



An
Bord
Pleanála

Inspector's Report

ABP-319784-24

Development	Retention of a garden store as constructed
Location	8 Landsdowne Terrace, Ennis Road, Limerick, V94 EFC3
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	2460194
Applicant(s)	Chris and Niamh O'Gorman
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Patrick and Mary Phelan
Observer(s)	Deirdre Mulrooney
Date of Site Inspection	31 July 2024
Inspector	Natalie de Róiste

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1.0 Site Location and Description

- 1.1. The site is no 8 Landsdowne Terrace, on Ennis Road, in a mature residential area in Limerick city. Landsdowne Terrace is a red brick terrace of twelve two-storey houses with front and rear gardens. The layout is unusual, as there is a wide service lane providing vehicular access that runs directly to the rear of the houses, with car parking and garages provided off this lane. The rear gardens are severed from the houses, located behind this service/parking area. The plots are long and narrow, c. 6.5 metres wide and over 100 metres long in total. The terrace backs onto the rear gardens of houses on Clanmaurice Avenue.
- 1.2. The building to be retained is at the rear of the rear garden.

2.0 Development Proposed to be Retained

- 2.1. It is proposed to retain the garden store as constructed. The store is c. 22 sqm gfa in area, with a monopitch roof with a maximum height of 4.05 metres above finished floor level.

3.0 Planning Authority Decision

3.1. Decision

Retention permission was granted on 30 April 2024.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report dated 23/04/24 notes the zoning, the planning and enforcement history on the site, the acceptability in principle of the development of a timber shed in this suburban setting, the potential for visual impacts on Clanmaurice Avenue, the mitigating impacts (tree cover and fencing) and the level difference between the gardens, and the pattern of development in the area. The planner considered retention acceptable subject to conditions limiting use and addressing surface water.

3.2.2. Other Technical Reports

- None on file

3.2.3. Conditions

- Four conditions, including conditions on the use of the structure (ancillary to the dwelling only) and surface water runoff.

3.3. Prescribed Bodies

Uisce Éireann – report dated 03/04/2024. No objection. Standard conditions recommended.

3.4. Third Party Observations

Two received, from residents of Clanmaurice Avenue (the appellants' and the observer). Issues raised included the following:

- Excessive height, scale and elevation of the building, excessively close to the boundaries, dominant and overbearing, not reflected in drawings
- Overlooking and impact on privacy of peaceful gardens
- Potential for noise, fumes, smells, from any car restoration
- Construction work was carried out in evenings and weekends, causing upset
- Building appears to be a house or AirBnB rather than a shed
- No consultation undertaken prior to unauthorised construction
- Planners did not view site from third parties' gardens

4.0 Planning History

- On site

21289 – permission granted with conditions for a single-storey standalone garden room to the rear of the existing dwelling. (Not implemented)

Enforcement – DC0437-23 – Warning letter, non-compliance with permission.

- Recent and relevant in vicinity

4 Lansdowne Terrace, Ennis Road, Limerick, V94 P6HC

2360377

Permission granted for the construction of a new single storey standalone structure to the rear of the existing dwelling consisting of an office and garden room subject to conditions. This was a 4.5-metre-high home office of c. 50 sqm, to the rear of an existing car port structure.

5.0 Policy Context

5.1. Limerick Development Plan 2022-2028

Land Use Zoning – Existing Residential

Objective: To provide for residential development, protect and improve existing residential amenity.

Objective HO O3 Protection of Existing Residential Amenity

It is an objective of the Council to ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable new development.

The front part of the site (that with the house) falls within the Architectural Conservation Area ACA 6: Ennis Road and Lower Shelbourne Road. The rear gardens of these houses fall outside of the ACA.

5.2. Natural Heritage Designations

Lower River Shannon SAC, c. 330 metres south and east.

5.3. EIA Screening

The development is not a class for the purposes of EIA. See Form 1 on file.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One third party appeal was submitted, from Patrick and Mary Phelan, residents of a house on Clanmaurice Avenue, which has neither a name nor a number. It is located southwest of the subject site. Issues raised included the following:

- Planner did not visit 3rd party sites to view structure from there
- Building is detrimental to neighbouring residential amenity, affecting enjoyment of garden, visible from most rooms in the house, and all parts of the garden, and has given rise to comments from visitors
- The council's planner's report misrepresents the structure and its setting, overstating the screening, misrepresenting the nature and scale of the structure. There is no level difference between the gardens; the ground has been raised under the new building, perhaps to provide an inspection pit in connection with vintage car storage
- There is no precedent for a structure of this size in this location, and its retention would set a poor precedent
- Concerns re proximity to boundary not addressed

