



An
Bord
Pleanála

Inspector's Report ABP-303763-19

Development	Construction of a steel frame garden structure with retractable PVC fabric awning/roof used to shelter a trampoline located in the rear garden of dwelling.
Location	43 Woodberry Greenfields Ballincollig Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/6865
Applicant(s)	Daniel Buckley and Patricia Ryan
Type of Application	Permission for Retention
Planning Authority Decision	Grant Permission.
Type of Appeal	First Party
Appellant(s)	Daniel Buckley and Patricia Ryan
Observer(s)	None
Date of Site Inspection	13 th June 2019
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1.1. The appeal site (0.053ha) is situated within an established residential area known as 'Greenfields' in a suburb of Ballincollig approx. 10 Km west of Cork City Centre and 450m north of the N22 (Cork – Killarney) National Road.
- 1.1.2. The surrounding area is characterised by a variety of conventionally designed dormer / two storey houses with front and rear gardens and off – street parking. The subject site is level and rectangular in shape.
- 1.1.3. The steel frame garden structure with retractable PVC fabric awning/roof used to shelter a trampoline is located in the rear garden of the dwelling. The rear garden benefits from mature landscaping along the western boundary with a substantial number of mature trees and shrubbery along the northern and southern boundaries also.
- 1.1.4. There are two small garden sheds located within the rear garden.

2.0 Proposed Development

- 2.1. The proposal comprises permission to retain:
 - Construction of a steel frame garden structure with retractable PVC fabric awning/roof used to shelter a trampoline located in the rear garden of dwelling.

The steel framed garden structure measures approx. 4.58 m x 4.64m x 3.85m in height and has a retractable PVC fabric awning / roof. The steel frame has a white powdered coated finish and is bolted to four concrete pads in the ground.

The structure is specifically designed to shelter the trampoline with the overall height of the structure being determined by the safe clearance required for their son jumping on the trampoline.

The applicant's son has a severe intellectual disability (mental capacity of 18 months – 2 years nonverbal) Dr. Pat Lee also states that James has severe Autism, epilepsy as well as anxiety / behavioural issues. James is cared for in his own home by his parents and the Brothers of Charity Ireland – Southern Region also provide a day service in same. James uses the trampoline daily as part of his therapy programme.

The structure was constructed to shelter the trampoline so that James can use the trampoline every day irrespective of weather conditions. Essentially the structure / trampoline shelter is a necessity for his daily routine and enables James to get the therapy he requires.

3.0 Planning Authority Decision

3.1. Decision

Subsequent to a request for further information with respect to (1) alterations to the appearance of the structure to minimise its visual impact (2) confirmation of the height of the structure, planning permission was granted subject to 4 number conditions. Conditions of note include:

C1. Standard

C2. This is a temporary permission only. The duration of the grant of permission shall be three years from the date of grant of this permission. The structure shall be removed in its entirety unless prior to the end of the period, planning permission shall have been granted for its retention for a further period.

Reason: In the interest of orderly development and to safeguard the amenities of the area.

C3. The metal structure shall be re-painted dark green and the awning replaced with a dark green awning to match. These works shall be undertaken and completed within 12 weeks of the date of grant of permission unless otherwise agreed in writing with the planning authority.

C4. Landscaping

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planners Report sets out that the proposed dwelling is acceptable in principle on the site, which is within an existing built up area, subject to condition.

3.2.2. Other Technical Reports:

Irish Water: No objection

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

4.1.1. On the Appeal Site

None

EF18084 relates unauthorised development / construction of a large roofed structure in rear garden.

5.0 Policy Context

5.1.1. Development Plan

The site is located within an Existing Built up Area as identified in the Ballincolig Carrigaline Municipal District Local Area Plan 2017.

