



An
Bord
Pleanála

Inspector's Report

ABP-315611-23

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| Development | Retention of a games room/gym in rear garden of dwelling |
| Location | 154 Balreask Manor, Trim Road, Navan, Co. Meath |
| Planning Authority | Meath County Council |
| Planning Authority Reg. Ref. | 221422 |
| Applicant(s) | Anthony Dwyer |
| Type of Application | Retention permission |
| Planning Authority Decision | Refusal |
| Type of Appeal | First Party |
| Appellant(s) | Anthony Dwyer |
| Observer(s) | None |
| Date of Site Inspection | 14 th June 2023 |
| Inspector | Bernard Dee |

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1.0 Site Location and Description

- 1.1. The appeal site is located in Balreask Manor estate which is located approximately 2km south of Navan town centre and access from Trim Road which is located to the east of Balreask Manor estate.
- 1.2. No. 154 Balreask Manor is a two storey, semi-detached hip roofed dwelling with a north facing rear garden where the games room/gym structure for which retention is sought is located.
- 1.3. During the site visit on 14th June 2023 access to the rear garden area was not possible but I was able to view the games room/gym from the neighbouring property, No. 155, to the east of the appeal site.

2.0 Proposed Development

- 2.1. The games room/gym structure (the shed) for which retention permission is sought, has an irregular footprint measuring 35.5m² in GFS and is a rendered block built structure with a flat roof. Internally there is a games room and a separate gym room (with couch and TV) with a store room and toilet located off the gym room.
- 2.2. The shed is located approximately 14.6m from the rear (north elevation of the main dwelling and approximately 0.8m from the western, northern and eastern property boundaries. The height is stated to be 2.9m.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was refused on 20th December 2022 for one reason:

It is an objective of the Meath County Development Plan 2021-2027 to require all applications for family flats to “form an integral part of the structure of the main house with provision for direct internal access to the remainder of the house, i.e. not detached” (DM OBJ 49).

The application documentation has not demonstrated that the structure is not in use as habitable accommodation. The proposed development by reason of its location and design, detached from the main dwelling represents a separate living unit on the site which would seriously injure the amenities and depreciate the value of property in the area. Consequently, it is considered that the proposed development would materially contravene said objective of the Development Plan, would establish an undesirable future precedent, and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner’s Report notes the A1 Existing Residential zoning of the site and the acceptability in principle for the proposed works. The Planner then cites the relevant Development Plan provisions in Chapter 11 Development Management Standards (see Paragraph 5.0 of this Inspector’s Report). The Planner’s Report notes that during the site inspection it was noted that a kitchenette and storage units were in place but were not indicated on the retention application drawings. The Planner’s Report that the development therefore did not comply with Development Plan standards regarding the construction of family flats to which objective DM OBJ 49 refers.

The Planner’s Report noted that neither AA nor EIA is required in respect of the development for which retention permission is sought.

3.2.2. Other Technical Reports

The Transport Section had no objections to the development for which retention permission was sought subject to the imposition of appropriate conditions.

3.2.3. Prescribed Bodies

Irish Water had no objections subject to the imposition of appropriate conditions.

3.2.4. Observations

No submissions on file.

4.0 **Planning History**

4.1. On the Appeal Site

Refs. UD0419 and UD14238 referred to in the Planner's Report may be parent permissions for Balreask Manor estate but no information is available online.

Ref. UD21/1070 referred to in the Planner's Report relates to a house extension in Thurstianstown, Beauparc, Navan for a different applicant and must appear in the report as an error.

4.2. In the Vicinity of the Site

No planning history in the vicinity of the appeal site is noted in the Planner's Report on file.

5.0 **Policy and Context**

5.1. Development Plan

Meath County Development Plan 2021-2027 is the statutory plan for the area within which the appeal site is situated and set down below are the relevant Development Plan policies and objectives in relation to this appeal.

The site is zoned A1 Existing Residential Objective: To protect and enhance the amenity and character of existing residential communities.

Guidance

Lands identified as 'Existing Residential' are established residential areas.

Development proposals on these lands primarily consist of infill developments and the extension and refurbishment of existing properties. The principle of such proposals is normally acceptable subject to the amenities of surrounding properties being protected and the use, scale, character and design of any development respecting the character of the area.

Games/gym sheds are not specifically referenced in the 'Permitted Uses' in A1 zoned areas but 'Residential' does fall into this category. As the shed is ancillary to the dwelling on site, I believe it falls within the same 'Permitted Uses' category as the house and would therefore be acceptable in principle subject to compliance with Development Plan standards.

DM OBJ 49: All applications for family flat development shall comply with the following criteria:

- The flat shall form an integral part of the structure of the main house with provision for direct internal access to the remainder of the house i.e. not detached;
- The flat shall not have a separate access provided to the front elevation of the dwelling
- There shall be no permanent subdivision of the garden/private amenity space;
- The flat shall remain in the same ownership as that of the existing dwelling on site. In this regard, the flat shall not be let, sold or otherwise transferred, other than as part of the overall property;
- The design proposed shall enable the flat to easily fully revert to being part of the original house when no longer occupied by the family member(s);
- If the site is not connected to public mains, the existing wastewater treatment system on site must be capable for any additional loading from the flat, and if not, proposals should be submitted to accommodate the additional loading.

