



An Bord Pleanála

Inspector's Report

Development: Construct below ground store in rear of garden at 20 Acres Cove, Drumshanbo, Co. Leitrim

Planning Application

Planning Authority: Leitrim County Council

Planning Authority Reg. Ref.: 14/66

Applicant: Peter Jenkins

Type of Application: Permission

Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Peter Jenkins

Type of Appeal: 1st Party

Observers: None

Date of Site Inspection: 19/04/2015

Inspector: L. Dockery

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site, which has a stated area of 0.0248 hectares, is located within the Acres Cove residential development, Drumshanbo, Co. Leitrim, constructed circa the mid 2000s. The subject property forms part of a terrace of two-storey residential properties backing onto the marina and Lough Allen canal. This is a pretty, scenic location with a number of small boats moored at the time of my site visit. A pedestrian pathway separates the rear garden area of the subject property from the water body. A pedestrian access is also located along the southern site boundary.
- 1.2 The subject dwelling has a stated floor area of 119 square metres. The rear garden area is currently under grass. While the rear boundary treatment of many of the properties in the immediate vicinity is comprised of dense planting over a low wall, the rear boundary treatment of the subject property is comprised of post and wire fencing over a low wall. This makes the rear garden area more visible from the public realm than that of the neighbouring properties. There is quite a slope in ground level falling away from the rear elevation of the dwelling.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development, as per the submitted public notices comprises the construction of a below ground store (37.4 square metres) in rear garden of 20 Acres Cove, Drumshanbo with access from common pathway to rear.
- 2.2 The proposed store has a stated floor area of 37.4 square metres and is comprised of reinforced concrete walls and roof. It has an internal floor to ceiling height of 2.2 metres and extends right up to both the rear and southern boundaries of the site. A 2 metre separation distance is proposed with the property to the north. A timber fence is

proposed along the patio area (roof of structure) measuring approximately 0.9 metres in height.

- 2.3 Its proposed use is for the storage of personal water based activities equipment such as engines, kayaks, ribs and the like.

3.0 PLANNING AUTHORITY'S DECISION

- 3.1 Planning permission REFUSED for 3 no. reasons, as follows:

1. The proposed development would seriously injure the residential amenities of nearby property by virtue of overlooking and loss of privacy and would therefore be contrary to the proper planning and sustainable development of the area
2. Having regard to the size of the proposed store and the extent of the structure which will protrude above existing ground levels, it is considered that the proposed development would have a domineering negative visual impact on the private rear garden of the adjoining dwelling to the North. The development would therefore be contrary to the proper planning and development of the area.
3. The proposed development would set an undesirable precedent for other such structures which would be incongruous with adjoining properties and would seriously injure the visual amenities of the area. The development would therefore not be in the interests of proper planning and sustainable development of the area.

- 3.2 Further Information was requested by the planning authority in relation to (i) evidence of legal entitlement to form an access onto existing private pathway to north west of site (ii) intended use of proposed store (iii) construction methodology (iv) sections showing existing ground and finished floor levels (v) evidence of structural stability (vi) drainage issues (vii) ventilation (viii) proposed materials and finishes of access door.

4.0 TECHNICAL REPORTS

Planner's Report

The report generally reflects the decision of the planning authority.

The rear of the dwellings and associated private rear gardens overlook the adjoining marina and the Lough Allen Canal. The Lough Allen Canal forms part of the Shannon Blueway. The Shannon Blueway comprises a series of on water and land based trails. The first of its kind in Ireland, the Shannon Blueway allows guided and unguided paddling and walking along the Lough Allen Canal and Shannon River from Carrick-on-Shannon via Leitrim village and Battlebridge to Drumshanbo town.

5.0 APPEAL GROUNDS

The grounds of appeal may be summarised as follows:

- Sets out need for subject store- a water enthusiast with a need for a secure store for nautical items such as motorboat engines, paddles, kayak etc- entirely for personal and family use
- The design of the marina development made no provision for storage of nautical items
- No removal of exemptions in the conditions attached to the grant of permission for the marina development
- Believe that a shed in the rear garden would constitute exempted development subject to various conditions being met- conscious that such a shed would compromise the view from his and nearby houses, he explored the possibility of building a shed underground
- Prepared to bear the cost as he doesn't want to disturb the amenity of the area

- Outlines planning history on site
- Contend that they could place an underground shed of less than 25 square metres in the rear garden of the property under exempted development regulations
- Has proposed a reduced development from that which was refused permission- store measures 2.1m deep x 5.0 metres long and will be cut into existing banked garden. There will be two patios, one at dwelling level and one at level of pathway to rear. A toughened glass balustrade on metal supports will protect those on the upper patio
- Proposal will have little or no effect on visual or residential amenity of any of the dwellings and will eliminate reasons for refusal
- Requests Bord to grant permission to allow appellant to fully enjoy his marina dwelling or to rule that an underground store of 25 square metres or less is exempt development
- Attaches conditions of Plan No. 01/590 (original marina development), together with drawings of alternative proposal

