



An
Bord
Pleanála

Inspector's Report PL15.247684

Development	Retention of domestic shed with indoor barbecue and chimney to rear of existing dwellinghouse and all associated works.
Location	45 Gort na Claise, Blackrock, Dundalk, County Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	16/509.
Applicants	Kevin and Joanne Hardy.
Type of Application	Retention of Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant
Appellants	Patrick and Emma Reilly.
Observers	None.
Date of Site Inspection	15th February 2017
Inspector	Paul Caprani.

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1.0 Introduction

- 1.1. PL15.247684 relates to a third party appeal against the decision of Louth County Council to issue notification to grant retention of planning permission for a domestic shed with an indoor barbecue and chimney to the rear of an existing dwellinghouse and all associated works in a residential area of Blackrock, Dundalk, County Louth. The shed and indoor barbecue are located in the rear garden of an existing suburban dwellinghouse in the western environs of Blackrock Village. It is argued that the proposed shed and chimney adversely impact on the appellants' amenity and also represents a fire and health hazard.

2.0 Site Location and Description

- 2.1. The appeal site forms the eastern side of a pair of semi-detached dwellinghouses which face northwards towards the Rock Road in the Gort na Claise residential housing estate comprising of approximately 40 houses located off a single access from the Rock Road. The appeal site accommodates a two storey dwellinghouse with a modestly sized front and rear garden. The rear garden is approximately 9 metres in length and 7.73 metres in width. A domestic shed with a floor area of 27.32 square metres has been constructed within the rear garden adjacent to the southern boundary and the common boundary with the dwellinghouse attached to the west. The shed incorporates a flat roof with a slightly raised and capped parapet running around the edge of the roof. The shed rises to a height of 3.065 metres. The western elevation incorporates a large brick finished chimney breast which rises to a height of 3.9 metres. This chimney facilitates an indoor BBQ within the shed. The structure at the time of site inspection is not complete and still under construction.

3.0 Proposed Development

- 3.1. Planning permission is sought for the retention of the shed in a revised form as required by the planning authority by way of an additional information request (see next section below).

4.0 Planning Authority's Decision

An application for retention of planning permission was lodged with Louth County Council on 25th July, 2016. Louth Co Council granted permission subject to a revised design.

4.1. Initial Assessment by the Planning Authority

A report from Irish Water states that there is no objection to the proposed development.

A report from the environment section states that the Environment Compliance Section has no objection to the above development. It is stated that the chimney must comply with the Building Control Regulations and accordingly an application should be referred to the Building Control Section of Louth County Council.

4.2. Objections

A letter from the current appellants are contained on file, the contents of which has been read and noted.

The planner's report raises a number of concerns in relation to the extension and considers that the height and form of the structure impacts upon the adjoining residential dwelling. A grant of retention of permission for such a structure would set an undesirable precedent for domestic structures within rear residential gardens.

4.3. Further Information Request

On 9th September, 2015 Louth County Council requested the applicant to submit the following:

- The development by reason of its form and height relative to the adjoining and other dwellings within the residential area would detract from the visual and residential amenities of the area and, if granted, would establish a precedent for other similar inappropriate scale domestic structures within the area and be contrary to the proper planning and sustainable development of the area.

Accordingly, the applicants are requested to reduce the height of the external

walls of the structure to c.2 metres, omit or relocate the chimney feature from the side wall, create a pitched roof structure in lieu of the flat roof structure and submit revised drawings and elevations for assessment. The Planning Authority considers that these amendments will reduce the visual impact of the domestic structure, create a more domestic form of development by the reduction of the large footprint and mass of the retained structure thus enabling it to be in accordance with the zoning objective which seeks to “protect and improve existing residential communities”.

- The applicants are requested to submit revised newspaper and site notices detailing that the further information response will result in a significant alteration from the original proposal etc.

4.4. Additional Information Submission

The applicant submitted revised drawings on 6th December, 2016 and revised public notices on 21st October, 2016. The revised drawings indicated that the existing structure will be altered to incorporate a pitched roof and the chimney breast will be located to the rear wall of the shed. The parapet height of the shed will reach a maximum height of 2.6 metres with a floor to ceiling height of 2.25 metres. The overall ridge height of the shed is proposed to be just less than 3.68 metres.

A further letter of objection was submitted by the current appellants the contents of which have been read and noted.

