



An
Bord
Pleanála

Inspector's Report

ABP-315700-23

Development

Retention for change of use of a storage shed (granted permission reg. ref. 3918/19) to a pool room containing 4 pool booths as well as the provision of a covered external space containing 5 pool booths.

Location

Rear of 1, Hughes Road East, Walkinstown, Dublin 12

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

5181/22

Applicant(s)

Noel Chubb.

Type of Application

Permission for Retention.

Planning Authority Decision

Type of Appeal

First Party versus refusal of retention permission.

Appellant(s)

Noel Chubb.

Observer(s)

None.

Date of Site Inspection

5 June 2023.

Inspector

Stephen Rhys Thomas

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports.....	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations	8
5.3. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	9
6.3. Observations	9
7.0 Assessment	10
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14
10.0 Conditions	14

1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of 1 Hughes Road East in Drimnagh, approximately 5km to the south west of Dublin city centre. The site fronts onto a laneway which provides access to the rear of residential properties on Hughes Road East/North (to the south) and commercial / retail premises and residential properties which front onto Drimnagh Road (to the north). The laneway mainly comprises mews development, domestic garages / stores and rear accesses, but there are also a number of commercial garages, upholsters and other businesses on the lane. The laneway is wide and in places has a form of footpath flush with the road surface. There are parked cars on both sides in places.
- 1.2. The site is mostly occupied by a single storey sheds with flat roofs. The boundary to the site comprises a high concrete block wall, with a wide steel gate opening to the laneway that provides access to the pool rooms. An ESB substation is located within the site. The rear gardens of private homes are located to the south of the site, with a large area of stored cars to the east.

2.0 Proposed Development

- 2.1. The development that it is proposed to retain comprises the following:
- The change of use of a storage shed (granted permission reg. ref. 3918/19) to a pool room containing 4 pool booths
 - The provision of a covered external space containing 5 pool booths.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority issued a notification to refuse permission for retention, subject to three reasons as follows:
1. The proposal to retain the change of use of the storage shed and covered external space to provide 9 pool booths constitutes an Amusement/ Leisure use, which is not deemed to be permissible or open for consideration under

the Z1 zoning objective. The proposal would therefore, contravene materially a development objective indicated in the Development Plan, would be contrary to the 2022-2028 Dublin City Development Plan and be contrary to the proper planning and development of the area.

2. The development is located in an area, which is zoned 'Sustainable Residential neighbourhoods' – Zone Z1. Having regard to the operation and nature of the pool room, the pattern of development on Hughes Road, and limited capacity of the road to accommodate vehicular and pedestrian traffic, it is considered that the unauthorised use has caused serious injury to the residential amenities of properties in the vicinity of the site. The development proposed would be inconsistent with the provisions of the Dublin City Development Plan, 2022-2028, and would therefore be contrary to the proper planning and sustainable development of the area and to the zoning objective Z1 'to protect, provide and improve residential amenities'. Approval of this application would set an undesirable precedent for further similar proposals to the overall detriment of residential amenity and road safety.
3. The applicant has failed to demonstrate a safe pedestrian environment to and from the application site to mitigate the potential conflict between pedestrians and vehicular traffic. The development is considered contrary to pedestrian and traffic safety and contrary to policy SMT11 of the Dublin City Development Plan 2022-2028, would be contrary to the proper planning and sustainable development of the area and would set an undesirable precedent along the laneway.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority decided to refuse permission for three reasons, the basis of their decision can be summarised as follows:

- A shed was permitted on the site, its use was to be ancillary to the dwelling house, in addition, it is noted that the shed was not constructed in accordance with drawings.

- A pool room is not a cultural/recreational activity that is listed as a permissible use under the Z1 land use zoning. The ongoing use is more in line with commercial amusement/leisure complex, as defined in the Development Plan, a use not permissible or open for consideration and is contrary to the land use zoning.
- Residential amenities may be impacted upon by noise, nuisance and ad hoc car parking along the laneway.
- The laneway is not suited for intensive uses that may attract additional cars. There are no footpaths along the laneway, and conflicts between pedestrians and cars may result in a traffic hazard.

Permission was refused in accordance with the Planner's report.

3.2.2. Other Technical Reports

1. Drainage: No objections subject to conditions.
2. Traffic Planning Department: Refusal recommended.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

Site:

PA ref: 3918/19 – permission granted for a storage shed.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028.

The subject site is governed by zoning objective Z1 Sustainable Residential Neighbourhoods, with the objective to protect, provide and improve residential amenities.

Section 14.3.1 Permissible and Non-Permissible Uses

A permissible use is one which is generally acceptable in principle in the relevant zone, but which is subject to normal planning considerations, including the policies and objectives outlined in the plan.

An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area.

There will be a presumption against uses not listed under the permissible or open for consideration categories in zones Z1, Z2, Z6, Z8, Z9, Z11, Z12 and Z15. Other uses will be dealt with in accordance with the overall policies and objectives in this plan.

