



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320032-24

<b>Development</b>	Partial retention, partial demolition and reconstruction of pigeon loft.
<b>Location</b>	46 Beech Hill Drive, Donnybrook, Dublin 4
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3502/24
<b>Applicant(s)</b>	Margaret Purdy
<b>Type of Application</b>	Permission and Retention
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Aoife and Dónal Daly
<b>Date of Site Inspection</b>	20 <sup>th</sup> August 2024
<b>Inspector</b>	Sarah O'Mahony

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	5
4.0 Planning History .....	5
5.0 Policy Context .....	6
5.1. Development Plan .....	6
5.3. Natural Heritage Designations .....	6
5.5. EIA Screening .....	7
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Applicant Response .....	7
6.3. Planning Authority Response .....	8
7.0 Assessment .....	8
8.0 AA Screening .....	12
9.0 Recommendation .....	12
10.0 Reasons and Considerations .....	12
11.0 Conditions .....	12
Appendix 1 – Form 1: EIA Pre-Screening	

## 1.0 Site Location and Description

- 1.1. The 242.34m<sup>2</sup> site comprises a terraced two-storey dwelling situated in a large and mature housing estate in Donnybrook southeast of the RTE campus. The site has a narrow private open space to the rear which backs onto school playing pitches.
- 1.2. The development subject of this appeal comprises a 28m<sup>2</sup> pigeon loft situated at the rear of the private open space. The loft spans the width of the rear boundary wall and is set partially against the two side boundary walls. There are minor separation distances however and it should be noted that the party walls do not form part of the loft.
- 1.3. It resembles a large L-shaped domestic shed finished with white pvc tongue and groove finishes. It has an unsymmetrical pitched roof reaching between 3 and 3.3m in height finished with corrugated brown roof tiles. The loft is mostly enclosed within this structure however there are also two wired/caged external extensions and I note that birds do not have free access to come and go.

## 2.0 Proposed Development

- 2.1. Planning and retention permission is sought for this development. It is proposed to retain the majority of the existing pigeon loft but to demolish 3m<sup>2</sup> and alter the roof profile to comply with local development plan standards.

## 3.0 Planning Authority Decision

### 3.1. Decision

Reg. Ref. 3502/24: Permission was GRANTED by Dublin City Council (the Planning Authority) on the 22<sup>nd</sup> May 2024 subject to conditions including the following:

- 2. *The development hereby permitted shall be for a period of five years from the date of this order. The pigeon loft shall then be removed unless, prior to the expiry of the period, planning permission shall have been granted for its 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 five years, and to the circumstances then prevailing.*

- 3. The following requirements of the planning authority shall be complied with:
  - a) The pigeon loft shall not operate as an open loft and shall be adequately maintained and regularly cleaned.
  - b) The pigeon loft shall be used as a hobby only and shall not be used for commercial purposes.
  - c) The proposed development shall not be used or fitted out with equipment for human habitation and shall be used solely in conjunction with the residential use of the main house.
  - d) The proposed development shall not be occupied, sub-let or sold separate to the residential element of the main house.

*Reason: To clarify the extent of the permission and in the interests of residential amenity.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The Case Planners recommendations to grant conditional permission is consistent with the notification of decision which issued.
- The report outlined how the revisions to the structure would ensure compliance with the design guidance of the Dublin City Development Plan 2022-2028 and therefore recommended a temporary 5 year grant of permission to manage the use, noise and maintenance of the loft.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

#### **3.2.2. Other Technical Reports**

- Drainage Department – no objection.

### 3.3. Prescribed Bodies

- Irish Water – no response received.

### 3.4. Third Party Observations

Two received broadly raising the same issues as those set out in the appeal. One also sets out additional planning history on the site and an alleged pattern of unauthorised development.

## 4.0 Planning History

The following planning history all relates to the appeal site.

- P.A. Reg. Ref. 3103/24: Split decision issued which GRANTED retention permission for a tool shed and REFUSED retention permission for a pigeon loft. Retention was refused for the following reason:

*The development for retention by reason of its height and scale is contrary to section 15.14.18 of the Dublin City Development Plan. The structure due to its height and scale adversely affects the residential amenity of adjoining properties, would create an undesirable precedent for similar type development, would devalue property in the vicinity and is contrary to the objectives and policies of the Dublin City Development Plan 2022-2028.*

- P.A. Reg. Ref. 2266/20: Planning permission GRANTED for a single storey pigeon loft. Condition nos. 2 and 3 are noted as follows:

*2. The external cladding of the pigeon loft shall be dark coloured and shall harmonise with the existing house in respect of materials and colour.*

*Reason: To protect the existing amenities.*

*3. The development hereby permitted shall be for a period of five years from the date of this order. The pigeon loft shall then be removed unless, prior to the expiry of the period, planning permission shall have been granted for its 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 five years, and to the circumstances then prevailing.*

## **5.0 Policy Context**

### **5.1. Development Plan**

The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (the City Plan). The site is zoned Z1 for Sustainable Residential Neighbourhoods where the objective is to protect, provide and improve residential amenities. Pigeon lofts are a land use which is open for consideration on Z1 lands.