6.2. The appeal contained an additional letter (listed as a 'backup document') from Deirdre Mulrooney, who lives at Coraville, Clanmaurice Avenue, which backs directly onto the development site. This expanded on her original third party submission as follows:

- Structure overlooks what used to be the most peaceful part of the garden
- Clanmaurice Avenue gardens are considerably smaller than the Landsdowne Terrace gardens
- There is no evergreen screening, exacerbating winter views of the structure
- Structure should be set back by the mandatory 1 metre distance from the boundary
- Photographs provided show scale and impacts of structure

- Structure is not a garden store, but a house, raised on a plinth, with PVC windows, and a roof close to two-storey in height, like a desirable residence for AirBnB guests
- No consultation undertaken prior to unauthorised construction
- Interferes with tranquillity and enjoyment of back garden and privacy
- Gardens are not at a different level, the applicant has elevated the foundations of the structure
- Structure is excessive in scale for alleged intended use, and size is under-represented in drawings
- Planners did not visit the neighbours' gardens

This submission also raised a number of issues regarding interactions with the applicant, which are not planning issues, and are outside of the scope of the report.

6.3. **Applicant Response**

The applicants' agent responded as follows to the appeal.

- No impacts on residential amenity of neighbouring gardens, well screened, no overshadowing, and clad in timber
- Standard domestic shed but in timber rather than steel. Numerous sheds located at the rear of these gardens (photographs attached)
- Ground level has not been raised, no inspection pit in the building.
- Boundary distances are as shown on drawings
- No window to rear elevation, no overlooking to rear
- Building is a garden store, not a house, has no plumbing
- This was a self-build project constructed on the assumption that it was exempted development, being below 25 sqm. When it came to light that the cumulative floor area (with the other shed in the garden) exceeded the limit, retention permission was applied for

- The previous permitted garden room (ref 21/289) was not constructed, due to high construction costs at the time, and the conditions on that application regarding construction hours do not apply to this store, which was built by the applicant (who has since passed away) as a hobby.
- A difference in ground levels exists between the gardens; the fence shown in the observer's submission measures c. 1.6 metres above finished ground level on the applicant's side.

6.4. Planning Authority Response

No response received.

6.5. Observations

One received, from Deirdre Mulrooney. This was a copy of the letter submitted with the appeal and raised no new issues.

6.6. Further Responses

None received.

7.0 Assessment

7.1. I have examined the application details, and all other documentation on file, including the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.

7.2. I consider that the main issues for this appeal are as follows:

- Use of the store and compliance with zoning
- Residential and visual amenity

Other issues raised in the appeal are also addressed in turn.

7.3. Use of the store and compliance with zoning

7.3.1. The provision of a store ancillary to the residential use is appropriate in this residential zoning. The application noted an intention to use it to restore a vintage

jeep. The storage and maintenance of the resident's vehicles is a typical use for sheds and garages in a domestic context. A vintage jeep was parked on site on the site visit, and I see no reason to doubt the applicants' intentions in this matter. The building does not have any of the requirements (kitchen, bathroom) for habitation, or a level of finish typical of habitable structures. Nor was there an inspection pit, or any indication of commercial use. It was filled with materials for its own construction on the day of the site visit. The floor area (c. 21 sqm gfa) is typical of a domestic garage. In the event of a grant of permission, standard conditions regarding the use of the structure for ancillary domestic purposes should be attached.

7.4. Residential and Visual Amenity

- 7.4.1. Having regard to residential amenity, I do not consider that the use of the structure for restoration of a jeep, or for other uses typical of a domestic shed, would have undue impacts on neighbouring residential amenity. Other concerns raised in the appeal are overbearing impacts due to the size, scale, and location of the building, and impacts on privacy.
- 7.4.2. The store has been constructed of timber on a concrete foundation, with timber cladding to the exterior, and a corrugated roof. It has an unfinished appearance with scaffolding to the front (north) elevation, supported on timber pallets. The drawings show PVC windows and timber sheeted doors; however, only two windows have been fitted, with the other openings unfinished. Some of the external timbers have failed, most notably on the north gable and the west elevation, leaving the breathable membrane underneath exposed.
- 7.4.3. The store is visible from the appellants' garden, including from the patio and sitting out area, and also from some of the rear windows. This garden has a walled off area in the north-east corner, created from the remaining walls of a largely demolished shed. Due to its height, the store is visible over the top of this walled area, and from within this area. Nonetheless, I do not consider it to be unduly overbearing on the garden. It is located beyond the corner of the garden and forms a small element of the view.
- 7.4.4. However, part of the cladding on the west elevation has failed, with potential for further deterioration and negative impacts on neighbouring visual amenities, as it is visible from neighbouring properties. In the event of a grant of permission, a

condition should be attached regarding the completion and future maintenance of the store.