Policy SMT11 Pedestrian Network

To protect, improve and expand on the pedestrian network, linking key public buildings, shopping streets, public transport points and tourist and recreational attractions whilst ensuring accessibility for all, including people with mobility impairment and/or disabilities, older persons and people with children.

Section 15.14.10 Amusement Centres / Events Amusement centres will not be permitted in residential areas and will only be appropriate in mixed-use areas where the proposed use is in keeping with both the scale of the building and the pattern of development in the area. It is an objective of Dublin City Council to prevent an excessive concentration of amusement centres.

Appendix 15: Land Use Definitions

Amusement/ Leisure Complex

A building, or part thereof, used for the playing of gaming machines, video games or other amusement machines as defined in Article 5 of the Planning and Development Regulations, 2001, as amended. It may also include a bowling alley, quasar complex, pool or snooker hall, or children's indoor play centre.

5.2. Natural Heritage Designations

5.2.1. None relevant to this site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development, comprising a retention permission for pool booths, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

6.1.1. The applicant has appealed the decision of the planning authority to refuse permission, the grounds of appeal can be summarised as follows:

- Cultural/recreational building and uses, sports facility and recreational uses are all uses that are permissible within the Z1 zoning. The use of the shed for pool (classified as a cue sport, played on a table with pockets and rails) cannot be compared with an amusement/leisure use. The use is compatible with the Z1 zoning. A cultural/recreational uses are listed and as many pool halls have closed in the area, it is argued that Pool is a cultural activity common to the area.
- There are many other businesses in the laneway that have operated without causing ill effects to residential amenity. The uses along the laneway are

mixed between commercial and residential. The laneway is between 5.5 (plus footpath) and 7.3 metres in width and at the entrance to the development is 6.69 metres in width. There is capacity along the laneway to accommodate pedestrians safely. The laneway is well lit by public lampposts.

- In terms of pedestrian access, it is noted that Mews development policy in the Development Plan states road widths as follows: minimum 4.8 metres and 5.5 metres where no verge or footpath is present, section 16.10.16 refers. The laneway is wide enough to be considered as a shared surface and where footpaths are not present, the lane is more than 7 metres wide.

The grounds of appeal are accompanied by a letter that reiterates matters, and is prepared by a Civil and Structural Engineer. A drawing illustrates widths along the laneway, drawing number 22034-PL-1.03 refers.

6.2. Planning Authority Response

None.

6.3. Observations

None.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Residential Amenity
- Traffic
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The appeal site is located on lands that are subject to zoning objective Z1 Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2022-2028, the objective of which is to protect, provide and improve residential amenities. The planning authority refused permission to change the use of the shed from storage to nine pool rooms because it is viewed as an Amusement/ Leisure use, and this is neither a permissible or open for consideration use. Therefore, the proposal would materially contravene a stated objective of the development plan to protect residential amenities. The appellant disagrees with the definition ascribed to their development and claims that it is a cultural/recreational building in use for the sport of pool, it cannot be compared with an amusement/leisure use. In addition, the laneway hosts other commercial uses that have not interfered with residential amenity.

7.2.2. The Z1 zoning of the area allows and considers a wide range of development and uses, a building devoted to pool is not among them. The development plan states that there will be a presumption against uses not listed under the permissible or open for consideration categories in zone Z1 and others. However, other uses will be dealt with in accordance with the overall policies and objectives in this plan. It is difficult to pigeonhole a pool hall into a particular class of development listed in the development plan. The applicant has tried and concludes that their development should be considered as a sport and so it fits the profile of a cultural/recreational

building, in addition the cultural pursuit of pool is a feature of the area and so should be accommodated in a development such as theirs.

7.2.3. I have sought to determine how to define pool and other table sports such as snooker and billiards and how such a use would fit with the definitions provided by the development plan. The planning authority have assigned the development use category of Amusement/ Leisure, such a complex is appropriate in other land use zonings such as Z4 or Z5. The planning authority point to Appendix 15: Land Use Definitions and specifically that an amusement/ leisure complex is a building, or part thereof, used for the playing of gaming machines, defined in Article 5 of the Planning and Development Regulations, 2001, as amended, but it may also include a pool or snooker hall. However, I am not so sure that a pool hall on its own readily fits into such a category, in this instance I refer to the definition provided by the Planning and Development Regulations 2001 (as amended) that defines an amusement arcade as a premises used for the playing of gaming machines, video games or other amusement machines. The development it is proposed to retain does not include any of these gaming machines and I am confident that it is not an amusement arcade in the traditional sense. In addition, the development is not a combination of things that are listed by the development plan, it is a standalone pool room, not anything else and not a complex in the strictest sense. In terms of a leisure use, of this I am more certain and I note that the development plans supports sport, cultural and recreational pursuits in the Z1 zoning. In this regard, I do not consider that the development plan has been contravened materially or otherwise.