5.2. Natural Heritage Designations

The site is located approx. 11.7 Km west from the Special Protection Area (SPA) Cork Harbour (Site Code: 004030) and approx. 6Km west of Special Area of Conservation: Great Island Channel SAC (Site Code: 001058) and 23.8 Km east from The Gearagh SPA (Site Code: 004109)

5.3. Environmental Impact Assessment (EIA)

5.3.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no

real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The issues raised are summarised as follows:

- Appeal against Condition 2 of the notification of decision to grant planning permission.
- There is no floor area to the subject garden structure, no walls and a retractable roof, the applicants genuinely thought that the structure was exempt from planning permission.
- Condition 2 is onerous and unnecessary.
- The applicant's son has severe intellectual disability (mental capacity of 18 months – 2 years nonverbal) Dr. Pat Lee also states that James has severe Autism, epilepsy as well as anxiety / behavioural issues.
- James is cared for in his own home by his parents and the Brothers of Charity Ireland – Southern Region also provide a day service in same.
- James uses the trampoline daily as part of his therapy programme. The structure was constructed to shelter the trampoline so that James can use the trampoline every day irrespective of weather conditions.
- Essentially the structure / trampoline shelter is a necessity for his daily routine and enables James to get the therapy he requires.
- It is designed to high specification and screened from all angles. It will not overshadow surrounding property / gardens.
- The applicant is willing to paint the structure green and to plant mature beech trees.
- Appeal accompanied with letters of support from:

- Brothers of Charity Southern Services
- Dr. Pat Lee
- The applicants

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None.

7.0 **Assessment**

7.1.1. I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. I highlight that the subject appeal is a first party appeal, solely, against the attachment of a condition. Given the foregoing and having regard to section 139 (1) of the Planning and Development Act, 2000, as amended, I consider that a 'de novo' consideration of the development is not warranted in this instance.

7.1.2. In my judgement the principle factors for consideration in this appeal relate to evaluation of Condition no. 2 which states:

7.1.3. 'This is a temporary permission only. The duration of the grant of permission shall be three years from the date of grant of this permission. The structure shall be removed in its entirety unless prior to the end of the period, planning permission shall have been granted for its retention for a further period.

Reason: In the interest of orderly development and to safeguard the amenities of the area'.

7.1.4. The first party have set out a strong and supported justification for the need for the retractable PVC fabric awning / roof structure used to shelter a trampoline located in the rear garden of their dwelling. The applicant's son has a severe intellectual disability he uses the trampoline daily as part of his therapy programme. The structure was constructed to shelter the trampoline so that James can use the

trampoline every day irrespective of weather conditions. Essentially the structure / trampoline shelter is a necessity for his daily routine and enables James to get the therapy he requires.

- 7.1.5. From my site visit, see photographs attached, I agree that the structure is designed to a high standard, lightweight, simplistic and minimalistic in its overall visual appearance. I wholly disagree with the planning report that the structure is industrial in nature or has a negative visual impact to any extent. I agree that the fact the awning / roof is retractable means that it has a very minimal impact upon visual amenity. The extensive, mature landscaping and boundary treatment in place adequately screens the structure. I note the applicant's willingness to paint the metal posts dark green and to provide additional landscaping by way of mature beech trees.
- 7.1.6. The structure does not overshadow or cause overbearing to adjoining property. No objections / observations / submissions have been submitted from neighbours.
- 7.1.7. I am of the opinion that condition 2 is unreasonable and unnecessary. The structure has been clearly justified in this instance and is low impact. I recommend that Condition 2 be omitted in full.

8.0 RECOMMENDATION

- 8.1. Having read the submissions on file, had due regard to the provisions of the Development Plan, carried out a site visit and all other matters arising. I recommend that the planning authority be directed under section 139 (1) of the Planning and Development Act, 2000, as amended, to Omit Condition 2 in its entirety.

9.0 REASONS AND CONSIDERATIONS

Having regard to-

- (a) The justification and clear need for the structure.
- (b) The scale, height and design of the structure
- (c) Measures proposed to paint and screen the structure further.

It is considered that the structure would not have a negative impact upon residential amenity of the adjoining area.

The Board considered that Condition 2 should be omitted.

Fiona Fair

Planning Inspector

01.07.2019