



**An
Bord
Pleanála**

Inspector's Report 301024-17

Development	Continuance of the previously approved pigeon loft.
Location	48 Dingle Road, Cabra West, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	28118/17
Applicant	Robert Brennan
Type of Application	Permission for Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party v Grant
Appellant	Ken Doyle
Date of Site Inspection	25 th June 2018
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The property is a mid-terraced two-storey dwelling house with an original garden depth of about 30m. There is an L-shaped timber shed-like structure at the end of the garden which is fitted out for use as a pigeon loft for racing pigeons. The house to the east at No.46 has a small single storey extension to the rear and has a pigeon loft at the end of the garden. Similarly, the property to the west, no. 50, that of the appellant, has a small shed but this is not a pigeon loft. Houses to the rear, similarly have sheds backing onto the site.
- 1.2. The structure has an overall height of almost 2.662m. and is lower than most of the other garden structures. It has a stated area of 18sq.m. It is a timber structure mounted on concrete blocks and this void is screened and vented. It is slightly set back from the boundaries. The gap with no. 50 is screened from view by a piece of coated metal sheeting.
- 1.3. The western and eastern side boundaries comprise a block wall and fencing with a height of up to 1.5m – it steps up towards the rear of the garden.
- 1.4. At time of inspection there was no audible cooing or sign of malodour within close proximity to the loft.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of the existing pigeon loft as permitted by the planning authority but with a lower roof. Permission is sought to effectively remove the temporary two-year limit. No other works are proposed. The drawings however differ slightly from the existing structure with respect to openings and void space.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following a request and submission of further information, the planning authority decided to grant planning permission subject to the following conditions
 - Condition 1 adherence to plans as amended.

- Condition 2: revision to include.
 - Removal of hipped roof with maximum height of 2.7m from ground level.
 - 2m fence along north east and west boundaries of site around loft
- Condition 3 management and maintenance of pigeons in accordance with details submitted as FI
- Condition 4 for hobby and not commercial use
- Condition 5 restricts noise level... shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person or in any premises in the neighbourhood or to a person lawfully using a public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in BS4142 Method for Rating Industrial noise affecting mixed residential and industrial areas.

Reason: in order to ensure a satisfactory standard of development in the interest of residential amenity.

- Condition 6 standard drainage

3.2. Planning Authority Reports

3.2.1. Planning Report: The report outlines and notes the planning history and concerns of neighbouring observer.

3.2.2. Further information: Concerns raised by neighbour among other matters were raised in a request for further information.

- Foundations and vermin control: It is clarified that the loft is raised on concrete supports which allows ventilation and cleaning beneath. The ground surface beneath the loft structure comprises compacted stone and is permeable. The surface allows for free drainage (SuDs) and is not connected to the public sewer. Vermin control is vigilant as it would be harmful to pigeons' health.
- The loft has capacity for 100 pigeons but can drop to 45 depending on season
- The pigeons are released at varying times depending on season – March to September one hour in morning and one hour in the evening.

- Cleaning: The loft is cleaned and scraped out twice daily and waste is disposed of in a composter on site.
- Odour emission is disputed due to cleaning regime and the need to maintain healthy birds.

3.2.3. Due to concerns it is felt that the 1.8m high fence should be raised to 2m and the roof should be modified to a lower level. Otherwise, having regard to the length of the garden and the maintenance and management details, it is considered that the retention of the loft would not impinge on the visual and residential amenities of the area subject to conditions.

3.3. **Observation:**

3.3.1. An observation made by Ken Doyle, the owner of the adjoining property, refers to poor management and nuisance such as noise, odour and vermin. Concern is raised about any permission relating to the owner and not the site.

3.4. **Internal Reports**

3.4.1. Drainage: No objection subject to conditions

3.4.2. Environmental Health: No written report but verbal recommendation to refuse permission on grounds of complaints of malodour.

3.5. **External Consultees**

3.5.1. No submissions

3.6. **Appropriate Assessment**

3.6.1. Due to the nature and scale of the development and having regard to the distance from any European Site and absence of a pathway, it is considered that 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.

