



An
Bord
Pleanála

Inspector's Report

ABP-316495-23

Development	Retention permission for an existing outbuilding/garden shed to the rear of the property, use of shed for domestic living accommodation to be decommissioned and all associated site development works.
Location	183 Marian Park, Drogheda, Co. Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	22777
Applicant(s)	Sharon and Jason O'Brien
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Sharon and Jason O'Brien
Date of Site Inspection	04 th June 2023
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.0525 hectares, is located at no. 183 Marian Park, Drogheda, Co. Louth to the south of Drogheda town centre. The site is occupied by a two-storey end of terrace dwelling. Adjoining properties include no.s 184-188 to the north east, which are part of the same terrace as the dwelling on the appeal site. To the north west the site backs onto other similar dwellings within Marian Park. To the south is a playing pitch.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of an existing outbuilding/garden shed to the rear of the property with use of shed for domestic living accommodation to be decommissioned and all associated site works. The structure has a floor area of 46sqm and a ridge height of 3.37m.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on one reasons...

1. The proposed development by reason of its excessive scale and the use of substandard materials that are considered to be temporary in appearance is considered to be inappropriate for use as a domestic outbuilding within a residential area and is therefore contrary to section 13.9.10 of the Louth County Development Plan 2021-2027 (as varied). This proposal also exhibits the essential characteristics of a dwelling and considering its temporary nature with no direct access or private amenity space results in a substandard level of accommodation and would set an undesirable precedent for other similar development in the immediate area and is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (17/11/22): Further information required including confirmation that unauthorised use as a self-contained residential has ceased and that the layout, fittings and fixtures that remain are appropriate and limited to the use of the structure as an outbuilding/garden shed.

Planning Report (30/03/23): The report indicates that despite the nature of the development description and the cessation of use as a self-contained dwelling the structure on site exhibits all the characteristics of a dwelling with a kitchen, bathroom, separate internal rooms and window and door openings. There is no substantial change from the previous application. Permission should be refused as the development will result in a substandard level of accommodation and inappropriate form for an outbuilding. Refusal was recommended based on the reason outlined above.

Water Services

Further information required including proposal for management of surface water.

3.3. Third Party Observations

None.

4.0 Planning History

22287: Retention permission sought for an existing outbuilding to the rear of the property for use as independent living accommodation for a temporary period of up to 3 years, with access via the front door of the main dwelling and all associated site development works. Following expiry of the temporary period, the outbuilding will be used for domestic storage purposes incidental to the main dwelling on site.

Retention permission is also sought for conversion of attached garage previously granted planning permission under ref. no. 07/510309 to residential use (sitting

room) and associated alterations to front and rear elevations associated with same and all associated site development works. Split decision issues with refusal of temporary residential use of outbuilding and permission granted for retention of conversion of attached garage. Refusal reason relates to substandard accommodate and the undesirable precedent it would set.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Louth County Development Plan 2021-2027.

The appeal site is zoned A1 Existing Residential with a stated objective 'to protect and enhance the amenity and character of existing residential communities'.

Section 13.9.10 Garage and Outbuildings

The purpose of garages and outbuildings within the curtilage of residential properties is normally for storage and needs that are incidental to the dwelling on site. Garages will normally be positioned to the side or rear of the dwelling and will be designed and finished in materials that match the dwelling. The design and scale of any garage shall be proportionate to the dwelling. Outbuildings that will have a use incidental to the dwelling will be considered on a case-by-case basis and will be dependent on the location, the nature of the use and the design and scale of the building.

5.2. Natural Heritage Designations

None within the zone of influence of project.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal lodged by Foresight Design and Planning on behalf of Sharon and Jason O'Brien. The grounds of appeal are as follows...

