



An
Bord
Pleanála

Inspector's Report

ABP-304693-19

Development	RETENTION of single storey P.V.C. clad timber pigeon loft.
Location	1a & 1, Deanstown Road, Finglas, Dublin 11.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2597/19
Applicant(s)	Cornel Paduret
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Cornel Paduret
Observer(s)	Noeleen Cummins and others
Date of Site Inspection	4 th October 2019
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 553 sq m, is located at Nos. 1 and 1A Deanstown Road, Finglas, Dublin 11. The appeal site is located on the eastern side of Deanstown Road, which runs in a north-south direction and is located close to the junction with Ratoath Avenue, which runs in an east-west direction. The site accommodates 2 No. terraced two storey dwellings and their associated front, side and rear gardens.
- 1.2. It appears from the drawings submitted that the rear gardens of Nos. 1 and 1A have been amalgamated, with two single storey structures located along the side (northern) boundaries, which abut the rear gardens of Nos. 37 - 43 Ratoath Avenue. The structures are PVC clad, with doors and windows, and the larger one appears to be internally subdivided.
- 1.3. A similar PVC clad structure is located to the rear of No. 43A Ratoath Avenue and is partially visible over the boundary wall, to the side of No. 1A Deanstown Road.
- 1.4. It was not possible to gain access to the appeal site on the date of my site inspection, however I was able to view the structures from the observer's dwelling and rear garden, and I noted audible cooing from the birds housed within the appeal site.

2.0 Proposed Development

- 2.1. The development, as described in the public notices consists of:
 - Retention of a single storey PVC clad timber racing & stock pigeon loft (referred to as Sheds B & C) and a timber garden shed (referred to as Shed A), situated on the rear garden and shared rear garden at Nos. 1 and 1A Deanstown Road.
- 2.1.1. The total area of the 3 No. sheds is stated to be 53.5 sq m, and the use and size of each of the sheds is described in the application form as follows:
 - Shed A: Garden shed (16.5 sq m).
 - Shed B: Racing pigeon loft (15.8 sq m).
 - Shed C: Stock pigeon loft (21.2 sq m).

- 2.1.2. It appears from the application that the applicant is a tenant of the property, and the application was accompanied by a letter of consent from the owner of Nos. 1 and 1A Deanstown Road.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to refuse retention permission for the following reason:

- Having regard to the nature of the proposed development to be retained in an area zoned Z1 To protect, provide and improve residential amenities, the planning history of the site, the excessive scale of the proposed development, the limited size of the site and the location of the development along common residential boundaries, the retention of the proposed development, by reason of noise and general nuisance, would be seriously injurious to the residential amenity of property in the vicinity and depreciate the value of property in the vicinity. The retention of the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Officer's Reports

- 3.2.1. The Planning Officer's report can be summarised as follows:

- Shed A is in use for storage, including pigeon paraphernalia, and is modest in scale and height and is not considered to significantly impact the visual and residential amenity of neighbouring properties. There is no objection to the retention of the structure, subject to conditions.
- Similarly, based on the height of sheds B and C, it is not considered likely that they will have significant impacts on the visual and residential amenity of neighbouring properties. Any adverse impacts will arise from the pigeons themselves, specifically in relation to noise, odour and general nuisance.
- The constructed sheds B and C are not in compliance with the conditions of the previous grant in that shed B is now in use as a pigeon loft. The grant of

permission, since elapsed, permitted a pigeon loft with a total area of 21.2 sq m. The pigeon loft, incorporating shed B now has a total area of 37 sq m.

- The current Development Plan does not have any specific policies or guidelines relating to pigeon lofts. However the site is governed by the zoning objective Z1, to protect, provide and improve residential amenities.
- The Planning Authority's prime concern will be to ensure that the residential amenity of the area is not adversely affected.
- Having regard to the location of the pigeon lofts positioned along the shared common boundaries with adjoining residential two storey properties, the overall quantum of space given over to pigeon sheds (53.5 sq m), the limited size of the site (553 sq m), and the residential use of same, it is considered that the overall scale of the development to be retained is excessive and unacceptable in a residential area and would serve to be seriously injurious to the residential amenities of adjoining properties.
- No Appropriate Assessment issues arise.

