



An  
Bord  
Pleanála

## Inspector's Report PL29N.247933

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<b>Development</b>	Retention of a single storey racing pigeon loft
<b>Location</b>	Rear of 2 Spire View, Rivertson Abbey, Ashington, Dublin 7
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4032/16
<b>Applicant(s)</b>	Daniel Boylan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Daniel Boylan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30/03/2017 and 03/04/2017
<b>Inspector</b>	Gillian Kane

## 1.0 **Site Location and Description**

1.1.1. The subject appeal refers to a single storey shed to the rear (south) of a two storey semi-detached dwelling at no. 2 Spire View, Riverston Abbey. The shed (Shed C on submitted drawings) has a floor area of 20.3sq.m., is 4m height and approximately 7.5m in length. The shed has a 'timber-look PVC cladding' in brown with roof tiles to match the existing dwelling. A wire cage of sorts has been erected to the front (north) of Shed C, that is not shown on the submitted drawings. Two similar but smaller in area sheds (Shed B and A) are located to the immediate west of the shed in the rear garden of the adjoining house no. 2a River View. The two gardens are not separated, with the result that Shed C and B read as one. Internally however, there is a sliding door that appears to be sealed shut which subdivides the two structures. The open space between the dwellings and the shed is laid out in paving.

1.1.2. Photographs and maps are attached in Appendix 1.

## 2.0 **Proposed Development**

2.1. Permission was sought for the retention of a single storey timber look, PVC clad, pitched roof racing pigeon loft (Shed C) of 20.3sq.m. to the rear of no. 2a Spire View.

2.2. Details provided in the application form are:

- total site area 190.20sq.m.
- floor area of buildings to be retained: 135.30sq.m.
- non-residential floor area: 20.3sq.m.
- proposed plot ratio: 0.71
- proposed site coverage 45%

## 3.0 **Planning Authority Decision**

### 3.1. **Planning Authority Reports**

- **Planning Report:** Concerns that pigeon loft could have an adverse impact on the adjoining properties in terms of noise, odour and nuisance.

Having regard to the limited size of the site and proximity to other dwellings, permission should be refused.

- **Drainage Division:** No objection subject to standard conditions.

### 3.2. **Planning Authority Decision**

On the 4<sup>th</sup> January 2017 Dublin City Council issued a notification of their decision to REFUSE permission for the following reason:

“Having regard to the limited size of the site and the proximity to adjoining residential properties, it is considered that the proposed development by virtue of noise, odour and nuisance would seriously injure the residential amenity of adjoining properties and depreciate the value of property in the vicinity. The proposed development would therefore be contrary to the proper planning and sustainable development of the area and as such would set an undesirable for similar substandard developments”.

## 4.0 **Planning History**

### **Subject Site 2 Spire View**

- 4.1.1. **PL29N.RL3484:** The Board declared that the timber constructed, PVC clad, pitched roof, single storey shed of approximate area 20.30sq.m. at 2 Spire View, Riverstown Abbey, Ashington, Dublin was development and was not exempted development

### **Adjoining Site 2a Spire View:**

- 4.1.2. **PL29N.242899:** Planning permission was refused for a change of use from a single storey domestic shed attached to side and rear of 2a Spire View for the following reason: “Having regard to the limited size of the site and the pattern of development in the area, including the proximity to adjoining residential property, it is considered that the proposed development would seriously injure the residential amenity of adjoining property and depreciate the value of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.
- 4.1.3. Planning Authority **Reg. Ref. 3305/13:** Permission granted for the retention of 2 no. windows in front elevation and reduction in height of small length of

boundary wall to Abbey Drive and permission for vehicular entrance onto Abbey Drive at 2A Spire View.