6.0 OBSERVERS

None

7.0 RESPONSES

A response was received from the planning authority, which may be summarised as follows:

- Do not have issue with intended use of store and considers it to be consistent with the normal requirements of a dwelling, particularly one where occupants have access to nearby water based activities

- However the location, scale and form of construction and impact of proposed structure raised significant planning concerns
- With regards comments made in relation to exempted development provisions, floor area of structure was 37.4 square metres- although described as 'underground shed' it would have protruded an average of 1.36 metres above existing ground levels of garden- including patio slabs, it would be an average of 1.36m above level of adjoining private garden to north-
- Reiterates reasons for refusal
- With regards alternative proposal submitted with appeal, states that while there appears to be a considerable reduction in the overall scale of the proposed store, it is noted that the proposed finished roof level remains to be raised above existing ground levels on site and on adjoining site. This raised finished level is over a distance of 2.1 metres
- Remain concerned that the development of the store, as now proposed albeit reduced in scale, will have a negative impact on the amenities of the adjoining property by reason of visual impact and will also give rise to overlooking
- Also remain concerned that the proposed development would set an undesirable precedent for other such structures which would be incongruous with adjoining properties and would seriously injure the visual amenities of the area

8.0 PLANNING HISTORY

None on subject site.

01/590

Parent Permission for 32 dwellings, 17 holiday homes, managers office and staff accommodation, harbour and all site development works.

9.0 DEVELOPMENT PLAN

The operative Development Plan is the Leitrim County Development Plan 2015-2021.

The site is located in an area zoned for 'primary residential' development

10.0 ASSESSMENT

10.0.1 This application is assessed in terms of Development Plan policy and all other relevant Government Guidelines. Having examined the file and having visited the site and its environs I consider that the main issues in this appeal relate to the:

1. Principle of proposed development
2. Impacts on amenity of the area
3. Other issues

10.0.2 As has been stated above, revised drawings were included with the appeal submission, significantly reducing the scale of the proposed works. The floor area of the revised store, submitted as part of the appeal submission, now measures a stated 10.5 square metres. I intend to have regard to these drawings within my assessment.

10.1 PRINCIPLE OF PROPOSED DEVELOPMENT

10.1.1 The proposed development is located to the rear of an existing dwelling within a relatively new residential development. This terrace of properties backs onto a marina with a pedestrian pathway located along its rear boundary. The proposal is for a partially underground store in which to accommodate the appellant's personal water based equipment. It is for personal use only and is considered to be ancillary to the main use of the property as a dwelling. I note the planning authority state that they have no objections to the intended use of the store.

10.1.2 Considering the fact that this is a relatively new residential development, which included for a harbour/marina within the development proposal, it was a significant oversight in the design that no provision was made for external storage areas in which to store equipment such as that listed within the appeal documentation. Any above ground sheds will undoubtedly have impacts on visual amenity considering the scenic nature of the area. Any structures below ground, such as that proposed, also have the capacity to detract from the amenities of the area. This issue shall be dealt with below. A reasonable option at the time of designing this said scheme would have been the provision of individual storage units at a less obtrusive location within the overall site, accessible to occupiers of the dwellings. It is most likely too late at this stage to provide such units within the scheme, but it is something which should be borne in mind in the design of future schemes, which have direct access onto water bodies.

10.1.3 The subject site is zoned for primary residential development within the operative County Development Plan. Having regard to all the above, I consider that the principle of providing such uses in association with a residential property are generally acceptable, providing the proposal complies with all other relevant criteria.

10.2 IMPACTS ON EXISTING AMENITY

10.2.1 In my mind, this is one of the issues of greatest concern, in particular impacts of the proposed structure on the visual amenity of the area, especially when viewed from the adjoining residential properties and from the public realm. This is a very scenic area and any inappropriate development at this location has the potential to severely detract from the visual amenities of the area. I acknowledge the predicament that the appellant finds himself in, living beside a water body with no appropriate space in which to securely store his equipment. Any above

ground shed/structure has the capacity to severely detract from both the residential and visual amenities of the area.

10.2.2 The planning authority refused permission for the said development on three grounds, namely impacts on the residential amenity of the area in terms of overlooking and loss of privacy; domineering negative visual impacts due to the size and extent of proposed structure and creation of undesirable precedent. The store as amended by a further information request measured a maximum of 5.961 metres deep by 7.6 metres wide. It was substantially located underground but did extend above the existing ground level by approximately 1.3 metres (exclusive of the proposed fence). The subject store had a stated floor area of 37.4 square metres. Having examined the information before me and having conducted a visit of the site and its environs, I would concur with the opinion of the planning authority that the proposal as submitted, would be inappropriate at this location in terms of its impact on the visual and residential amenities of the area. It would have an overbearing and domineering effect on the adjoining property to the north in particular, and if permitted would set an undesirable precedent for further similar developments in the immediate vicinity.