3.3. Other Technical Reports

3.3.1. **Drainage Division:** No objection, subject to conditions.

3.4. Prescribed Bodies

3.4.1. None.

3.5. Third Party Observations

3.5.1. One third party observation was received from Noeleen Cummins and others. The issues raised were generally as per their observation on the appeal, and I note that a number of photographs of the development, taken from adjoining gardens were included.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. **Reg. Ref. 4033/16:** Retention permission granted for a two year period for a single storey timber racing pigeon loft and timber garden sheds situated to the rear of Nos. 1 and 1A Deanstown Road. Conditions 3 and 4 related to the use of the timber sheds, including that Sheds A and B should not be used for the keeping of pigeons. This permission has now expired.
- 4.1.2. **Reg. Ref. 3703/04:** Permission granted for a two storey extension to the side of 1 Deanstown Road and the construction of 2 No. two storey end of terrace houses to the sides of 43 Ratoath Avenue and 1 Deanstown Road.
- 4.1.3. **PL29C.204227 (Reg. Ref. 2757/03):** Permission refused for 2 No. two storey end of terrace dwellings to side of 43 Ratoath Avenue and 1 No. two storey dwelling to side.

4.2. Surrounding Area

- 4.2.1. I am not aware of any recent relevant planning history in the surrounding area.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The appeal site and surrounding area is zoned 'Z1', to protect, provide and improve residential amenities. 'Pigeon lofts' are an 'open for consideration' use under the Z1 zoning objective and are defined in Appendix 21 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".
- 5.1.2. Section 14.4 of the Development Plan states that "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".

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located within or in the immediate vicinity of any sites with a natural heritage designation.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal was submitted on behalf of Cornel Paduret by Architectural Construction Technology and the issues raised in the appeal can be summarised as follows:

- This is the second time this application has come before the Local Authority. The previous application was granted, although there have been a number of additions and changes made.
- The appellant discovered that with a few changes and taking over garden shed (Shed B) in addition to the approved loft, his success rate rose dramatically.
- The appellant has been very successful with the loft set up as it is now.
- Application follows the lapsing of the existing permission and enforcement letters.
- The appellant has run and maintained his loft in a manner that has not caused any nuisance to any of his neighbours.
- He has swapped sheds with his neighbour so that Shed A is his neighbours and Sheds B & C are his loft. Some of his pigeon paraphernalia is occasionally stored in Shed A with the neighbour's permission.
- Pigeon keeping has come a long way from the days of DIY style lofts made of scrap material. It is a family oriented social affair.
- The local authority made land and grants available to pigeon clubs in the past, and it was supported as a valuable community based pastime.

- It is only in recent years that the local authority has considered the keeping of pigeons as a nuisance.
- Planners often cite noise and smells as reasons for refusal. Noise is not an issue and neither is smell, as pigeons live in very sanitary conditions. Nuisance is a factor for a very short window at the start of the season when new birds are trained.
- Pigeons are properly cared for and treated like champion racehorses.
- The loft is well constructed and is modern and manageable.
- Pigeon lofts are open for consideration under the Z1 zoning objective. While there is no specific guidance in the current Development Plan, guidance is set out in the old 2005-2011 Development Plan. It is reasonable to continue to be guided by this as the issues remain the same, however room should be made for improvements that pigeon keepers are making in loft size and design.
- The sport has developed and moved on considerably in the 20 years since the guidance was prepared. Cramped lofts have become a thing of the past.
- The Board's attention is drawn to a number of recent local authority and Board decisions which are similar.
- Top class facilities are needed to compete at the top levels.
- The applicant is a tenant in the property and the owner is also a highly successful pigeon breeder and racer. He and the applicant have swapped advice and ideas.
- The applicant is willing to accept another temporary permission to demonstrate that he can manage his loft without interfering with the right of his neighbours to the enjoyment of their own gardens, just as he is entitled to enjoy his.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. An observation was submitted by Noeleen Cummins and others. The issues raised can be summarised as follows:

