



An  
Bord  
Pleanála

## Inspector's Report ABP-300196-17

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<b>Development</b>	Retention of the existing timber garden shed, with associated site works.
<b>Location</b>	147 Swords Road, Whitehall, Dublin 9
<b>Planning Authority</b>	Dublin City Council (North Area)
<b>Planning Authority Reg. Ref.</b>	WEB1443/17
<b>Applicant(s)</b>	Peter and Joan Aernoudts
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Peter and Joan Aernoudts
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> February 2018
<b>Inspector</b>	Donal Donnelly

## 1.0 Site Location and Description

- 1.1. The appeal site is located on Swords Road between Whitehall and Santry approximately 4km north of Dublin city centre. The site is directly opposite Whitehall Church (Church of the Holy Child) on the western side of the R132/ N1. Swords Road is aligned at this location with 2-storey semi-detached dwellings with hipped roofs. The properties have long plots that back onto residential properties on Larkhill Road.
- 1.2. No. 147 Swords Road has a stated area of 554 sq.m. and a rear garden depth of approximately 35m. There is a decked area immediately to the rear of the dwelling along with two small sheds. At the rear of the site is the garden structure for which retention permission is sought. A greenhouse sits to the east of this structure.
- 1.3. The stated area of the structure for retention is 22.4 sq.m. and the height above ground level is 4.535m. The western wall of the structure is 1.337m from the western boundary. The overhanging roof to the south is approximately 1.4m from the southern boundary and the structure is c. 1.103m from the northern boundary.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the retention of the existing garden timber garden shed, with associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Permission refused for the following reason:

*“Having regard to the excessive height and inadequate setback from the boundaries with adjoining properties, the development proposed for retention has an overbearing impact and constitutes an unduly dominant feature when viewed from the private open space associated with adjoining dwellings, in particular No. 17 Larkhill Road. It is considered therefore that the proposed development would be detrimental to the visual and residential amenities of the area and would set an undesirable*

*precedent for further similar developments in the area. The proposed development is contrary to the proper planning and sustainable development of the area.”*

### **3.2. Planning Authority Reports**

- 3.2.1. The decision of the Planning Authority to refuse permission is consistent with the recommendation in the Planner’s Report.
- 3.2.2. Under the assessment of the application, it is noted that there are existing structures in the rear garden, including 2 no. sheds and a greenhouse. There is no objection in principle to the additional garden room; however, it is considered that the height of the structure and proximity to adjoining neighbours results in an overbearing impact, and having regard to the prefabricated nature of the structure, this cannot be dealt with by way of condition.

### **4.0 Planning History**

- 4.1. No planning history.

### **5.0 Policy Context**

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

- 5.1.1. The appeal site is zoned “Z1” where the objective is “to protect, provide and improve residential amenities.”

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

- 6.1.1. A first party appeal against the Council’s decision was lodged on behalf of the applicant. The grounds of appeal and main points raised in this submission are as follows:

- Prefabricated chalet has a default layout, designated to be exempted under Class 3, Article 6, Part 1 of Schedule 2 of the Planning and Development Regulations.
- Height of structure is 3.735m above finished floor height to ridge height – structure is on a raised base and therefore has been determined to be 4.33m above ground level.
- Shed is 1.5m from the boundary which allows for a masking hedgerow to be planted to screen the structure from adjoining sites.
- Reason for refusal is an excessive interpretation of the conditions on site.
- Structure is within limitations of exempted development at 3735mm in height, notwithstanding that there is a slightly raised ground level meaning that the structure is 4300mm above ground level.
- Cross section shows that structure does not have an impact as cited by the Planning Authority on the adjoining property to the rear – dwelling at No. 17 Larkhill Road is in excess of 22m from the structure and is 1m above the ground level of the rear of that site.
- Potential exempted development could have been placed directly adjacent to the boundary with pitched roof to a height of 4m – existing arrangement has much less of an impact.
- Possible amendment to the structure is shown in the appeal submission that would bring the overall height to below 400mm or the structure could be repositioned on a reduced base.

## 6.2. Planning Authority Response

- 6.2.1. The Planning Authority states in response to the first party appeal that the comprehensive Planner's Report deals fully with all the issues raised and justifies the decision.