- 5.2. Chapter 15 provides development management standards and section 15.14.18 specifically relates to pigeon lofts as follows:

*Pigeon lofts are typically located in residential areas or in community gardens. Generally the policy guidance for pigeon lofts is that:*

- Lofts should be located as far as possible from neighbouring dwellings, in general a minimum of 5m from adjoining residential buildings.*
- They should be of sound construction and good quality and maintained in good condition.*
- The loft should not exceed 25sq.m in area and have a max height of 3m with a pitched roof and 2.5m with a flat roof.*
- No allowance for an open loft i.e. where pigeons have free access at all times.*

### **5.3. Natural Heritage Designations**

- 5.4. The site is situated 1.7km southwest of South Dublin Bay Special Area of Conservation, Special Protection Area and proposed Natural Heritage Area.

## **5.5. EIA Screening**

See EIA Pre-Screening Form 1 in Appendix 1. The development is not a class of development requiring mandatory or sub-threshold EIA and therefore there is no EIA Screening requirement.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- Impact to residential amenity and property value by means of scale and visual impact. References also to presence of dead or injured birds in the appellants property, noise and faeces.
- Granting permission would encourage and set a precedent for further non-compliance.
- Precedent of similar board decisions.
- Breach of process and procedure regarding condition of P.A. Reg. Ref. 2266/20 which provided for a review of the operation and management of the pigeon loft.
- PA decision did not consider submissions notably impact to residential amenity, property value depreciation and creation of undesirable precedent.
- 25m<sup>2</sup> floorspace referenced in section 15.14.18 of the City Plan should be assessed in context of the site as the Z1 zoning also applies to areas with larger residential plot sizes than the site.

### **6.2. Applicant Response**

- There has been a pigeon loft on the site and in nearby properties in the same housing estate prior to the Appellants residing next door demonstrating that there is no undesirable precedence from presence or operation of pigeon lofts in residential areas.
- The proposed development would comply with the City Plan requirements and also exceeds minimum separation distances.

- Cited example is not relevant as the circumstances are different including a much larger pigeon loft on a site with less achievable separation distances.
- Rationale provided for works already carried out and outline of attempts to immediately regularise the situation.
- Applicant has lost one bird to predation which is a natural process and the carcass was retrieved and disposed of appropriately.
- Claims linking bird droppings with the Applicants flock of pigeons are refuted.
- Claims that an objection was made by the occupant of the adjoining dwelling to the south are refuted. A letter of support from this occupant is submitted with the Applicants response.
- The development does not impact residential amenity or property value.

### **6.3. Planning Authority Response**

- Request to uphold the decision to grant conditional permission.
- In the event permission and retention permission is granted, request to include a condition requiring payment of Section 48 development contributions.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Compliance with City Plan,
- Residential amenity,
- Setting an undesirable precedent,
- Property devaluation, and
- Other issues.

7.2. Compliance with City Plan



- 7.2.1. The site is situated in Z1 zoned lands where pigeon lofts are open for consideration. I note the Appellants argument that Z1 zoning encompasses a range of plot sizes in different suburbs including much larger residential properties than the site and that regard should be had to the context of the site when assessing its suitability for a pigeon loft. I believe a pigeon loft can be suitably accommodated in its current location at the rear of the site as minimum separation distances are achieved and such minimum standards are by their nature designed and prescribed to protect the amenity of a range of property types and sizes.
- 7.2.2. The existing structure does not meet the requirements of section 15.14.18 of the City Plan however it is proposed to carry out minor alterations to reduce the floorspace by 3m<sup>2</sup> and roof height by 0.3m to ensure compliance. I note the proposed works will indeed bring the structure within the maximum thresholds provided in section 15.14.18. The structure has a separation of c.8m from the closest dwelling which exceeds the minimum requirement of 5m. I also note that it is an enclosed pigeon loft which does not allow free access for the birds to come and go. Following a site inspection I consider the structure to be of sound construction and well maintained in accordance with the requirements of Section 15.14.18.
- 7.2.3. In conclusion I believe the proposal complies with the provisions of the Dublin City Development Plan 2022-2028.

