



An  
Bord  
Pleanála

## Inspector's Report ABP301746-18

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<b>Development</b>	Retention of existing building and permission for uses as a domestic garage/store to incorporate the following alterations (1) Removal of existing 3 rooflights, (2) Widen existing double-doors on front elevation to accommodate vehicular access.
<b>Location</b>	17 Pearse Park, Drogheda, County Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	17/652.
<b>Applicant</b>	Patricia Balfe.
<b>Type of Application</b>	Retention of Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party -v- Refusal.
<b>Appellant</b>	Patricia Balfe.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	20 <sup>th</sup> September, 2018.
<b>Inspector</b>	Paul Caprani.

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## **1.0 Introduction**

- 1.1. ABP301746-18 relates to first party appeal against the decision of Louth County Council to issue notification to refuse planning permission for the retention of an existing building and permission to use the building for use as a domestic garage/store together with the removal of three existing rooflights and the incorporation of double-doors to accommodate a vehicular access and a dwelling at Pearse Park, Drogheda, County Louth. Louth County Council issued notification to refuse planning permission for two reasons stating that the building is excessively large relative to adjoining domestic structures and would, if granted, set an undesirable precedent. The second reason stated that access arrangements to the structure are deemed to be insufficient to cater for vehicular traffic.

## **2.0 Site Location and Description**

- 2.1. The site to which the current planning appeal relates is at 17 Pearse Park in the northern suburban environs of Drogheda, approximately 1 kilometre north-east of Drogheda Town Centre. No. 17 forms the eastern end of a terraced block of six residential units (No. 17 to 22 Pearse Park) and is located directly opposite the junction between Pearse Park and Crushrod Lane to the north. The building faces northwards onto the junction. The houses on Pearse Park and the surrounding area comprise of a two-storey brick structures probably dating from the mid-20<sup>th</sup> century with relatively modest front gardens and long backgardens. In the case of No. 17 the back garden length is c.30 metres in length.
- 2.2. The rear garden of No. 17 accommodates a relatively large structure adjacent to the rear boundary and approximately 10 metres from the rear of the existing dwelling. This structure is approximately 15 metres in length and it occupies almost the entire width of the site. The structure backs onto the rear garden of No. 29 Glenmore Drive.
- 2.3. The building itself rises to a height of 5 metres and incorporates a pitched slate roof with a plaster render finished. A small attic area is also incorporated into the structure (c.30 sq.m) the headroom in the attic ranges from 0.5m to 2m in height. Information contained on file indicate that the building was used as self-contained

accommodation until early 2015. It incorporates a main entrance on the northern elevation and two windows one on the east and one on the west elevation and three rooflights on the roof pitch. Drawings submitted indicate that the structure was internally partitioned into a number of separate rooms. I could not gain access to the building during my site inspection. Information contained in the grounds of appeal indicate that since 2016 the appeal structure has been used for storage of gardening equipment and a domestic garage. The gross floor area of the structure for which retention of planning permission is sought is 58.77 sq.m.

### **3.0 Proposed Development**

Planning permission is sought for the following:

- The retention of the existing building and permission for use as a domestic garage/store and to incorporate the following alterations.
  - Removal of existing three rooflights on the roofpitch of the structure.
  - The widening of existing double-doors on the front elevation of the building to accommodate a new vehicular access together with associated site works.

### **4.0 Planning Authority Decision**

4.1. Louth County Council refused planning permission for two reasons which are set out in full below.

1. The site is zoned 'Residential Existing' within the current Drogheda Development Plan 2011 – 2017 which has as a development objective, to protect and enhance the amenity of developed residential communities. The structure for retention is considered excessively high at 5 metres and has an elongated side profile of 15 metres which, relative to adjoining domestic structures on attached sites in this residential area, would, if granted establish a precedent for other similar inappropriately scaled domestic structures within the area and be contrary to the proper planning and sustainable development of the area.

2. The access arrangements to this structure to be retained for use as a garage are considered severely deficient with an access of c.2.25 metres. This is a restricted vehicular access width for a domestic car and accordingly to grant same would be contrary to the proper planning and sustainable development of the area.