## 7.0 Assessment

- 7.1. I consider that the key issues in determining this appeal are as follows:

- Development principle;
- Impact on residential amenity;
- Use of the structure;
- Appropriate Assessment.

## 7.2. Development Principle

- 7.2.1. The appeal site is zoned Z1, where the objective is “to protect, provide and improve residential amenities.” The provision of ancillary accommodation to the dwelling in the rear garden would therefore be acceptable in principle subject to an assessment of the proposal under relevant Development Plan criteria.

## 7.3. Impact on residential amenity

- 7.3.1. It is considered in the Council’s reason for refusal that the structure has an overbearing impact and constitutes an unduly dominant feature when viewed from the private open space of adjoining properties, in particular no. 17 Larkhill Road to the rear. Reference is also made to the excessive height of the structure and inadequate setbacks from boundaries.
- 7.3.2. Within the first party appeal, the applicant’s agent refers to Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended), which includes exempted development within the curtilage of a house. Under Class 3, the construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure is exempted development subject to certain conditions and limitations. In regards to this development, the total area of the structure shall not exceed 25 sq.m, when taken together with any other such structures in the curtilage. Furthermore, the remaining private open space shall not be reduced to less than 25 sq.m. and the height of the structure shall not exceed 4m (pitched roof).
- 7.3.3. The appellant is of the opinion that the structure is exempted development under Class 3, and also under Class 6, which relates to the provision of a hard surface as exempted development where the level of ground is not altered by more than 1m above or below the level of adjoining ground.

- 7.3.4. The structure is shown to have a height above ground level of 4.535m owing to the fact that it is placed on a 600mm base. The actual height of the structure itself as shown on drawings is 3.65m. However, it is stated under Article 5(2) of Part 2 of the Regulations – Interpretation for this Part that *“in Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose “ground level” means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.”*
- 7.3.5. The structure cannot therefore be considered exempted development when it comprises a tiled pitched roof that is in excess of 4m above the lowest part of the ground adjacent to it. Furthermore, the total area of other such structures in the rear garden must also be included when determining the 25 sq.m. limit. Whilst the structure itself, at 22.4 sq.m., would fall below this condition and limitation, there are also two existing sheds and a greenhouse in the rear garden that would bring the total above 25 sq.m. There is, however, well in excess of 25 sq.m. of residual garden area.
- 7.3.6. Notwithstanding the above, I consider that the development should be assessed having regard to exempted development exceedances when determining the extent of impact on adjoining residential amenity. In this regard, it should be noted that the roof ridge of the structure is only 0.535m above what would normally be exempted development. As pointed out by the appellant, the structure is set back from the rear boundary by more than 1m, and in terms of visual impact, an exempted structure to a height of 4m could be placed in closer proximity to the boundary, which I consider would give rise to a similar impact.
- 7.3.7. The appellant also makes the point that the setback allows for a future planting belt, and furthermore, the dwelling at no. 17 Larkhill is located in excess of 22m of the garden structure.
- 7.3.8. The applicant has submitted a possible amendment to the garden building that would bring its overall height down to 4m above ground level. In my opinion, this is unnecessary and would do little to alter the visual impact of the structure when

viewed from surrounding properties. As noted above, the development would give rise to a negligible increase in visual impact above what would normally be exempted development.

#### **7.4. Use of the structure**

- 7.4.1. It is stated within application documentation that the structure is currently being used for storage and the intended long term use is for a garden shed/ play room/ office.
- 7.4.2. I consider that a condition should be attached to any grant of permission relating to the use of the structure as an ancillary element to the main dwelling.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

### **8.0 Recommendation**

- 8.1. It is considered that the development to be retained should be granted for the reasons and considerations hereunder.

### **9.0 Reasons and Considerations**

Having regard to the zoning objective for the site, to the design, layout and scale of the proposed structure, and to the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development does not seriously injure the visual amenities of the area or residential amenities of property in the vicinity. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be 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.

**Reason:** In the interests of clarity.

2. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no further development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

**Reason:** In the interest of the amenities of the area.

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 and to ensure a proper standard of development.

4. The garden structure shall be for purposes solely incidental to the use and enjoyment of the dwelling and shall not be used for any commercial purposes or human habitation.

**Reason:** In the interests of orderly development.

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Donal Donnelly  
Planning Inspector

14<sup>th</sup> February 2018