- Observers are grateful for the Planning Authority's decision to refuse permission.
- The size and scale of the structures, which stretch across three adjoining back gardens, reduces the residents' visual amenity.
- Elderly residents find it stressful to have high structures blocking off light and feel penned in.
- There is another pigeon loft to the rear of No. 43 Ratoath Avenue which is also owned by the owner of 1 and 1A Deanstown Road.
- The continuous cooing of the birds can be heard inside the observers houses. The joy of spending time in their gardens has been taken away.
- Circling pigeons has led to a huge increase in clothes, garden furniture and children's toys getting soiled.
- Lights are left on in sheds B and C through the night, every night, and project from under the roof into adjoining gardens.
- The value of their properties will be significantly reduced.
- Changes were made that were not on the original plans. An apex roof was changed to a lean to roof.
- The well being of residents should be paramount, rather than the productivity and well being of the birds.
- Observers do not wish to infringe on applicant's right to pursue his pastime in a more suitable location, however the scale and proximity of it to their homes has led to a complete domination of their local visual amenity.
- The development is out of proportion and is more like a commercial operation which is unsuitable for a residential area.
- The Board is asked to uphold the decision of the Planning Authority to refuse permission.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. I consider that the key planning issues arising in this appeal are as follows:

- Principle of proposed development.
- Residential amenity.
- Precedent.
- Appropriate assessment.

7.2. Principle of Proposed Development

7.2.1. The appeal site is located in an area zoned 'Z1' in the Dublin City Development Plan 2016-2022, where the objective is "to protect, provide and improve residential amenity".

7.2.2. 'Pigeon lofts' are an 'open for consideration' use under the Z1 zoning objective and the Development Plan states that 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.

7.2.3. Given the residential zoning and existing residential development in the vicinity of the appeal site, I therefore consider the acceptability or otherwise of the development for which retention permission is sought to be subject to consideration of the impacts on residential amenity and the other issues identified in Section 7.1 above.

7.3. Residential Amenity

7.3.1. Whilst the construction of pigeon lofts and the keeping of pigeons for recreational purposes has historically been common in many residential areas across Dublin,

such activities have the potential to impact on residential amenity, which is reflected in the 'open for consideration' status of pigeon lofts in Z1 zoned areas.

7.3.2. While the current Development Plan does not contain any specific guidelines for pigeon lofts, I note that the earlier Dublin City Development 2005-2011 contained the following guidance:

- **Location:** Pigeon lofts should be located as far as possible from neighbouring dwellings. In general, they should be a minimum distance of 5 metres from adjoining residential premises, but in locations where this is not possible, the particular circumstances of each case will be considered.
- **Construction:** Pigeon lofts should be of sound construction with a concrete floor or sub-floor. They should be constructed so as to ensure ease of cleaning and to provide adequate ventilation, while being secure against rodents.
- **Design:** The external design and finish of pigeon lofts should be of good quality and they should be maintained in good condition.
- **Height and Area:** The appropriate size of a loft would depend on the nature of the property and the proximity of neighbours. As a general rule, pigeon lofts should not exceed 25 sq. m. in area, and should have a maximum height of 3 metres with a pitched roof, or 2.5 metres with a flat roof.
- **Restrictions:** In no circumstances will an open loft be permitted. (An open loft is one which pigeons may enter or leave at any time).

7.3.3. While such guidance is now of historic interest only, it nevertheless gives an indication of the level and type of pigeon keeping that was previously deemed acceptable by the Planning Authority in residential areas.

7.3.4. Retention permission was previously granted on the appeal site in February 2017 for a pigeon loft and sheds, for a temporary period of two years (Reg. Ref. 4033/16). Condition 2 of that permission required that the use cease and the structures be removed following the two year period, unless a further permission had been granted. At the time of this earlier planning application, the pigeon loft was contained within Shed C, and Condition 3 required that Sheds A and B shall not be used for, inter alia, the keeping of pigeons. Condition 4 also required that Shed B be

permanently separated from the pigeon loft by a permanent solid wall with no access between the two structures.