- 4.1.4. Planning Authority **Reg. Ref. 2709/13**: Permission granted for the retention of an attic conversion incorporating dormer extension to rear and 1 No. velux roof light to front elevation. And all associated site works.
- 4.1.5. Planning Authority **Reg. Ref. 2808/13**: Permission refused for a change of use of a domestic shed to an aviary for the following reason: “The development proposed for retention, by virtue of noise, odour and proximity to adjacent dwellings, has a seriously injurious impact on the residential amenities of the area, contrary to the Z1 zoning of the site which is to protect, provide and improve residential amenities and contrary to the proper planning and sustainable development of the area and, as such, would set an adverse precedent for similar substandard developments and would be contrary to the proper planning and sustainable development of the area”.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2016-2022

- 5.1.1. In the plan, the site is zoned ‘**Z1 Sustainable Residential Neighbourhoods**’ which has the stated objective “to protect, provide and improve residential amenities”. Within Z1 zones ‘pigeon loft’ is an open for consideration use. Section 14.4 of the development plan states 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.
- 5.1.2. **Chapter 16** includes the Development Management Standards and has regard to Design, Layout, Mix of Uses and Sustainable Design. Applicable to the proposed development are the following:
- Indicative plot ratio for Z1 zones is 0.5 to 2.0,
  - Indicative site coverage for the Z1 zone is 45-60%

5.1.3. Appendix 21 of the development plan defines a **pigeon loft** as “Any structure, whether purpose-built or not, used for the housing of pigeons which are kept for the purpose of pigeon racing or for any other purpose related to pigeon keeping”.

## 6.0 The Appeal

6.1.1. A first party appeal of the Council's decision can be summarised as follows:

- The decision of the Council to refuse permission to retention is without foundation and is contrary to other decisions by DCC and other Local Authorities for similar developments.
- Guidance for pigeon lofts is contained in the 2005 DCC development plan which states that the Planning Authority's prime concern will be the protection of residential amenity and that pigeon lofts should be at least 5m from neighbouring dwellings, be of sound construction secure against rodents and well maintained. The plan recommends that lofts should not exceed 25sq.m. with a maximum height of 3m. This guidance should form the basis of the Council's decision.
- The subject loft to be retained is less than 25sq.m. but is higher than 3m due to a concrete floor slab.
- The subject shed to be retained Shed C was built in 2003 and refitted with new perches in 2006. Shed B (in the garden of no. 2 Spire View) was constructed as an extension to shed C in 2013. The keeping of birds in sheds A, B and D has ceased.
- The Council's decision to refuse permission is contrary to PL06S.245351 and DCC decisions reg. ref. 2327/16, 3739/14 and 4033/16 all of which are similar to the subject appeal. It is submitted that the Council's decision to refuse permission is unfair.
- The subject shed is well maintained and does not injure the residential amenity of neighbouring properties. The large amount of equipment needed to race pigeons is kept in the adjoining sheds. The birds will be kept indoors until a decision is made by the Board.
- The use of the subject shed de-exempts it. It is submitted that the use however is statute barred as the property has historically had a pigeon

loft in the rear garden. The shed does not overlook or overshadow neighbouring properties.

- Under PL29N.243071 the Inspector noted that works to the interior of a loft may be exempt and that a s5 declaration should be sought. A subsequent application for retention of that loft was successful.
- The appellant sought a s5 declaration regarding the subject shed. The Board decided that the development was not exempt (PL29N.RL3484 refers). It is submitted that the issue of use and the shed were not separated and the fact that there has been a pigeon loft insitu since 1998 was not considered. Planning Authority reg. ref DLR/5414 is cited as an example.
- The Board is requested to consider PL06D.222830, PL35.RL2850, PL06S.245351 and SD15B/0198 in support of the subject development to be retained.
- It is submitted that the multiple visits to the subject site have shown a facility that is clean, well maintained and causes no odour or nuisance.
- It is submitted that the applicant has a statute barred use and that only that the shed in question was improved, has the matter come before the Board. The Board is requested to grant permission for the retention of the subject shed for a period of three years.
- The Appeal is accompanied by a letter from the person who completed the works, invoice from a pigeon supply company, letter from Cabra Racing Pigeon Club, letters referring to charitable donation made by the applicant

## 6.2. **Planning Authority Response**

None on file.