#### **4.2. Planning Authority Assessment**

- 4.2.1. The application was lodged with Louth County Council on 4<sup>th</sup> September, 2017.
- 4.2.2. A covering letter submitted with the application indicates that Louth County Council lodged an enforcement notice on 12<sup>th</sup> June, 2017 in respect of the building. The letter indicates that due to a medical condition of the owner of the dwelling, it is proposed to retain the small wc/shower area within the garage for the applicant's use.
- 4.2.3. The initial planner's report requested further information in relation to the following:
  - Request is made to arrange a suitable time to inspect the subject building and determine whether or not the retained structure given its large design can be accommodated on the subject site and would not create an undesirable precedent for similar style structures in the rear backgardens of houses in the immediate vicinity of the site.
  - The applicant is requested to state when the building was erected and how many vehicles are required to be housed in the subject structure.
  - Details as to how the surface water from the structure is to be disposed.
  - Submit revised newspaper and site notices if the above information will result in a significant alteration from the original proposal.

#### **4.3. Further Information Submission**

- 4.3.1. Further information was received from the applicant on the 11<sup>th</sup> April, 2018. It states the following:
  - Details of a suitable time for a site inspection is set out in the response.
  - It is stated that the building was erected in 2010 by the applicant's late husband. It is proposed to house the applicant's daughter's small car in the premises and the applicant's car will be parked on the driveway. Details of a proposed soakaway

design is submitted. It is stated that surface soakaway design calculations comply with BRE Digest 365.

- Finally, it is stated that as further information does not result in a significant alteration in relation to site size and layout etc. new newspaper notices should not be required.

#### **4.4. Further Assessment by Planning Authority**

- 4.4.1. A further planning report was prepared on foot of a site inspection (photos of the site inspection are contained on file which include photographs of the internal structure). Following the inspection, the report expresses concerns that the intended use would be an extension of facilities provided within the adjoining dwelling. It is not considered that the scale of the structure for use as a domestic shed/garage is appropriate. Concern is also expressed with regard to the form and height of the structure which is not considered domestic in nature or ancillary to the main house. The height of the structure dwarfs adjoining domestic structures and sets an undesirable precedent for other domestic structures.
- 4.4.2. The applicant has stated that this development would appear to have constructed more than 7 years ago and if so, may be immune from enforcement action. It is also noted that the access route into the site is severely deficient at a mere 2.25 metres whereas normally such accesses should be 3 metres wide.
- 4.4.3. In its decision dated 4<sup>th</sup> May, 2018 Louth County Council issued notification to refuse permission for the two reasons set out above.

#### **5.0 Planning History**

It appears from the grounds of appeal that an application was lodged under Reg. Ref. 16/603 for the retention of the structure as a games / hobby room. The planning authority request further information. This information was not submitted and the application was deemed to be withdrawn.

An enforcement notice was also served on the applicant in respect of the structure in question.

## 6.0 Grounds of Appeal

- 6.1. The decision of Louth County Council was the subject of a first party appeal on behalf of the applicant by Environmental Heritage Planning Services. The grounds of appeal are outlined below.

The first section of the grounds of appeal outline the background to the proposed development and the planning history. Reference is made to the fact that the applicant sought planning permission under Reg. Ref. 16/603 for the retention of a structure as a hobby/games room with an attic storage space and rooflights. Further information was sought on the 13<sup>th</sup> October, 2016 but the application was deemed withdrawn on 8<sup>th</sup> August, 2017. The grounds of appeal go on to set out details of the current application.

It is argued that despite the concerns expressed by Louth County Council, it is argued that the appeal structure sits well within the appeal site and is set well back from the existing building line. The structure does not intrude upon the existing skyline or rooflines and thus will have a minimal visual impact. It is also argued that the structure constitutes a subservient domestic outbuilding which is compatible with its urban setting. The building does not have any undue negative impact upon the residential amenities of neighbouring dwellings to result in unacceptable overlooking, overbearing or overshadowing. No neighbours have objected to the proposal.

