



An
Bord
Pleanála

Inspector's Report ABP 306000-19

Development	Retain extensions to side and rear of dwelling, shed, 2 no. pigeon lofts and a canopy over fish pond and permission to extend shed for use as pigeon loft.
Location	33 Oakfield, Monaleen, Castletroy, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	19/478
Applicant	Lawrence Choi
Type of Application	Retention Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	1 st Party v. Conditions
Appellant	Lawrence Choi
Observers	1. P. & S. Corcoran 2. C. Clancy
Date of Site Inspection	06/02/20
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

Oakfields is a mature residential estate accessed from Castletroy College Road in Monaleen in the outer eastern suburbs of Limerick City.

No. 33 is a detached two storey dwelling served by off street parking. The site has a stated area of 0.0467 hectares. Due to the site levels No. 34 to the north is higher with a wall topped with wire fencing delineating the boundary. A 1.8 metre wall delineates the boundary with No.32 to the south which is lower than the appeal site. A block wall approx. 3 metres in height delineates the rear boundary with the dwellings backing onto same at a materially higher level.

There is a shed, two pigeon lofts and a covered fish pond in the rear garden.

2.0 Proposed Development

The application was lodged with the planning authority on the 14/05/19 with further plans and details submitted 12/08/19 and 18/10/19 following requests for further information and clarification of further information dated 04/07/19 and 29/08/19 respectively.

The original proposal entailed the retention of the following:

- Single storey extensions to the rear of the dwelling equating to 35 sq.m.
- Single storey extension to the side of the dwelling with a stated floor area of 21.3 sq.m.
- Shed to be retained and extended providing for a 1st floor level
- 2 no. pigeon lofts with a stated floor area of 9.7 sq.m.
- Canopy over fish pond covering an area of 19.3 sq.m.

As amended by way of further information it is proposed to remove the 2 no. pigeon lofts with the shed to be retained and extended to be used as a pigeon loft. The extension would have a metal cladding finish with a flat roof having an overall height of 4.448 metres. Windows are proposed at a high level to allow pigeons to exit and access the loft and to provide for ventilation.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 4 conditions. Of note:

Condition 2: the permission relates to the retention of the shed and canopy over the fish pond. Pigeon lofts not permitted. Structures to be removed within 3 months of the decision and no new loft structure permitted.

Condition 3: The shed to be used for storage purposes only.

Condition 4: No rainwater goods to overhang any party boundary wall or adjoining property.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 04/07/19 notes that the Limerick County Development Plan does not specifically refer to pigeon lofts. Regard is had to the provisions in the South Dublin County Development Plan. A request for further information recommended seeking a revised site layout plan, photographic survey, method statement to include controls for elimination/control of vermin and cleaning/drainage of fowl waste and further details and clarification on the pigeon lofts and shed. A reduction in the number of structures proposed. The 2nd report dated 28/08/19 following further information notes that the proposed extension of the shed is not covered by the original public notices. Clarification of further information recommended. The 3rd report dated 13/11/19 considers that the development has not been advertised as required in order to give 3rd parties adequate opportunity to assess the revised proposal and clarify what is actually proposed on site. It is considered that the planning authority is precluded from granting a revision to the said shed. A grant of permission subject to conditions recommended

3.2.2. Other Technical Reports

Executive Engineer in an email dated 31/05/19 recommends prohibition of any chimney or flue for a solid fuel burning appliance in the development.

Executive Engineer, Air, Noise, Water and Public Health Team in an email dated 15/08/19 following further information states that should permission be granted it should be for a maximum of 2 years to allow for review. Further conditions detailed including prohibition of release of birds before 0800 and increase in size of flock.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to impact on amenities of adjoining property.

4.0 Planning History

Reference is made in the Planner's report to permission granted under P00/175 for an extension.

5.0 Policy Context

5.1. Development Plan

Castletroy Local Area Plan 2019.

The site is within an area zoned 'Existing Residential'. The purpose of this zoning is to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The 1st Party appeal is against conditions 2 and 3 attached to the planning authority's notification of decision. The appeal, which is accompanied by supporting documentation, can be summarised as follows:

- The appellant has kept pigeons at the site for over 15 years with the pigeon lofts erected over 10 years.
- No lofts being permitted is considered very harsh.
- The requirement to remove the lofts within 3 months of the decision would have an adverse impact on the welfare of the birds.
- The lofts are not visible from the road or from the ground level of neighbouring properties. They do not detract from the residential and visual amenities.

6.2. Planning Authority Response

None

6.3. Observations

Observations have been received from:

1. Paul & Siobhan Corcoran (No.32 Oakfield. Submission accompanied by photographs)
2. Colette Clancy (No.31 Oakfield)

The submissions state that the pigeons adversely impact on the amenities of adjoining property. Whilst the number of birds started out small, they have increased to in excess of 35-40. They are free to come and go from early morning to late evening. Such lofts are not suited to such a built up area.

7.0 Assessment

The site subject of the appeal is within the mature residential area of Monaleen and is zoned for residential purposes in the current Castletroy Local Area Plan. The stated purpose of the zoning includes the protection and provision for residential amenities. Whilst alterations and development ancillary to the existing dwelling are acceptable in principle there is an obligation to reconcile the need to meet the requirements of the applicant with the requirement that such works should not compromise the residential amenities of adjoining property.

