

The applicant shall submit a site services drawing showing the proposed location of the connections to the ESB/Gas/Telecommunications networks.

The applicant shall clarify proposals in relation to open drains which bound the site to the south.

### **3.4. Prescribed Bodies**

- 3.4.1. Irish Water (IW), 26/7/2021 – further information – applicant to engage with IW, letter of feasibility from IW to be submitted as further information response; longitudinal sections of storm & sewer.
- 3.4.2. Department of Housing, Local Government and Heritage, 14/9/2021 – further information re. archaeological testing in connection with recorded monument OF017-104 ring ditch, located in close proximity.

### **3.5. FI response**

- 3.5.1. The response to the FI request received 1<sup>st</sup> October 2021 included land registry details, a submission regarding density which had been submitted with the application, reports and drawings referred to earlier in this report, and letters from C&W O'Brien Architects and ORS.

### **3.6. Reports post FI response**

- 3.6.1. CFO, 21<sup>st</sup> October 2021 – no objection.
- 3.6.2. Westmeath National Roads Office 22/10/2021 – this planning application is located in the study area for the N52 Tullamore to Kilbeggan Link scheme. The consultants have evaluated the application and it is considered of very low impact. No objection. Consultant's comments are attached.

- 3.6.3. Housing Department, 21/10.2021 – re. part V compliance, proposals satisfactory.
- 3.6.4. Municipal Engineer, 27/10/2021 – further clarification – re. the revised layout which extends the distributor road layout infrastructure to the site boundary, applicant is requested to make a submission to demonstrate a feasible design proposal to tie in to the roundabout on the R443.

The revised road layout remains over reliant on raised tables as a speed control measure (ref. to DMURS section 4.4.6 & 4.4.7, raised tables are supplementary measures). Applicant to submit a revised layout to address this concern.

- 3.6.5. Roads Design, 27/10/2021 – further clarification, including:

The revised layout which extends the distributor road layout infrastructure to the site boundary. Applicant is requested to submit a working design proposal for a future connection from the proposed development to tie into the existing roundabout on the R443.

The revised road layout remains over reliant on raised tables as a speed control measure, raised tables are supplementary measures. Submit a revised layout which addresses this concern.

- 3.6.6. Architects Dept, 19<sup>th</sup> October 2021 – masterplan provided. Proposed small changes to the overall layout (in the subject area one change, paved section of road but the same width). Raised tables are still the main feature for slowing down the traffic. In general the layout consists of strips of housing with left over fragments of green. It does not provide sufficient improvement.

- 3.6.7. Water Services, 28<sup>th</sup> October 2021 – conditions.

- 3.6.8. The second planning report, 28<sup>th</sup> October 2021, includes:

Citing provisions of the 2021-2027 Offaly County Development Plan, including the zoning.

Concerns regarding low density remain. There is nothing exceptional that would warrant a justification of lower densities in this instance having regard to ultimate government policy to achieve higher densities.

The response indicates that the road network has been modified to facilitate greater connection between proposed houses and open spaces. In fact this has not been achieved. There are no modifications to facilitate a greater connection to open

space. The road has been extended at units 48 and 49 severing the open space originally proposed. No changes are proposed to create additional supervision of the open space along Arden Road.

With regard to requested changes, the applicant states that the road network has been reduced. This is not accurate. The road network has been extended at houses 48/49 and reduced slightly (due to realigning the arterial route/link street) at house 39.

The desired standards set out in DMS-03 layout and DMS -04 design of streets have not been achieved.

Lands zoned for business or technology.

Recommendation to refuse.

### 3.7. Prescribed Bodies

3.7.1. The Arts Council, 13<sup>th</sup> October 2021 – referring to their referrals policy.

3.7.2. An Taisce, 13<sup>th</sup> October 2021 – citing limited resources.

## 4.0 Planning History

Adjoining lands:

To the north

**312245 PA reg ref 21463**, an appeal against the PAs decision to refuse planning permission for (1) the construction of 99 no. residential dwellings comprising of; 8 no. one-bedroom apartments (types A1 , A2), 6 no. two-bedroom terrace houses (types B2, B4), 7 no. three-bedroom detached houses (types C, D1, D2), 26 no. three-bedroom semi-detached houses (types E, F2), 40 no. four-bedroom semi-detached houses (types G, H1 , H2), 8 no. five-bedroom detached houses (types I, J1 , J2), 4 no. five-bedroom semi-detached houses (types K, L2), with each dwelling to include option for solar panel on roof slope;