It is argued that the building for which retention is sought in conjunction with the existing residential dwelling on site results in a plot ratio of 0.5 and a site coverage of 37%. It is stated that even if the attic storage space was factored in the retention of the proposal, would still be within acceptable stipulated standards. It is noted that the Council did not specifically cite the issue of overdevelopment or the proposal having an unacceptable impact upon existing residential amenities as grounds for refusing the development. There is also a requisite amenity open space to the rear of the building in compliance with development plan standards.

While concerns are expressed in the planner's officer's report that the building in question could be used as a separate residential unit, this statement fails to appreciate the whole purpose of the current application is to put the structure beyond such a possible use.

- 6.2. The Council have not referenced by what standard or planning policy that they conclude that the structure is of an excessive height and scale.
- 6.3. Furthermore, it is argued that the proposal will not give rise to an unacceptable precedent as each application would be determined on its merits. While the building has been in existence since 2010, it has not resulted in the creation of a similar sized structures in rear gardens of houses in the vicinity.
- 6.4. With regard to the second reason for refusal, it is stated that the minimum width requirement of the County Council in respect of vehicular widths is unsourced and it is stated that Nos. 7, 8 and 16 Pearse Park all of which are in immediate vicinity incorporate accesses to side gardens using a similar 2.25 metre wide gap. Thus, precedents exist for vehicular entrance widths of similar size in the immediate vicinity.

## **7.0 Appeal Responses**

A response was received from Louth County Council on 21<sup>st</sup> June, 2018. Louth County Council reiterate that the footprint of the structure to be retained is excessive and has a larger footprint than the existing two-storey dwelling. It is stated that a patio area has been created between the dwellinghouse and the retained structure which would have to be removed and the access to the rear yard is narrow at 2.25 metres. It is stated that normal access routes should be at least 3 metres wide. It is reiterated that the retained structure has an excessive elongated side profile of 15 metres which, relative to adjoining domestic structures, would create an undesirable precedent for similar scaled domestic structures within residential areas. The total floor area including the attic floorspace is 88 square metres and this is excessive for a domestic ancillary structure in the context of the principle dwelling on site.

## **8.0 Development Plan Provision**

- 8.1. The site is governed by the policies and provisions contained in the Drogheda Borough Council Development Plan 2011 – 2017. The subject site is zoned 'RE,' - the zoning objective of which is to protect and/or improve the amenity of developed residential communities in the Plan.



8.2. Appendix 2 of the development plan sets out development management guidance in relation to urban development. In terms of building lines, the proposal seeks to generally maintain existing and established building lines where they exist. In terms of building heights, it is stated that the general range of building heights a number of storeys which are evident on the street should be retained. In general, the difference in a building's height should not exceed 1½ storeys. The roof line should reflect the rhythm, harmony and scale of the entire street frontage with the roofline picking up the subdivisions of the façade.

8.3. With regard to extensions and additions these may be considered acceptable where:

- The scale of the proposed addition is appropriate to the scale of the existing property or is unobtrusive.
- In terms of plot ratio, it is stated that in suburban areas the plot ratio of 0.5 to 1.0 is acceptable.
- In terms of site coverage, it is stated that site coverage should not normally exceed 80%. Individual proposals exceeding this upper limit will be considered on their merits.

## 9.0 Planning Assessment

I have read the entire contents of the file, have had particular regard to the Planning Authority's reasons for refusal and the arguments set out in the grounds of the first party appeal. I have also visited the subject site and its surroundings. I consider the pertinent issues in dealing with the current application and appeal before the Board are as follows:

- Size and Scale of Shed for which Retention of Planning Permission is Sought
- Impact on Residential Amenity
- Precedent
- Proposed Widening of Access