No.33 is surrounded by other dwellings and, as a result of the rear extensions and ancillary structures, its rear amenity space is largely covered. By reason of the site falls No.32 to the south has a ground level materially below that of the appeal site whilst the dwellings to the west are significantly higher.

At the outset I submit that the retention of the extensions to the dwelling as detailed in the plans are acceptable. Whilst the site is materially higher than No. 32 the party boundary wall precludes any overlooking from the conservatory.

There is a fish pond located in the south-western most corner of the site. The canopy is stated to be necessary to provide shade for the fish therein. The canopy is c. 2.4 metres in height. Although visible from No. 32 it is not considered that it would adversely impact on its visual amenities. Sufficient evidence has been provided by way of further information that it does not oversail the boundary wall. I have no objection to its retention.

I consider that the substantive issue pertains to the keeping of pigeons on the site. The current Limerick County Development Plan and Castletroy LAP are silent on the suitability or otherwise of pigeon lofts in residential areas. On this basis, therefore, I consider that the proposal must be assessed on its merits in terms of impacts on the amenities of the area.

As noted on day of inspection there are 2 no. lofts within the rear garden. As extrapolated from the details submitted in support of the application they have been in place for over 10 years. Both are raised off the ground. The loft in the north-western most corner has a height above ground of 3.254 metres with the 2nd along the rear boundary having a height of 2.579 metres. The lofts have a combined

floorspace of less than 10 sq.m. As per the details provided by way of further information two separate lofts are required so as to allow for the separation of the Racing and Fancy Pigeons to prevent interbreeding. They are released to exercise at 0700 and are called in for feeding at c. 0900 with details given on their management, feeding, cleaning etc. However, no details appear to be on file as to the number of birds currently kept on the site.

As evidenced on day of inspection the lofts are well maintained and, as a consequence of the differential in levels between the appeal site and adjoining properties, do not impose visually on same. There was no perceptible noise or odour arising from the structures to be retained.

The applicant in the documentation accompanying the application states that the pigeons when exiting the loft fly onto the roof of his dwelling before taking flight. However, it is not unreasonable to assume that the birds fly across the rear gardens of dwellings in the vicinity. The observers assert that the enjoyment and amenity value of their rear gardens has deteriorated especially with the increase in the number of birds.

By way of further information, the applicant proposes to extend the shed for which retention is sought so as to allow for the pigeons to be transferred into same. The pigeon lofts would then be removed. High level openings are proposed to allow the pigeons to enter/leave the lofts and to provide for ventilation. The structure would also provide for storage. Revised floor plans are provided. The shed as amended would have an approx. area of 43 sq.m. and height of 4.448 metres.

Notwithstanding the absence of detail on the original floor plans submitted with the application and contrary to the view as expressed in the 3rd Planner's report, I consider that the nature and extent of the works to the shed were clearly signalled in the public notices with specific reference made to permission being sought for its extension and alteration for use as a pigeon loft. The proposal would effectively represent a fourfold increase in the floor area available for the housing of pigeons, notwithstanding the fact as stated in the further information response, that the applicant does not propose to increase the number of pigeons.

I submit that the nature and scale of this proposed alternative is excessive and would be inconsistent with the residential character of the area in terms of size and height

and would be contrary to the zoning objectives for the area as set out in the current Castletroy LAP. I consider that the retention of the existing lofts which are small in size and visually discreet is preferable and would strike an appropriate balance between providing for the applicant's requirements whilst protecting the amenities of adjoining property. However, I accept that there is on-going concern by the neighbours who state that they cannot enjoy their gardens – not an unreasonable expectation in an area zoned for residential amenity. In view of ongoing concerns, and the concerns of the Executive Engineer I consider a temporary permission to be appropriate. This will enable a review of the use in light of circumstances then prevailing. In addition, in view of the absence of details on the file as to the number of birds currently being housed and in the interests of clarity going forward, I recommend that a limit be set on the number to be accommodated at 30.

Appropriate Assessment

Having regard to the nature and relatively small scale of the development for which retention permission and 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

In view of the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the residential zoning of the site, to the nature, form, scale and design of the structures to be retained and having regard to the management of the pigeon lofts, it is considered that subject to conditions set out below, the development for which retention is sought would not seriously injure the residential or visual amenities of the area and would not be prejudicial to public health and 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 lodged with the application on the 14th day of May, 2019, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The shed to be retained as detailed on drawing no S-05 submitted to the planning authority on the 14th day of May, 2019 shall not be extended. It shall be used for purposes ancillary to the main dwelling, only, and shall not be used for the housing of pigeons.

Reason: In the interest of clarity and to protect the residential and visual amenities of adjoining property.

3. Pigeon Lofts Nos. 1 and 2 as delineated on Drawing No. S-01 received by the planning authority on the 14th day of May, 2019 shall be retained for a period of three years from the date of this Order. The structures shall then be removed unless, prior to the expiry of the period, planning permission shall have been granted for their retention for a further period or permanently.

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

circumstances then prevailing.

4. The number of birds accommodated in the loft structures shall not exceed 30 at any time.

Reason: In the interest of clarifying the nature of the use and intensity of the development thereby permitted, and in the interest of residential amenity.

Pauline Fitzpatrick
Senior Planning Inspector

February, 2020