4.0 Planning History

4.1.1. An Bord Pleanála Reference PI2N.243071 refers to a decision to refuse permission for the retention of pigeon loft on the same site for the stated 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 proposed development to be retained. The proposed retention of the pigeon loft would therefore be contrary to the proper planning and development of the area.

This was a 3.46m high structure with the long end on a slightly raised ground level. (7.7m facing west). (see photographs in attached history file)

4.1.2. Planning authority reference 3739/14 refers to a grant of permission for two years for the new loft – with a height of 2.995m (and a hipped roof) the subject of the current permission without the hipped roof. (details in pouch at back of file)

In that case the planning report refers to the planning history of a previously established unauthorised pigeon loft which the applicant acquired on purchase of house. The proposal to upgrade it was refused on appeal but in this case the design issues were considered to be adequate address having regard to previous development plan assessment criteria.

4.1.3. EO769 and EO3191/13 refer to enforcement cases relating to shed and pigeon loft in rear garden.

5.0 Policy Context

5.1. Dublin City Development Plan

5.1.1. Zoning: The site is zoned to protect and improve residential amenity.

5.1.2. Pigeon lofts: There is no specific policy or guidance within this plan on pigeon lofts however section 15.19.0 in the previous development plan provided guidance and is a useful reference for assessment criteria:

Prime concern is to ensure residential amenity is not adversely affected. Regard should be had to

- Location, size, scale, design, construction and the number of existing lofts in the immediate vicinity
- In no circumstances will an open loft be permitted
- Where planning permission is granted it will be limited to two years in the first instance to ensure compliance with planning conditions designed to protect the amenities of adjoining neighbours
- Subsequent permission will be limited to the continued occupation of the dwelling by the applicant.

Appendices provide guidance on design such that it would not be less than 5m from a residential property, should be of sound construction and should not exceed 25 sq.m. in area.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The neighbour to the west (no.50 Dingle Road) has submitted an appeal against the decision to grant permission. The grounds of appeal relate to:

- Lack of clarity of foundation details: It is submitted that if no void then no vermin or dirt would need to be cleaned.
- The structure including the compacted stone is queried in respect of adequate cleaning. Food scraps cannot be readily cleaned. Baits indicate presence of vermin.
- Odour is an issue and this is supported with a photograph of droppings at the back of the loft.
- Concern's about ventilation into his property.

Attachments:

Recordings (CD/USB stick) supplied as evidence of noise. I have listened to these.

7.0 **Assessment**

7.1. This is a third party appeal against a decision to grant permission for continuance of a pigeon loft which was initially permitted for a temporary period of two years. The core issue is one of residential amenity.

7.2. **Background**

7.3. The subject site had an established pigeon loft which did not have the benefit of planning permission but was statute barred from enforcement. The owner who purchased the house with this status has a long tradition of successful pigeon racing and sought to upgrade the facilities but this was refused permission (upheld on appeal) primarily on grounds of design, such as height and scale and orientation (facing onto west boundary). The applicant subsequently sought permission for a revised design addressing these issues and this was permitted. In accordance with the Development Plan this was limited to two years to facilitate monitoring and its impact on residential amenity. The current case relates to the effective revoking of the two year term and seeking of permanent permission for the same development. The planning authority sought further details of maintenance and management and nature of use and tied the responses into the permission in condition 1. There is no time limit or specification of being restricted to the owner in the conditions although this is stated in the further information. The works required refer to lowering and replacing the roof structure.

7.4. **Residential Amenity**

- 7.4.1. Visual amenity: As a structure the pigeon loft is domestic in scale and materials and is much in keeping with the domestic structures around. I consider the height of 2.7m to be acceptable. As compared to the previous structure with a height of 3.5m which was refused previously by the Board, the structure is notably lower. The lowered ground level also reduces the overall height and permits better assimilation into the domestic setting. The structure is also screened by fencing and landscaping.
- 7.4.2. In terms of relationship with the property to the west, it now backs onto it whereas the previous application for retention before the Board incorporated a west facing façade fronting the west boundary and accordingly this matter has been addressed.