## 9.1. **Size and Scale of Shed**

- 9.1.1. As already mentioned I failed to obtain access to the rear garden in order to examine the structure in detail. However, it was apparent from my site inspection from the side of the dwellinghouse, the drawings on file and the photographs attached to the Local Authority's planner's report that the structure in question constitutes a large structure in the context of the existing suburban development surrounding the site. The ground floor has a floor area of 58 square metres and this excludes the attic area above which amounts to an additional 30 square metres. The Board will note that the attic area however has a maximum floor to ceiling height of less than 2 metres and for this reason has little practical use other than storage. There can be no doubt that the structure is beyond what is necessary to cater for the storage needs associated with a normal suburban domestic dwelling. The footprint of the building also exceeds the footprint of the existing dwelling to the front of the site.
- 9.1.2. Notwithstanding the above points, the fact that the building is of such a large scale does not in itself in my opinion necessitate a refusal of planning permission. A refusal of planning permission in this instance would render the structure unauthorised and would require its demolition. I consider that demolition should only be necessary where the Board is satisfied that the proposed development would adversely impact on the amenities of the area or would for other reasons be contrary to the proper planning and sustainable development of the area. If the Board come to the conclusion that the structure does not adversely impact on the amenities of the area be them residential, visual or otherwise, I consider the Board could consider granting retention of planning permission for the structure subject to appropriate conditions in terms of restrictions on future use etc. These issues will be dealt in more detail below.

## 9.2. **Impact on Residential Amenity**

- 9.2.1. The proposed development, notwithstanding the fact that it is large for a domestic garage/storage structure, does not in my view give rise to any significant impacts on adjoining dwellings in terms of being overbearing. The closest dwellinghouse to the east is No. 16 which incorporates a small single-storey extension to the rear which is not dis-similar in terms of overall height. While ground levels at No. 16 appear slightly lower than the ground levels of the subject site there is nevertheless a

separate distance of approximately 12 metres between the structure which is the subject of the retention and the single-storey rear return of No. 16. This is a generous separation distance and would not have a significant impact in terms of being overbearing. The structure in question is also estimated to be 18 to 19 metres from the two-storey element of No. 16. The separation distance between the structure and the rear building line of No. 18 to the immediate west are likewise generous and estimated to be 16 metres. Having regard to the single-storey nature of the structure and the generous separation distances between the structure and the nearest habitable dwellings I do not think that the structure in question results in any overbearing relationship with adjoining residential dwellings. The Board will also note that the separation distance between the structure in question and No. 39 Glenmore Drive is also 20 metres.

- 9.2.2. For the same reasons I do not consider that the structure in question gives rise to any material impacts in terms of overshadowing. While the structure rises to a maximum ridge height of 5.3 metres this cannot be considered excessive in the context of the surrounding two-storey residential dwellings. The separation distances between the structure and adjoining dwellings will not result in any material levels of overshadowing even in the winter months. Any increase in overshadowing will be restricted to the rear yards and gardens associated with the contiguous dwellinghouses and will not impact on sunlight or daylight penetration in the windows of the facades of the dwellings.
- 9.2.3. In terms of overlooking, I note that there are two small windows located on the side elevations of the structure. These windows do not directly overlook windows associated with adjoining dwellinghouses. More importantly, the use of the proposed structure will be for storage ancillary to the dwellinghouse and will no longer be used as a self-contained habitable accommodation unit. Overlooking issues therefore will not arise.
- 9.2.4. In terms of visual impact, the structure is well concealed being located to the rear of the existing dwellinghouse at the back of the garden.
- 9.2.5. The photographs attached indicate that the structure is not readily visible from public vantage points along Pearse Park. The visibility of the building is restricted to a small area at the apex of the junction between Crushrod Lane and Pearse Park an area of

approximately 10 to 15 metres in length along the pathway. Furthermore, the building incorporating a standard pitched roof and A-shaped gable front together with a plaster render finish would not look incongruous or inappropriate in terms of external finishes and scale. The structure is also set a generous distance back from the public road. Despite its overall size, I consider the structure would still appear as being an ancillary structure to the rear of a two-storey dwellinghouse fronting onto the road. I could not conclude therefore that the proposed development would have an unacceptable impact from a visual amenity point of view.

9.2.6. In terms of its overall size and scale, I have acknowledged above that the overall size of the building is probably in excess of what would normally be required for suburban type dwellinghouse. But this in itself does not in my view constitute reasonable grounds to refuse or indeed demolish the structure in question. The grounds of appeal have quite clearly indicated that taken in conjunction with the existing dwelling on site the proposed structure still complies with site development standards set out in the development plan with regard to plot ratio and site coverage.