- 7.4.5. Regarding visual impacts on the observer's property (Coraville), there is considerable foliage at the end of this garden to the extent that the store was almost imperceptible on the date of the site visit. The observer has submitted photographs taken in winter, and it is clear from these photos that it is much more visible in winter, due to the lack of foliage. These photos were taken from the end of the garden, however, to illustrate the size and location of the store. The store as seen from the house or the sitting out area of the garden will not be unduly overbearing in winter. While the foliage is largely deciduous, the sycamore tree is of a size that the trunk and branches break the view of the store, and there is a holly tree or bush at the base of the sycamore tree that will retain its leaves throughout the year, as well as ivy climbing the wall, fence, and tree.
- 7.4.6. Regarding impacts on the appellants' privacy, the window shown on the drawings on the west elevation is located in such a position that it is not visible from the appellants' garden. I am satisfied that there is no risk of overlooking. There is a greater risk of overlooking the garden of no 9 Landsdowne Terrace from this window, which is located c. 480 mm from the shared boundary; however, the window looks onto a mature hedge, and the provision of a fixed opaque window will adequately address any residual risk.
- 7.4.7. Regarding impacts on privacy on Coraville, there is no real risk of overlooking of this property. The timber fence measures 1.8 metres, and there are no above ground windows, or windows directly facing the observer's property.
- 7.4.8. While the store is larger than other sheds in the vicinity, I am satisfied that it does not have undue impacts on neighbouring residential amenity. There is no risk of overshadowing or overlooking, and while it is a tall structure visible from the neighbouring gardens, it is not unduly overbearing.

7.5. Other Issues Raised in the Appeal

7.5.1. Ground levels and accuracy of drawings

It does not appear to me, having visited the site, that any significant excavation or fill has taken place. The shed has a concrete floor, c. 100-150 mm above the

surrounding ground level, which is consistent with the neighbouring gardens at no 7 and no 9 on either side. There appears to be some difference in ground level between the garden of 8 Landsdowne Terrace and the garden of Coraville; due to the vegetation currently on site it was not possible to ascertain the extent of this. However, the timber boundary fence erected on the Landsdowne Terrace boundary (which I measured on site as c. 1.8 metres on that side) has a greater effective height on the Clanmaurice Avenue side. I found the size, scale, and location of the store to be as per the drawings.

7.5.2. Compliance with standards

The appellants and observer both refer to a required 1-metre distance from the boundary, and the appellants refer to non-compliance with standards for roof materials and form. These conditions and limitations are related to exempted development, i.e. development which does not require planning permission. For developments which are the subject of planning applications, (including retention applications) and therefore subject to assessment, such conditions and limitations are not applicable, and a site-specific evaluation is undertaken.

8.0 **Appropriate Assessment**

Having regard to the nature and small scale of the proposed development and the distance from 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 any European site.

9.0 **Recommendation**

I recommend a grant of permission subject to the below conditions.

10.0 **Reasons and Considerations**

It is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities

of surrounding properties, and would comply with the relevant standards of the Limerick Development Plan 2022-28.

11.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars submitted with the application except as may be otherwise required by the following conditions.

Reason: To clarify the plans and particulars for which permission is granted.

2. The construction of the store shall be completed in a robust and durable fashion within 6 months of the final grant of permission as per the drawings submitted, and the store shall thereafter be adequately maintained.

Reason: In the interests of visual amenity and orderly development.

3. . Site development and building works shall be carried out between the hours of 7 a.m. to 7 p.m. Mondays to Fridays inclusive, between 8 a.m. and 2 p.m. on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

4. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To prevent flooding and in the interests of sustainable drainage.

5. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies, or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

Reason: In the interests of neighbouring residential amenity, and to clarify the extent of the permission.

6. The structure shall not be put to any commercial use, or separated by lease or sale from the dwelling and garden.

Reason: In the interests of neighbouring residential amenity, and to clarify the extent of the permission.

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.

Natalie de Róiste
Planning Inspector

14 August 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319784-24		
Proposed Development Summary	Retention of a garden store as constructed.		
Development Address	8 Landsdowne Terrace, Ennis Road, Limerick, V94 EFC3		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	✓	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No		Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____

Date: _____