- 7.3.5. The drawings submitted with this earlier planning application also indicate that the gardens of Nos. 1 and 1A were separate at that stage.
- 7.3.6. It is clear from the information submitted that the pigeon keeping operation has intensified since the temporary permission was granted in 2017. Aerial photographs and the drawings associated with the current appeal indicate that the gardens of Nos. 1 and 1A have now been amalgamated and this enlarged yard area is fully covered in hardstanding. The extent of the pigeon loft use has also increased from that outlined in the previous application, with Shed B now being used as a pigeon loft in addition to Shed C. This results in a total pigeon loft area of 37 sq m, in addition to the Shed A area (16.5 sq m), where the applicant is stated to store some related paraphernalia.
- 7.3.7. I note that there is also a large structure to the rear of No. 43A Ratoath Avenue (i.e. the property immediately to the north of the appeal site) which is of similar design and materials to Sheds B & C, and which also appears to be used as a pigeon loft. This structure is not within the appeal site, and does not form part of the development for which retention permission is sought, however I note that the observer contends that it is in the same ownership as the appeal site.
- 7.3.8. With regard to the structures themselves, I note that the roof profile of Sheds B & C is a monopitch, rather than the pitched roof shown on the drawings submitted. While the structures protrude above the boundary walls with the rear gardens of the neighbouring houses on Ratoath Avenue, I do not consider that they are of sufficient height to result in any undue overshadowing or overbearing impacts. In terms of the elements of the structures that are visible from neighbouring properties, they are relatively typical of shed type structures commonly found in residential areas, and as such are not out of character.
- 7.3.9. With regard to noise and odour, while I noted audible cooing noises from the birds, I do not consider that it was at such a level as to cause significant nuisance to neighbouring properties. Neither was there a noticeable odour from the lofts.
- 7.3.10. The applicant has not identified how many birds are housed within the lofts. However, noting that the lofts are c. 37 sq m in area, and having inspected the

vicinity of the site, it appears that the development is capable of accommodating a considerable number of birds. Having regard to the apparent scale of the operation and given that the birds are released for exercise/training purposes, the observer's contention that there is significant nuisance and soiling of garden furniture, clothes, children's play equipment etc. from the birds is considered reasonable.

- 7.3.11. I consider that the scale of the pigeon-keeping operation, which has increased since temporary retention permission was previously granted, is excessive and unacceptable within this relatively densely populated residential area of terraced housing. In this regard I note the amalgamation of the gardens of Nos. 1 and 1A which has resulted in the loss of separate private open space for the occupants of No. 1, the creation of a hardstanding yard area and the placement of the pigeon lofts immediately adjacent to the boundaries with neighbouring properties. I conclude that the development is no longer of a scale that could reasonably be considered compatible with the primary residential 'Z1' zoning which applies to the site and surrounding area and that the development would seriously injure the residential amenity of adjoining properties and be contrary to the proper planning and sustainable development of the area.

7.4. Precedent

- 7.4.1. The appellant draws the Board's attention to a number of previous planning applications and appeals on other sites, where permission was granted for pigeon lofts. I note that the cases referenced by the appellant which came before the Board (ABP-303614-19, ABP-301024-18, PL06S.245351) were all for significantly smaller pigeon lofts and therefore are of limited relevance in my opinion.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and relatively small scale of the development for which retention permission is sought, the location of the site within a serviced urban area, and the distance from the nearest European sites, I consider that no Appropriate Assessment issues arise, and 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. I recommend that retention permission should be refused for the reason set out below.

9.0 Reasons and Considerations

1. Having regard to the 'Z1' land use zoning objective which applies to the site under the Dublin City Development Plan 2016-2022, which seeks to protect, provide and improve residential amenities, and noting the amalgamation of the rear gardens of Nos. 1 and 1A Deanstown Road to create a yard area, the limited size of the site and the pattern of development in the area, including the proximity to adjoining residential properties, it is considered that the scale of the pigeon keeping operation is excessive in this established residential area and that the retention of the proposed development would seriously injure the residential amenity of adjoining property and depreciate the value of property in the vicinity. The retention of the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Niall Haverty
Senior Planning Inspector

9th October 2019