9.2.7. The residual open space within the backgarden still amounts to over 60 square metres and this is considered to be more than adequate in terms of private open space provision. Provided the structure is not used as a separate residential unit or indeed any form of residential accommodation the entirety of the rear garden would be used solely for the enjoyment of the occupants at No. 17 Pearse Park.

9.2.8. Therefore, notwithstanding the overall size of the structure in question, it does not result in a development that contravenes any of the development standards set out in the development plan.

### 9.3. **Precedent**

With regard to the issue of precedent I have argued above that the proposed development does not infringe upon any of the standards set out in the plan nor does it give rise to any material adverse impacts on residential amenity. In this regard it can be reasonably argued that the proposal does not constitute an undesirable precedent. Any applications for structures of similar size and scale in the wider area should be assessed on their merits and in accordance with the proper planning and sustainable development of the area.

#### 9.4. **Proposed Widening of Access**

- 9.4.1. I would have some concerns in respect of granting planning permission for the proposed vehicular access. I note that there are no drawings on file indicating the exact width of the access proposed in order to enable a vehicle to park in a garage to the rear of the site. Information contained on file suggests that the access width at its minimum point amounts to 2.25 metres which is undoubtedly narrow. There appear to be no standards set out in the development plan with regard to the minimum access requirements for off-street parking of vehicles. Louth County Council in the response to the grounds of appeal make reference to the Design Manual for Urban Roads and Streets which specify a 2.4 metre width for car access in urban areas. It appears that the above document does not specify minimum widths for gateways to facilitate off-street parking. However, it is clear from Section 4.4.9 of the document which sets out general guidelines in relation to on-street parking and loading, that a minimum standard width of parking space should be 2.4 metres. This would appear to be a reasonable guideline on which to assess the current proposal.
- 9.4.2. An equally important consideration in my opinion relates to the precedent of permitting cars to park in rear gardens of suburban type dwellings. It is clear from my site inspection that in order to facilitate car parking within the garage to the rear significant alterations would be required to the layout and landscaping of the rear garden which could in my view adversely impact on amenity. Furthermore, allowing vehicles to drive and manoeuvre within rear gardens could also have adverse impact in terms of noise. It could impact on the ambience and quiet environment associated with private open spaces to the rear of dwellings. For the above reasons, if the Board are minded to overturn the decision of the planning authority and grant permission for the proposed development I recommend that the proposed incorporation of double-doors on the front elevation of the structure in order to accommodate a garage area within the structure should be omitted.

## 10.0 **Conclusions and Recommendation**

Arising from my assessment above I consider that the Board should overturn the decision of the Planning Authority and grant retention of planning permission for the structure on the grounds that the structure does not impact on the visual or residential amenities of the area provided that the structure in question is used for storage only and is not used for residential accommodation.

## 11.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the 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.

## 12.0 **EIA Screening Determination**

The application for retention of planning permission for the use of the structure as a domestic garage/store does not fall within a class for the purposes of EIA and therefore an EIA Screening Determination is not required.

## 13.0 **Decision**

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

## 14.0 Reasons and Considerations

It is considered that the retention of the existing building for use as a domestic garage/store including the removal of three existing rooflights would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 15.0 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. 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 out and completed in accordance with the agreed particulars.

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

2. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provision replacing or amending them, no 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:** To ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the dwelling.

3. The structure to be retained on site shall be used solely for the purposes of ancillary storage associated with the existing dwelling. The structure shall not

accommodate any commercial use including an industrial use, commercial trading or as a professional office of any kind. Nor shall the structure be used for any form of residential accommodation. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provision amending or placing them, the use of the shed shall be restricted to a storage and domestic garage use only unless otherwise authorised by a prior grant of planning permission.

**Reason:** To protect the amenities of property in the vicinity.

4. The proposed double-doors on the front elevation of the structure shall be omitted.

**Reason:** To ensure that the structure is not used for the off-street parking of vehicles.

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Paul Caprani,  
Senior Planning Inspector.

25th September, 2018.