(2) provision of a crèche facility total area 390 m<sup>2</sup> — catering for a maximum of 50 children and 30 car parking spaces;



- (3) provision of private amenity space and 2 no. within-curtilage car parking spaces for each dwelling;
- (4) landscaped public open space;
- (5) associated boundary treatments;
- (6) public lighting layout;
- (7) ESB unit substation;
- (8) distributor road from the existing roundabout and spur road at Ardan Road (R421) and distributor road to the southern boundary of the application site and associated surface water drainage connection via a wayleave to the existing surface water network adjacent to the roundabout at Ardan Road;
- (9) surface water connection to the existing watercourse south of the development;
- (10) wastewater connection to the existing wastewater sewer at Ardan Road (R421) to the west of the development;
- (11) water supply connection via a wayleave to the existing water network adjacent to the roundabout at Ardan Road (R421);
- (12) SuDS drainage and all associated site development works necessary to facilitate the development.

The two refusal reasons are similar to those in the subject appeal.

The decision has been appealed, the appeal is currently before the Board.

To the north east:

**ABP-310463-21** (third party appeal, withdrawn 14<sup>th</sup> September 2021) PA Reg Reg **20/450** permission granted for the construction of 1 no. 90-bed 3 storey nursing home, 1 no. single storey coffee shop and 77 no. residential units comprising:

- 2 no. 2 storey detached apartment blocks each with 2 no. 1 & 2 bed apartments on ground floor and 2 no 1 & 2 bed apartments on first floor (16 units),
- 4 no. 2 bed 1 storey end terrace bungalows (type a),
- 6 no. 2 bed 1 storey mid-terrace bungalows (type b),
- 2 no. 2 bed 1 storey end terrace bungalows (type i)
- 11 no. 3 bed 2 storey end terrace houses (type c)

19 no. 2 bed 2 storey mid-terrace houses (type d)  
7 no 3 bed 2 storey end terrace houses (type e)  
2 no. 2 bed 1 storey detached bungalows (type f)  
7 no. 2 bed 1 storey semi-detached bungalows (type g) and  
3 no 2 bed 1 storey semi-detached bungalows (type h),  
also site works: vehicular road and pedestrian access 83m long from the existing roundabout and spur road at Arden Road (R421) and associated surface water drainage connection via a wayleave to the existing surface water network adjacent to the roundabout at Arden Road. New vehicular road access to the development with pedestrian and bicycle access points, together with proposed boundary treatments, landscaping, public lighting, car parking, signage, ESB sub-station and switch room, bin storage & bicycle storage to serve the development; future foul wayleave provision to serve 5 no existing dwellings located off Arden Lane to the north of the site, future links to adjoining lands, surface water connection via a wayleave.

Pre-planning TU21018 and TU21015 refer to these lands.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. Offaly County Development Plan 2021-2027 is the operative plan (operative since 22<sup>nd</sup> October 2021).

Relevant provisions include:

The site is zoned Business or Technology Park. It is also within an area identified as a Strategic Employment Zone.

Multiple residential (two or more units) is not a permissible use in this zoning.

Business/Technology Park - This zoning facilitates opportunities for technology based industry and advanced manufacturing, compatible office space and research and development based employment within high quality, highly accessible, campus style settings. The zoning accommodates locations for high end, high quality, value added businesses and corporate headquarters. An emphasis on high quality

sustainable design and aesthetic quality will be promoted to enhance corporate image and identity.

LUZO-08 - It is an objective of the Council to provide for technology based light industry, research and development and compatible offices in a high quality built and landscaped environment.

Strategic Employment Zones (particular to Tullamore)

Reflecting Regional Policy Objective 4.27 of the Regional Spatial and Economic Strategy which states that Key Towns (such as Tullamore) shall act as economic drivers and provide for strategic employment locations to improve the economic base by increasing the ratio of jobs to workers, it is an objective of the Plan to provide two Strategic Employment Zones (SEZ) within the settlement boundary of Tullamore town in the following areas:

- Ardan Road; and
- Ballyduff.