4.5. Final Planning Report

A further planner's report was prepared on foot of the additional information received and it concluded that the revised design was now acceptable and it was therefore recommended that planning permission be granted. While the objector's concerns are noted, it is considered that there is sufficient private amenity space associated with the development to allow occupants a full enjoyment of their dwelling.

On 10th November, 2016 Louth County Council issued notification to grant planning permission for the proposed development subject to four conditions.

5.0 Planning History

There appears to be no planning history associated with the appeal site.

6.0 Grounds of Appeal

6.1. The decision was appealed by the residents of the adjoining dwellinghouse to the west. The grounds of appeal are outlined below:

- It is contended that the revised development is actually higher than the original structure and as such the proposal totally contravenes the concerns expressed in the Planning Authority's request for additional information.
- It is also contended that the development is less than 2 metres from the garden boundary which is legally the minimum distance required according to the grounds of appeal. This has not been confirmed by Louth County Council.
- The appellants have not been afforded an opportunity to discuss issues with Louth County Council and furthermore the Planning Authority have not specifically responded to the queries raised in the various letters of objection to the Council.
- It is argued that the proposed development will have an adverse impact on the appellants' amenity on a day to day level.
- It is argued that the appellants would suffer considerable loss of natural light and sunlight in the evening as the development blocks out the sun particularly as the ground levels of the appeal site is considerably higher than the appellants' lands.
- It is contended that the chimney represents a health hazard as it will be discharging noxious smoke and gases in close proximity to the bedroom windows. Accordingly, the appellants will not be able to open their bedroom window when the fire/barbecue is lit.
- The development constitutes a fire hazard to the adjacent hedgerow and it interferes with the wildlife in this hedgerow.
- If the structure was used for entertaining and parties, the issue of noise and loud music will impact on the children's ability to sleep peacefully.

- 6.2. The proposed development therefore will adversely impact on the value of the appellants' property.
- 6.3. The planning application was accompanied by a series of photographs depicting the existing structure as well as the original letters of objection and correspondence between the appellants and the Planning Authority is also attached.

7.0 Appeal Responses

7.1. Planning Authority's Response to the Grounds of Appeal

A submission from the Planning Authority states that the subject development seeking retention of permission marginally falls outside the exempted development restrictions. The exempted development provisions are set out in the response. The Planning Authority consider that the key issue to be assessed is whether the retained structure is an appropriate domestic structure that impacts on adjoining residential amenities. It is considered that the height and form of the domestic structure as it stands does somewhat adversely impact on the visual amenities of adjoining properties. The Planning Authority does not agree that the use of the rear garden of the subject site is an inappropriate use and the size of the structure is only marginally outside the exempted development limitations.

There is approximately 30 square metres of rear garden space available to the occupants of the subject dwelling and the external finishes are broadly consistent with the finishes of the dwellinghouse. The Planning Authority are satisfied that the revisions would not adversely impact on the amenities of the adjacent dwelling. The floor area of the structure at 27.32 square metres is marginally above that which would be considered exempted development to the rear of a dwellinghouse.

7.2. Applicants' Response to the Grounds of Appeal

The applicants state that they built a domestic shed with an indoor barbecue and chimney in order for their family to enjoy barbecuing and to store bicycles, go-karts and garden tools etc. It is intended to build a domestic shed with an indoor barbecue and chimney to the same standard and finish as the existing house. The barbecue has been inserted to the domestic shed to allow barbecues to take place regardless

of the weather. The barbecue is not for everyday use and would be separate to the family home.

The applicants have worked with both the Planning Authority and the architect to ensure that everything is to a high standard and meets all health and safety requirements.

The chimney is built with a bespoke built-in barbecue steel body for air circulation and fire safety. The applicants have also added a revolving chimney cowl designed to eradicate downdraft in chimney flues and ducts while the rotation assists ventilation.

The applicants also seek to incorporate two skylights in the roof but forgot to indicate the skylights in the revised drawings submitted to Louth County Council. It is proposed to incorporate the skylights for natural sunlight and ventilation purposes. It is also proposed to insulate the shed.

The applicants request that they be allowed to build walls 2.2 metres in height to allow for good floor to ceiling height and this requires a pitched roof to 3.6 metres.