7.4.3. In terms of its visual impact I concur that it is compatible with surrounding properties and acceptable in terms of amenity.

7.5. Nuisance

7.5.1. There are three elements to the nuisance: noise, odour, and vermin/hygiene.

7.5.2. Noise: The appellant makes the case that the bird calling and cooing is a source of noise nuisance. The applicant in the submission explains how this is seasonal and limited to one hour in the morning and one hour in the evening.

7.5.3. During my inspection the noise from the loft was imperceptible at the house and on approach to the loft. However, on listening to the audio recordings, I can accept how the daily drill may cause upset. This could be said about many hobbies – music practice, DIY, and that while irritating at the times, it is part of others' enjoyment of their space. I note the planning authority has attached a condition of permission regarding noise in an effort regulate it. I consider this a reasonable approach and do not consider grounds for refusal are reasonable on this basis

7.5.4. Vermin/Hygiene: In respect to vermin and cleansing, the appellant makes the case that the incorporation of a void beneath the loft creates a lot of health-related problems. The dropping of food debris beneath attracts rats and this is not helped by the permeable subsurface which would inhibit full cleansing. The applicant's statement of regular scraping and cleaning regime is not credible from the appellant's position given the extent of droppings in the intervening space between the loft and party wall. While I note the loft is very clean on the outside and inside, the back of structure, due to accessibility is more difficult to clean. I agree that there should be some measure to control this.

7.5.5. Odour: In terms of odour as was the case with noise, it was imperceptible at the house, midway in the garden and adjacent to the loft. I do accept the neighbour's issue with droppings which appear to be behind a closed off gap and this needs to be addressed. The planning authority has attached a condition requiring the raising of the boundary and I concur with this.

7.5.6. I do however note the environmental health officer's verbal recommendation to refuse permission due to reports of, malodour. There is however no statement or any independent reporting of such odour.

7.5.7. I note that this is for 100 maximum pigeons which facilities two racing groups of 50 - 50 being the minimum amount of racing – accordingly for racing pigeons it is a typical size required for a racing team/resting team. The loft is 18 sq.m. whereas the maximum area permitted is 25 sq.m. indicating that this is a reasonable scale of use. I also note that the garden is of a length that allows for a generous exceedance of the 5m minimum separation distance from a dwelling.

7.5.8. On balance I consider the proposed continuance to be acceptable in principle. However, I accept that there is on-going concern by the neighbour who states that he cannot enjoy his own garden – not an unreasonable expectation in an area zoned for residential amenity. In view of ongoing concerns, the number of pigeons and the recommendation of the environmental health officer to refuse permission I consider a temporary permission to be appropriate. This will enable a review of the use in light of circumstances then prevailing. This ensures a higher standard of maintenance.

8.0 Recommendation

8.1. In accordance with the foregoing assessment I recommend that planning permission be granted for retention based on the following reasons and considerations and subject.

9.0 Reasons and Considerations

Having regard to the residential zoning of the site, the size of the site, the modest size of the loft structure and the proposed management of the loft operation, it is considered that, subject to compliance with the conditions set out below, the proposed development to be retained would not seriously injure the amenities of the area or of property 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.

Conditions

1. The development proposed to be retained shall be used in association with the applicants' hobby and not for commercial purposes. The number of birds

accommodated in the loft structure shall not exceed 100.

Reason: In the interest of clarifying the nature of the use and in the interest of residential amenity.

2. Within two months of the date of this grant of permission the applicant shall submit the following

- a) Details of a raised boundary fence to a height of 2m alongside the shed
- b) Details of a cleaning regime for sources of odour or infestation arising along the party boundaries.

Details shall be submitted in writing for the written agreement of the planning authority.

Reason: In the interest of public health and amenity.

3. This permission is for a period of three years from the date of this order. The structure and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for its retention for a further period.

Reason: To enable the impact of the development to be re-assessed, having regard to changes during the period of three years and to circumstances then prevailing.

Suzanne Kehely
Senior Planning Inspector

25th July 2018