The purpose of this objective is to facilitate strategic large scale employment in development zones in a sequential manner to promote sustainable compact growth in tandem with the delivery of infrastructure and enabling services. These zones have development capacity, good accessibility, availability of a land bank of at least 100 acres in size and potential to deliver significant economic development and employment creation.

The proposed Ardan Road SEZ has potential to cater for the expansion of Midland Regional Hospital Tullamore and its continued development as a Teaching/University Hospital and/or to provide a Med or Bio Technology Park with linkages to the Hospital, whilst the proposed Ballyduff SEZ has the potential to provide a Business / Technology Park, leveraging its proximity to the Axis Business Park, Burlington Business Park and Srah IDA Business Park in the area.

Land Use Zoning Objective – Strategic Employment Zones (particular to Tullamore):  
It is an objective of the Council to:

**LUZO-15** Support the development of Strategic Employment Zones in Tullamore at;  
(a) Ardan Road to cater for the expansion of Midland Regional Hospital Tullamore and its continued development as a Teaching/University Hospital, and/or a Med or Bio Technology Park with linkages to the Hospital; and

(b) Ballyduff for a Business and Technology Park.

**LUZO-16** - Planning applications for Strategic Employment Zones shall be brought forward in the context of a masterplan for the subject lands as detailed in Development Management Standard 72. The design and siting of individual units within Strategic Employment Zones shall comply with the principles of any Design Statement prepared as part of the masterplan for the overall site.

**DMS-02 - Density** - The appropriate residential density of a site shall be determined with reference to; Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual (2009); Sustainable Urban Housing: Design Standards for New Apartments 2020; the Urban Development and Building Heights Guidelines 2018; and the prevailing scale and pattern of development in the area.

## 5.2. **Sustainable Residential Development in Urban Areas**

Guidelines for Planning Authorities (2009)

A street ...has important public realm functions beyond the movement of traffic. These functions include place-making, providing access to buildings, parking, and the location of public utilities and public lighting. While it is essential to provide for movement along the street, designers also need to consider the appropriate balance between these different functions, and not treat one in isolation.

**Density (f) Outer Suburban / 'Greenfield' sites** - these may be defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities. Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally.

### **5.3. The 2000 Planning and Development Act (as amended)**

- 5.3.1. Subsection (2) of section 37 sets out the limits to the Board's remit in appeals where a refusal reason states that the development would materially contravene the development plan.

### **5.4. Natural Heritage Designations**

- 5.4.1. The nearest Natura site is Charleville Wood SAC site code (000571) located C2.5km to the south east.

### **5.5. EIA Screening**

- 5.5.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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 first party appeal has been submitted by Tom Phillips and Associates. The grounds include:

- Re. material contravention, the scheme complies with several factors under S 34(8) of the Planning and Development Act 2000 (as amended) with respect to the Board's ability to consider the granting of permission.
- Re. urban design, they do not concur with the Council's interpretation of the Sustainable Residential Development in Urban Areas Guidelines, the Urban Design Manual or the Design Manual for Urban Roads and Streets.
- Material Contravention:
  - They consider that there was unjustified delay in determining the application, and they attach, in appendix C, a timeline for the processing of

the application and the parallel process of preparing and adopting the relevant development plan.

- They note in particular that two applications lodged on 14<sup>th</sup> June 2021 were invalidated some five weeks later on 16<sup>th</sup> July 2021, relodged on 26<sup>th</sup> July 2021 with a FI request on 17<sup>th</sup> September, to which the applicants responded quickly and thoroughly. It was within the gift of the planning authority to determine the scheme within the former plan. There was no justification for delay.
- The Development Management Guidelines (p50), state that the planning authority should not have put the applicant to the delay and expense of a request for further information (RFI) if minded to refuse permission.
- Urban Design

The Urban Design Manual:

- criterion no 2 'connections' – states – as illustrated by the overall Masterplan, the two schemes are complementary and facilitate greater connectivity.
- criterion no 5 'efficiency' – they do not understand the purpose or bespoke relevance to this reference.
- criterion no 7 'layout' – the architects have employed variety in the scheme. They do not understand the planning authority's criticism.
- criterion no 12 'detailed design' – the planning authority has not identified any shortcomings in the scheme's design quality.