- The appellant set out the history and background of the development and the fact it was being used as a self-contained dwelling unit housing the applicant family members and that permission refused for temporary use (3 years). The structure in question is no longer being used to house family members with the applicants intending to return the building to use as a garden shed ancillary to the main house. The appellants are of the view that the refusal of permission is unjustified.
- In relation to the contention that development is excessive in scale it is noted that the structure is 46sqm in a rear garden of 303sqm and is not excessive in scale and is an average sized structure in terms of an outbuilding ancillary to an existing dwelling. The height of the structure at 3.3m is not excessive and would be below the exempted development limit.
- The materials are not substandard and are not out of character for an outbuilding and use materials that are maintenance free (metal roof sheeting, timber effect wall panelling, upvc windows and doors). The appellant considers that the development has an acceptable visual impact and questions the PA assessment regarding the structure being temporary in appearance.
- The appellant stress that building is not being occupied as a self-contained residential unit at this time and is now being used as a garden shed. The appellants accept that use for the purposes of a self-contained dwelling unit is unacceptable. The appellants also consider that it is unfair to base the decision on a possible future breach of planning law and that the application proposed is not for residential use.

6.2. Planning Authority Response

6.2.1 Late response.

7.0 Assessment

7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Design, scale and Development Plan policy.

7.2 Design, scale and Development Plan policy.

7.2.1 The proposal entails retention of an existing outbuilding within the curtilage of an existing dwelling. The development description is for the retention of the outbuilding for the purposes of an outbuilding/garden shed. The existing structure has previously been used as residential accommodation for family members of the appellants' and had been subject to enforcement action in this regard. The appellants have noted that the outbuilding is no longer being used as residential accommodation and they wish to retain such as an outbuilding/garden shed for the purposes of storage. The Planning Authority have refused on the basis of the size and scale being excessive, overall visual impact, on the basis that the structure is characteristic of an independent residential unit and would set an undesirable precedent for similar development.

7.2.2 Having inspected the site I can confirm that the existing structure is not currently being occupied as dwelling unit and is empty apart from storing a few household items. The structure is split into rooms and has kitchen area, bathroom, multiple windows and heating. Notwithstanding such the development description proposed is for retention as an outbuilding/garden shed and my assessment is based on the description of development being sought. In terms of overall size and scale the structure has a floor area of 46sqm and a ridge height of 3.32m. In terms of scale and relative to the existing dwelling and rear garden, which is sizeable the structure

is subordinate in nature and would not be excessive in size for an outbuilding within the curtilage of a dwelling given floor area, the size of the rear garden and the overall ridge height. I would consider that use of the structure for the purposes ancillary to the enjoyment of the existing dwelling including domestic storage would be acceptable in the context of zoning of site, the existing use on site and on adjoining site and in the context of the proper planning and sustainable development of the area.

7.2.3 In terms of overall visual impact the structure is modest in height and contained within the curtilage of an existing dwelling with 1.8/2m high block walls surrounding defining the boundaries of the rear gardens. I am satisfied that the structure would not be highly visible in the surrounding area. The external finishes are not out of character for an outbuilding within the curtilage of a dwelling.

7.2.4 The refusal reason does allude to concerns about the potential future use of the structure of the purposes of an independent dwelling unit. In this regard the development description outlines the purposes of development and I can only assess such on its merits. It is not reasonable to assess the development on the basis of what the structure may be used for and in this regard I would note that the Planning Authority have ample powers under Planning Act in terms of enforcement with activity on site having been subject to such previously. The fact that a structure could be used for a particular purposes is not a relevant consideration and the development being applied for is being assessed on its merits. I would consider that the use of the structure for retention as outbuilding/garden shed ancillary to the use of the existing dwelling is acceptable in the context of the proper planning and sustainable development of the area. I would also recommend that in the event of grant of permission that a condition is applied restricting the use of the structure in this regard.

8.0 Appropriate Assessment

8.1 Having regard to the nature and scale of the proposed development and its 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.

9.0 Recommendation

9.1. I recommend a grant of permission subject to the following conditions.

10.0 Reason and Considerations

Having regard to the nature and scale of the proposed development, the overall design and scale, the proposed development would be satisfactory in the context of the visual amenities of the area and the amenities of adjoining property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed 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 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. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and

services. No surface water shall be allowed to discharge onto the public road or adjoining properties.

Reason: In the interest of orderly development and public health.

3. The structure for retention shall be used for purposes ancillary the enjoyment of the existing structure and shall not be used for purposes of a self-contained dwelling unit or for any commercial or industrial purposes.

Reason: In the interest of orderly development.

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.

Colin McBride
Senior Planning Inspector

06th June 2023