10.2.3 Notwithstanding the above, I have examined the revised proposal submitted with the planning appeal, which reducing the size and scale of the proposed store substantially. The floor area is reduced to 10.5 square metres and its extent above the existing ground level has also been reduced. Upper and lower patios are proposed and the proposed glass screen is less obtrusive than the railings originally proposed. The appellant raises the issues of exempted development for this underground store and requests the Bord to issue an opinion in relation to same. It is my opinion that the first party appellant would need to apply for a declaration under Part 1, Section 5 of the Planning and Development Act 2000 as to whether the stated works are development and/or exempted development or not. This does not fall under the remit of the subject appeal and I am examining the proposal for permission as before me.

10.2.4 The proposal, as amended in the submission made to An Bord Pleanála has been significantly reduced from that originally proposed. It maintains the separation distance from the property to the north, as was originally proposed. I note that the parent permission which pertains to the overall development did not appear to place any restrictions on exempted development, so therefore the appellant may be able to construct a shed/store in accordance with the conditions/limitations contained within the exempted development provisions of the Planning and Development Regulations 2001. Any such shed/store would, in my opinion, have a far greater impact on the amenities of the area than that proposed in the revised scheme. I consider that this proposal, as amended in the appeal submission, provides a good compromise between providing adequate storage space whilst at the time not detracting from the visual or residential amenities of the area to such an extent as to warrant a refusal of permission. The reduction in height above ground level is acceptable and the fact that the proposed store does not now extend out to the rear or southern boundaries makes it far less dominant on the landscape than what was originally proposed, in my opinion. The rear boundary treatment and access is to be retained as existing and this is a preferable option, in my opinion. However, if the Bord is disposed towards a grant of permission, I recommend that issues such as finishes, materials, drainage details, ventilation issues should be dealt with by means of condition because while they were addressed in the submission made to the planning authority, none of these issues were addressed in the revised submission received with the appeal.

10.2.5 Having regard to all of the above, I consider that the proposal as amended in the appeal submission is a far preferable option to that originally received by the planning authority. I consider that the proposal, if permitted would not detract from the visual or residential amenities of the area to such an extent as to warrant a refusal of permission. The proposal is considered to be acceptable and

consistent with the proper planning and sustainable development of the area.

10.3 OTHER ISSUES

10.3.1 The subject site, which is located in the rear garden area of an established residential property, is not located adjacent to nor in close proximity to any European sites, as defined in Section 177R of the Habitats Directive. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

11.0 CONCLUSION

11.1 The subject site is located within the grounds of an established residential property. I consider that the principle of an appropriate form of development is acceptable, subject to all other relevant criteria being met. I acknowledge the issues raised by the appellant in relation to inadequate storage facilities being provided within the scheme and the difficulty in providing same. I would concur with the opinion of the planning authority that the proposal as refused was, due to its size, scale and location dominant and overbearing and if permitted would detract from the visual and residential amenities of this scenic area. I also concur that it would set an undesirable precedent for further similar developments in the vicinity. I consider however that the proposal submitted with the appeal submission is a far preferable option and would allow a compromise between providing an appropriate storage area without detracting from the amenities of the area. The revised proposal provides for a significantly scaled back structure and this is now considered acceptable, subject to conditions. If the Bord is disposed towards a grant of permission, a condition

should be attached in relation to the structural stability of the proposed structure, and to ensure that it will not have any impacts on the stability of the marina wall. This issue was addressed as part of the Further Information response to the planning authority.

11.2 Having regard to all of the above, I consider that the proposed works are therefore considered acceptable and consistent with the proper planning and sustainable development of the area.

12.0 RECOMMENDATION

In light of the above assessment, I recommend that the decision of the Planning Authority be OVERTURNED and that permission be GRANTED for the following reasons and considerations.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the provisions of the Leitrim County Development Plan 2015-2021 and to the nature, form, scale and design of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not adversely affect the residential or visual amenities of the area, would not lead to the depreciation of property values and would integrate well with other properties in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by Further Information submitted to the Planning Authority on the 19th day of December 2014 and the revised drawings submitted to An Bord Pleanala on the 12th day of February 2015, 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 development shall be constructed as per the drawings submitted to An Bord Pleanala on the 12th day of February 2015.

REASON: In the interest of clarity

3. Prior to the commencement of any works on site, the applicant shall ascertain and comply with all requirements of the planning authority in relation to external finishes, ventilation and landscaping.

REASON: In the interest of visual amenity and proper planning and sustainable development of the area.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

5. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road.

REASON: In the interests of traffic safety

6. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

REASON: In order to safeguard the amenities of property in the vicinity.

7. The proposed development shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses or for any use other than as a use incidental to the enjoyment of the dwelling house as such, unless authorised by a prior grant of Planning Permission.

REASON: In the interests of residential amenity.

8. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining paths are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.

REASON: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

9. The applicant shall ensure that the construction of the proposed structure does not have any negative impacts on the structural stability

of any adjoining properties or on the marina walls. Details satisfying same shall be submitted to the planning authority, for their written agreement, prior to the commencement of any works on site

REASON: In the interests of amenity

L. Dockery

Planning Inspector

May 2015