5.2. Natural Heritage Designations

The nearest natural heritage designated site is the River Boyne and River Blackwater SAC (002299) and the River Boyne and River Blackwater SPA (004232).

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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. The grounds of the First Party appeal prepared by K + B Architecture + Design are, in summary, as follows:

- The shed for which retention permission was sought was never intended as habitable accommodation and the reason for refusal, based on a family flat objective (DM OBJ 49) is therefore not valid.
- The shed does have a kitchenette and toilet to cater for daytime gathering of teammates (hurling, football, camogie, rugby and soccer) to cater for washing and toilet need without having to access the main house to use those facilities.
- The shed does not have any heating as a deliberate measure to ensure that no overnight stays would occur.
- There is ample precedent in the area for permission being granted for similar types of development. The appellant puts forward 14 no. precedent cases but only the two cases cited below are noted by the appellant as having a kitchen and toilet in the retained sheds:
 - Ref. 211137 – retention permission granted for the use of part of a previously permitted agricultural shed for gym classes.
 - Ref. 211892 – retention permission granted for a 76M² detached storage shed/garage which also contained a kitchen sink and toilet.

- All of the 14 no. precedent cases set down in the First Party appeal had a condition attached stating that *“The development hereby permitted shall be used for domestic purposes only ancillary to the main residential use and shall not be used for human habitation, commercial use, industrial use or other use.”*

6.2. Applicant Response

Not applicable.

6.3. Planning Authority Response

The Planning Authority state that all issues raised by the appellant were had regard to during the determination of this application by Meath County Council.

6.4. Observations

None received.

6.5. Further Responses

Not applicable.

7.0 **Assessment**

Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The development in principle, a non-habitable ancillary shed in the rear garden of an existing dwelling, is considered acceptable in principle.

The main issues, therefore, are as follows:

- Development Plan standards.
- Applicability of a restriction of use condition.
- AA Screening.

7.1. Development Plan Standards

7.1.1. The appellant states that the shed for which retention is sought was never intended for human habitation and that the toilet and kitchenette are provided for the sports groups that gather in the shed rather than have these groups use the facilities in the main house. The Planning Authority has assumed that the shed is habitable and have accordingly applied Development Plan standards applied to the construction of family flats to the assessment of the retention application for the shed.

7.1.2. The view of the First Party is that the shed provides a useful community facility and that the toilet and kitchenette are essential to continue this use. I would concur with the assessment of the Planning Authority that, notwithstanding there is no heating provided in the shed, that the shed is capable of being used as a habitable unit. Such use of the shed would be contrary to Development Plan policy and set an undesirable precedent for similar development in the area.

7.1.3. The two precedent cases referred to by the First Party, Refs. 211137 and 211892, are not relevant to the assessment of this appeal as those cases are located in rural areas whereas the appeal site is located within a suburban housing estate.

7.2. Applicability of a restriction of use condition

7.2.1. The use of the shed for purposes incidental to the main dwelling and for gatherings of family and friends is, in my opinion, not contrary to the proper planning and sustainable development of the area. The use of the shed for habitable purposes on the contrary would constitute a substandard form of residential accommodation and be contrary to Development Plan standards that relate to family flats.

7.2.2. However, a condition regarding the restriction of any other uses of the shed, especially use of the shed as a habitable unit, would I believe render the presence and use of the shed acceptable in planning terms. To ensure compliance with a restrictive use condition it is essential that the toilet and kitchenette be removed from the shed and a condition has been drafted to this effect should the Board be minded to grant permission in this instance.

7.2.3. I conclude therefore that the development would not seriously injure the residential amenity of adjoining property or the visual amenity of the area and that the shed for which retention is sought is in accordance with the proper planning and sustainable development of the area.

7.3. AA Screening

Having regard to the relatively minor development proposed within an existing housing estate and the fact that there are no European sites in the vicinity of the appeal 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.

8.0 Recommendation

I recommend that retention permission be granted for the reasons and considerations set out below and subject to the conditions set down hereunder.

9.0 Reasons and Considerations

Having regard to the provisions of the Meath County Development Plan 2021-2027, including the zoning objective for the site ('A1 – Existing Residential'), which seeks to protect and enhance the amenity and character of existing residential communities; it is considered that the development for which retention is sought would not injure the visual or residential amenities of the area or of property in the vicinity. The proposed development would not therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 1st November 2022 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
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| 2. | <p>The shed shall not be used for human habitation, commercial use, industrial use or for any other purpose other than a purpose incidental to the enjoyment of the dwelling.</p> <p>Reason: In the interests of residential amenity.</p> |
| 3. | <p>The toilet and the kitchenette shall be removed from the shed to the satisfaction of the Planning Authority within a period of six months from the date of the Board's decision.</p> <p>Reason: To prevent the shed being used for habitable purposes.</p> |

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Bernard Dee
Planning Inspector

20th June 2023