The appellants have already built a double storey extension to the rear of their house adjacent to the applicant's garden. The applicants in this instance have only built a single storey domestic shed with barbecuing chimney. The applicants consider that they have a right to enhance their property and will comply with correct specifications and planning regulations.

The applicants also have a young family and take health and safety matters very seriously. The applicants have lived in South Africa and Australia where many houses have a built indoor barbecue area. The indoor barbecue area is well tested and very safe and allows barbecuing in inclement weather.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Dundalk and Environs Development Plan 2009 – 2015 (this Plan appears to be still the operative Plan for the site and its surroundings). The subject site is zoned "Residential 1" which has the zoning objective to "protect and improve existing residential communities and to provide for infill and new residential developments".

- 8.2. Extensions to residential properties should ensure that the proposal does not:
- Detrimentally affect the scale, appearance and character of the existing dwelling.
 - Conflict with the existing building in terms of materials and finishes.
 - Cause any overshadowing or overlooking of adjoining properties.
 - Lead to a reduction in garden size of less than 25% or 25 square metres whichever is the greater.

9.0 **Assessment**

I have read the contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I consider the issues which are critical in determining the current application and appeal before the Board are as follows:

- The Building as Presently Constructed.
- The Proposed Alterations on Foot of the Additional Information Request.
- Impact on Residential Amenity.

9.1. **The Building as Presently Constructed**

I would agree with both the appellant and the Planning Authority that the building as constructed on site is unacceptable in terms of its impact on adjoining residential amenity. The flat roof structure which incorporates a gable ended wall directly adjacent to the common boundary with the appellants' property is unacceptable in my view in terms of height, scale and general overbearingness. The gable ended wall is c.1 metre above the common boundary fence and the chimney breast which is also directly adjacent to the common boundary incorporates a strident brick finish rising to almost 4 metres in height, c.2 metres above the common boundary fence. While I could not gain access to the appellants rear garden, photos submitted with the appeal indicate the scale of the structure on the context of the adjoining garden. I also include photos from the rear garden of the adjoining house to the west which indicates the size and scale of the structure. I would agree with the Planning Authority and the appellants' concerns that the size, scale and positioning of the shed as constructed would have an overbearing impact on adjoining amenity

particularly in terms of the overshadowing of the rear garden in the morning and mid-morning times particularly during the Spring and Autumn period. The incorporation of a c. 3m high flat roof directly adjacent to the common boundary is not in my view domestic and ancillary in design or scale. Therefore, I do not consider that the building as constructed represents a domestic ancillary type shed of an appropriate scale. It is my view therefore that the Board should not consider granting planning permission for the building as constructed on site.

9.2. **Proposed Alterations on Foot of Additional Information Request**

The proposed alterations in my view represent a significant improvement over what has been constructed on site. The alterations proposed are much more appropriate in terms of scale and design and are more domestic in terms of character. As such the overall design of this shed is more suited as an ancillary type structure to the rear of a dwelling.

While the footprint of the building remains the same, the incorporation of a pitched roof, and the relocation of the chimney breast to the rear boundary of the site, will in my view alleviate some of the concerns expressed by the appellant with regard to the overall design and the perceived overbearing nature of the structure. The incorporation of a pitched roof reduces the height of the structure along the common boundary wall by between 0.465 metres and 1.3 metres. While the appellant argues that the ridge height of the building is higher than the parapet level of the existing structure, it should be borne in mind that the ridge height of the revised structure is located c.4 metres back from the common boundary and this will materially and significantly reduce the overbearing nature of the shed. Currently a c.3m high shed wall is located contiguous to the common boundary. The side wall of the shed will be reduced to c.2.6m as a result of the revised proposals.

The relocation of the chimney breast to the rear of the building will also significantly reduce the overall size and scale of the structure along the common boundary. The

incorporation of the proposed plaster finish on the external elevations will also improve the aesthetics of the shed and result in the structure that is more domestic in character.