## 7.0 **Assessment**

On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the proposed development
- Precedent

- Appropriate Assessment

## 7.1. Principle of the Proposed Development

- 7.1.1. Pigeon lofts are open for consideration in Z1 areas where the Planning Authority are 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.
- 7.1.2. Permission was refused for a change of use of shed A (in the garden of 2a) from a domestic shed to a pigeon loft by the Board under PL29.242899 on the grounds that the site was restricted in size and due to the proximity to adjoining residential property. Shed A has since been returned to domestic use.
- 7.1.3. Shed C, is larger in footprint than Shed A and therefore could accommodate a greater number of pigeons, notwithstanding that no information has been submitted by the Applicant or the Agent in reaction to the intensity of the use to be retained. In addition, Shed C being to the rear of no2 Spire View is closer to a greater number of dwellings, sharing a boundary with no. 4 Spire View and 5 & 7 Convent way. The number of dwellings that could suffer negative impacts to their residential amenity is greater.
- 7.1.4. There is no boundary between the rear garden areas of no. 2 and no. 2a. Presumably the occupants of both dwellings enjoy the overall area as one space. Notwithstanding the additional space available however, the presence of shed C and the wire cage structure to the front results in a somewhat restricted open space area. I note the Board's previous reason for refusal which referred to the limited size of the site.
- 7.1.5. The proposed development to be retained is larger than that previously refused by the Board, is closer to a greater number of residential properties and has a reduced area of open space (taking the wire cage structure into consideration) available to the residents of the dwelling. I find no reason to reach a different conclusion to that previously reached by the Board.

## 7.2. Precedent

- 7.2.1. The appellant asks the Board to consider a number of applications for development similar to that proposed. Decisions of Council's that were not appealed cannot be held to provide a precedent for the Board to have regard to.
- 7.2.2. The appellant refers to PL06D.222830 as a case where the Appellants client objected to a development and the Board upheld the Planning Authority's decision. PL06D.222830 refers to an application to construct a three storey development to the rear of a pharmacy at 1 Ballinteer Road. I am unclear what the relevance of this appeal is to the subject application.
- 7.2.3. The appellant suggests that the Board erred in arriving at their determination under PL29N.3484. He requests the Board to have regard to PL35.2850, a section 5 declaration where the Board declared that the renovation of a service station in Athy, Co. Kildare was exempted development and PL.06DRL3227, a declaration by the Board that the replacement and alterations incorporated into glazed roofs over the existing beer gardens at a slightly higher elevation at a Public House was exempted development. It is my understanding of the appeal that it is suggested that the Board separated the use and works of a development when considering whether those particular developments were exempt. Whilst that may be the case, it is of no relevance to the subject development to be retained. The appeal currently before the Board cannot revisit the decision of the Board on a previous application.
- 7.2.4. The appellant requests the Board to consider the application of a temporary permission. Under PL06S.245351, the Board granted permission for the retention of two pigeon lofts in the rear garden of no. 4 Tara Hill Road, Rathfarnham. Condition no. 2 of the Boards decision stated that the permission for retention of the pigeon loft was for a period of two years only, and thereafter, the pigeon loft shall be removed from site, unless prior to that date, planning permission for a further period has been granted by the planning authority or by An Bord Pleanála on appeal. The subject appeal is not directly comparable to the proposed development as it involved a larger



garden area being retained after retention of the shed and a smaller loft to be retained.

7.2.5. The appellant refers to the Inspectors report under PL29N.243071 which referred to the provision to apply for a section 5 declaration if the use of the pigeon loft was considered exempted development. I note the Board refused permission for the retention of the single storey pigeon loft to the rear of 48 Dingle Road, Cabra for the following reason: "Notwithstanding the previous history of pigeon keeping on this site, the Board is not satisfied, on the basis of the information submitted, that the retention of the pigeon loft would not seriously injure the residential amenities of the area because of the height and orientation of the development proposed for retention. The retention of the pigeon loft would, therefore, be contrary to the proper planning and sustainable development of the area".

7.2.6. None of the cases referred to by the Appellant are directly comparable or relevant to the subject development to be retained.

### 7.3. **Appropriate Assessment**

7.3.1. 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 considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

## 8.0 **RECOMMENDATION**

8.1.1. I have read the submissions on file, visited the site, and have had due regard to the provisions of the Dublin City Development Plan 2016 - 2022 the planning history on the subject and adjoining site and all other matters arising. It is considered that the proposed shed to be retained, on a restricted site and in close proximity to a number of dwellings would seriously injure the res amenity and depreciate the value of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and

sustainable development of the area. I recommend permission be refused for the following reason:

### **REASONS**

1. Having regard to the limited size of the site and the pattern of development in the area, including the proximity to adjoining residential property, it is considered that the proposed development would seriously injure the residential amenity of adjoining property and depreciate the value of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

*Gillian Kane*

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Gillian Kane  
Planning Inspector

06 April 2017