Design Manual for Urban Roads and Streets:

- 'Connectivity' – they consider that the proposal delivers fully on these criteria.
- 'Enclosure' – they do not understand the planning authority's concerns in this regard.
- 'Active edge' – the scheme employs active edges.

- ‘Pedestrian activity/facilities’ - the scheme demonstrates strong pedestrian permeability.
- If the planning authority was minded from the start to refuse permission and defer determination of the scheme to allow the new development plan to commence it should not have issued a request for further information.

## 6.2. Planning Authority Response

6.2.1. The planning authority has responded to the grounds, restating the refusal reasons.

## 7.0 Assessment

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, material contravention, layout design and density, and procedural issues, and the following assessment is dealt with under those headings.

### 7.2. Appropriate Assessment

7.2.1. Having regard to the nature and scale of the proposed development, 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.

### 7.3. Material contravention

7.3.1. Section 37 (2) sets out the limitations on the Board in a case where a planning authority has decided to refuse planning permission for a reason which includes material contravention of the development plan:

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.3.2. In this regard it can be stated that the proposed development is not of strategic or national importance, the objectives in the development plan are clearly stated and are not conflicting insofar as the proposed development is concerned, there are no provisions in the Regional Spatial and Economic Strategy, no guidelines under section 28 of the Act or Policy Directives under section 29 of the Act, no statutory obligations of any local authority in the area, or any relevant policy of the Government, the Minister or any Minister of the Government, and nothing in the pattern of development, or permissions granted, in the area since the making of the development plan, which suggest that permission should be granted in this case. Accordingly the Board is precluded from granting permission.

#### **7.4. Layout design and Density**

7.4.1. The second reason for refusal refers to the Guidelines for Sustainable Residential Development in Urban Areas, the accompanying Urban Design Manual, A Best Practice Guide, and the Design Manual for Urban Roads and Streets (DMURS).

7.4.2. Issues of density and design are included in the reports of the County Architect, Roads Design and the case Planner and were raised in the further information request. The further information response did not satisfactorily address the issues raised. I concur with the concerns in this regard.

#### **7.5. Procedural Issues**

7.5.1. The delay in dealing with the application is raised as one of the grounds of appeal because the previous plan zoned these lands for residential use and the current plan, adopted during the course of the planning application, excludes such use.



- 7.5.2. The timelines outlined in appendix 'C' attached to the grounds, do not appear to indicate excessive delay in processing the application. In relation to the concern raised that the further information request was unnecessary if the planning authority was minded from the start to refuse permission, the outcome of the plan-making process itself cannot be pre-determined.
- 7.5.3. The Development Plan review, in which the applicant participated, is one in which the Board has no direct role, nor does it have a role in reviewing the process or in adjudicating on complaints regarding the planning authority's discharge of its functions in this regard. As stated previously, the Board is bound by the adopted development plan.

## **8.0 Recommendation**

- 8.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1 The proposed development is located in an area where the stated zoning objective in the Offaly County Development Plan 2021-2027, is for Business or Technology Park. The purpose of this objective is to facilitate large scale employment in a sequential manner to promote sustainable compact growth, in tandem with the delivery of infrastructure and enabling services. It is an objective of the Council (LUZO-15) to support the development of Strategic Employment Zones at Ardan Road to cater for the expansion of Midland Regional Hospital Tullamore and its continued development as a Teaching/ University Hospital, and/or a Med or Bio Technology Park with linkages to the Hospital. Having regard to the stated zoning objective for the area and objective LUZO-15 which seeks to protect the subject lands for strategic employment, the proposed development would materially contravene the development plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2 The Offaly County Development Plan 2021-2027 refers to the Guidelines for Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009, which provide guidance on density and set out key criteria for creating people friendly streets and spaces; it also refers to the Design Manual for Urban Roads and Streets (DMURS) which provides guidance on how to approach the design of urban streets in a balanced way. The dominance of vehicular movement considerations in the layout design, and the failure to achieve an acceptable density of dwelling units, are contrary to the provisions of the development plan and the guidelines supporting it. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

22<sup>nd</sup> February 2022

## **Appendices**

Appendix 1 Photographs

Appendix 2 Offaly County Development Plan 2021-2027 extracts