Finally, in relation to the size and scale of the shed, the Board will note that the overall size and scale of the structure falls only marginally outside the limits which would normally exempt sheds from the requirement of obtaining planning permission. The overall floor area of the shed is stated as 27.32 metres which is only marginally above the 25 metres limit for sheds. Furthermore, the Exempted Development Regulations state that the height of any such structure shall not exceed, in the case of a building with a tiled or slated roof, 4 metres. Or in any other case 3 metres. The overall height of the structure therefore would fall within the limits set out under the Exempted Development Regulations. I calculate the residual space to the rear of the dwelling, excluding the footprint of the dwelling to be c.48 square metres. As such, were planning permission to be refused in this instance the applicant could build a structure of a similar height with a slightly reduced footprint on the subject site under the provisions of the Exempted Development Regulations. The fact that the footprint slightly exceeds the Exempted Development Regulations in this instance by c2.5 square metres will have no material effect in terms of adversely impacting on the appellants' amenity.

9.3. Residential Amenity Issues

In terms of overshadowing and access to sunlight, the proposed pitched roof structure will significantly improve sunlight penetration to the appellants' rear garden. The fact that the ridge of the structure is located c.4 metres from the common boundary will ensure that overshadowing is greatly reduced in the adjoining garden.

I have also argued that the reduction in the height of the side wall and the relocation of the chimney breast away from the common boundary will significantly reduce the overbearing and overshadowing effect currently experienced by the appellant.

No overlooking issues will arise as there are no windows proposed in any of the elevations of the shed. To this end the applicant requests that the Board consider incorporating a condition permitting the provision of two rooflights in the roof pitch. I consider this to be a reasonable request as it will give rise to natural light penetration within the shed without compromising any adjoining amenity.

With regard to the incorporation of a chimney into the shed, the Board will note that the chimney has been relocated away from the common boundary and therefore is unlikely to have a significant impact in terms of air emissions. The applicants have indicated that the chimney will only be in use occasionally and a revolving chimney cowl will be inserted on the chimney. Therefore, for all intents and purposes, the chimney associated with the shed would not be unlike ordinary chimneys associated with domestic dwellinghouses or inserted solid fuel stoves on domestic dwellings. Any barbecue inserted into the chimney will be required to comply with Building Regulations. Therefore, I do not consider the incorporation of a chimney into the shed gives rise to any significant health, safety or amenity issues.

With regard to noise as a result of parties etc. it is clear from the applicants' response to the grounds of appeal that the shed is to be used for family occasions. The incorporation of a large shed and chimney does not imply that the rear garden will be used for parties involving loud music which would impact on the amenity of adjoining residents. In fact, it could be reasonably argued that the fact that the barbecue is to be located indoors, that any impact on amenity would be reduced than that associated without outdoor parties and music etc. It would be inappropriate therefore in my view that the Board would refuse planning permission for the proposed shed and chimney on the grounds that it could give rise to social activity which could have consequential impacts on surrounding residential amenity.

10.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and/or 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 and Recommendation

Arising from my assessment above therefore I consider that the Board should uphold the decision of the Planning Authority and grant planning permission for the revised shed as per the drawings received by Louth County Council on 21st October, 2016. I am satisfied that the proposed development, which is only marginally above the exempted development limits for such structures, will not give rise to any significant amenity issues in terms of overshadowing, visual impact or impact on amenity through disturbance. I therefore recommend that planning permission be granted for the revised development as proposed.

12.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged and based on the reasons and considerations set out below.

13.0 Reasons and Considerations

It is considered that the revised plans and particulars submitted to Louth County Council on 21st day of October, 2016 would result in the construction of a domestic shed which would be of an appropriate size and scale and design and subject to the conditions set out below, would not seriously injure the amenities of the area or properties in the vicinity, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the planning authority on 21st day of October 2016, 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 the commencement of

development and the development shall be carried and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed alterations as indicated in the drawings submitted on the 21st day of October 2016 to the existing unauthorised domestic shed shall be carried out within 6 months of the date of this order.

Reason: To ensure that the unauthorised structure is removed and the development is carried out in accordance with the plans and particulars submitted.

3. The use of the existing unauthorised domestic shed and chimney shall cease forthwith and its reuse shall only be recommenced once all works have been completed in accordance with the plans and particulars submitted on 21st day of October, 2016.

Reason: To ensure that the development accords with the permission issued.

4. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The use of the existing shed shall be ancillary to the main domestic use and shall not be sold, let or otherwise transferred or conveyed save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

6. The shed shall be solely used for domestic ancillary use and shall not be used for any commercial activity.

Reason: In the interest of residential amenity.

Paul Caprani,
Senior Planning Inspector.

21st February, 2017.