7.2.4. I am satisfied that pool can be defined as a sport, I am less convinced at the cultural attachment that the applicant makes out. That being so, I am convinced that pool rooms such as the one it is proposed to retain do not necessarily adversely impact the residential amenities of neighbouring property. I base this assumption on the lack of any third party objection or observation and more importantly on the physical location of the sheds away from housing. In addition, there is no evidence on file that suggest that enforcement action has been initiated by the planning authority. I am satisfied that the residential amenities of area can be adequately protected by conditions that limit the opening hours of the pool rooms and any deviation from these hours will be a matter for the planning authority to enforce.

7.3. Residential Amenity

7.3.1. The applicant points out that there are many other businesses along the laneway and residential amenities are not impacted upon. The addition of their business does little to make matters worse and the applicant believes that the current use of the laneway does not affect residential properties. The planning authority have set out in refusal reason two that residential amenities are seriously injured because the laneway has limited capacity to accommodate vehicular and pedestrian traffic. The planning authority conclude that the pool rooms and their users are detrimental to residential amenity and road safety.

7.3.2. The laneway that runs to the front of the site is wide and accommodates parked cars on both sides in places, the applicant has submitted a map with the widths of the laneway along its length, drawing 22034-PL-1.03 refers. The laneway is commodious, unlike many other laneways that run to the rear of properties in the city. At present the laneway hosts a number of businesses with front doors onto the laneway, and the rear access to public houses and other commercial enterprises along Drimnagh Road. There are also a number of mews developments and the rear garden entrances to private houses. The laneway is best described as busy with cars, delivery vehicles and pedestrians all making use of this informal enterprise zone. I am satisfied that the laneway is wide enough to accommodate the traffic flows, both vehicular and pedestrian. Of course, some formalisation of this shared surface state would be desirable, but I am not concerned that residential amenity or road safety is an issue impacted upon by the development it is proposed to retain per se. Traffic speeds are most likely quite low along the laneway as a response to parked cars and multiple entrances, and there is room for pedestrians to safely traverse the lane as needs be. I am satisfied that residential amenity is not impacted upon by the ongoing pool room use and that traffic safety does not arise on this low speed laneway, self-regulated by parked cars and multiple entrances (business and private).

7.4. **Traffic**

7.4.1. The planning authority have set out in refusal reason three that the laneway is not a safe pedestrian environment and that there could be a conflict between pedestrians and vehicular traffic. The applicant has prepared a drawing to illustrate road widths and points out that it is the policy of the development plan to permit mews type development along lanes that are a minimum 4.8 metres and 5.5 metres. I observed

that the laneway is wide, cars are parked on both sides and there are multiple entrances, both private and commercial, every few metres or so. This is a laneway that requires attention and care, whether you are a pedestrian or a driver, and this is a feature of any designed shared surface street. Clearly, the subject area is not a designed shared surface street, but it behaves as one and this results in a self-regulated laneway that appears safe, this is a subject discussed at length in the Design Manual for Urban Roads and Streets (DMURS). The design manual (DMURS) defines a Self-Regulating Street, as a street where the environmental conditions and/or series of design measures are used to influence drivers behaviour, minimising the use of physically intrusive measures or large amounts of regulatory signage and line marking. I find the laneway, to be just such a place.

- 7.4.2. The planning authority state that the applicant has not satisfactorily demonstrated the development it is proposed to retain creates a safe pedestrian environment. However, I am satisfied that the site survey and laneway width drawing together with my observations on site and the lack of any formal enforcement action against the pool rooms premises, means there is no adverse effect upon the safety of the laneway. In addition, refusal reason three specifically refers to policy SMT11 of the Dublin City Development Plan 2022-2028, which in my reading seeks to improve and expand on the pedestrian network, linking shopping streets, public transport points and recreational attractions. I am satisfied that in this instance, the pool rooms use would benefit the area and lead to improvements to pedestrian facilities in the area and these should take the form of a designed low impact shared surface to consolidate the current laneway condition. However, even without interventions along the laneway, I am satisfied that this laneway is not inherently dangerous and behaves as a shared surface street, upon which the pool rooms use is acceptable.

7.5. **Appropriate Assessment**

- 7.5.1. Given that the development is already connected to the public water supply and drainage networks, and having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, 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

- 8.1. Having regard to the above assessment, and based on the following reasons and considerations, it is recommended that retention permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the pattern and character of existing development in the area, the design and scale of the development it is proposed to retain, and the provisions of the Dublin City Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be completed and retained 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 points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The pool room facility it is intended to retain shall not operate outside the period of 0800 to 2200 hours Monday to Saturday inclusive except public holidays, and shall not operate on Sundays or public holidays.

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

3. 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.

4. 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.

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

Stephen Rhys Thomas
Senior Planning Inspector

6 June 2023