### 7.3. Residential Amenity

- 7.3.1. The structure currently comprises 28m<sup>2</sup> but will be reduced to 25m<sup>2</sup> while the pitched roof will be reduced from 3.3m to 3m if permission is granted. I note Class 3, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) provides an exemption for a 25m<sup>2</sup> non-habitable garage/shed structure with a pitched roof no higher than 3m to the rear of dwellings, subject to limitations which include not using it for keeping pigeons. However, in the context of assessing visual impact in a suburban setting, it is a useful benchmark to determine the principle of providing a structure of that scale. The modest 3m height means overshadowing and overlooking are not likely to cause significant impacts in any direction. The proposed 3m height is also consistent with typical domestic non-habitable structures in suburban areas. The white pvc finishes are somewhat dated compared to modern finishes but they match the white pvc of the dwelling and are clean and tidy. I

therefore conclude that the structure, by reason of scale and massing, does not negatively impact the visual amenity of the area or of adjoining properties.

7.3.2. In terms of operation and use of the structure as a pigeon loft, I note the Appellants concerns surrounding dead and injured birds, noise and faeces. Animal welfare is outside of the remit of planning legislation, however, I noted during the site inspection of both the wider public area to the front of the site and the private open space to the rear, that there was no discernible quantities of faeces or feathers and there was no odour from the loft. I also noted the presence of pigeons in the external caged areas of the loft and the lack of significant noise. Some noise was audible from birds inside the loft however I did not consider it to be loud enough to be to significantly impact on residential amenity. Further, the loft is enclosed meaning birds cannot come and go at free will, minimising the generation of faeces or noise outside of the loft.

7.3.3. The construction works proposed to reduce the floor area and alter the roof will be short term and limited in scale and therefore I do not believe conditions are required to regulate construction hours or noise levels.

7.3.4. Referring again to the zoning objective which permits pigeon lofts only in appropriate circumstances, I consider this site to be an acceptable location and that operation of a 25m<sup>2</sup> loft will not significantly impact residential amenity.

#### 7.4. Setting an Undesirable Precedent

7.4.1. Section 15.14.18 of the City Plan states *Pigeon lofts are typically located in residential areas or in community gardens*. In this regard the precedent of providing pigeon lofts is already set in residential areas. I also note the Applicants appeal response which lists other pigeon lofts in the same housing estate and again consider precedent has already been established. I consider however that the crux of the Appellants point in this matter relates to the scale of the current and proposed structures due to impacts from the operation of a pigeon loft of this size and a precedent relating to permitting a larger structure. However, following the conclusions of sections 7.1 and 7.2 of this report, I do not consider that permitting a 25m<sup>2</sup> pigeon loft will set an undesirable precedent.

#### 7.5. Property devaluation

- 7.5.1. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the area.
- 7.6. Other issues
- 7.6.1. I note a number of other matters raised in the appeal which can be addressed at this stage. The Appellant claims that a grant of retention permission would reward the Applicant for not initially complying with planning legislation. I do not consider this to be grounds for appealing the decision and consider that separate enforcement legislation provides appropriate mechanisms to regularise and penalise such behaviour where necessary which is outside of the remit of a planning appeal.
- 7.6.2. Secondly, the Appeal refers to another pigeon loft case in Z1 zoned lands where An Bord Pleanála refused permission and the Appellant considers this should be viewed as an example and precedence. The pigeon loft in that case was double the size of the current proposal, in a shared garden and in a location entirely surrounded by residential development and therefore has a different context to the subject site and application. Additionally, each individual planning application and subsequent appeal is dealt with on its own merits and therefore that decision has no influence on the current proposal.
- 7.6.3. Similarly, and lastly, the Appellant refers to a breach of process by the Applicant for not allowing a 5-year review of the operation of the smaller permitted loft as provided for under condition no. 3 of P.A. Reg. Ref. 2266/20. Condition 3 stipulates that the loft should be removed upon expiry of the 5 years unless *prior to the expiry of the period, planning permission shall have been granted for its retention for a further period or permanently*. While noting the Appellants wishes for an opportunity to review impacts of the smaller pigeon loft, the condition nonetheless does not prevent the Applicant from seeking permission for a larger pigeon loft in the interim. Once again, each application is assessed on its own merits.

## 8.0 AA Screening

Having regard to the limited scale and nature of the works to be retained and carried out and to the existing surface water network in place serving the established urban area, it is concluded that no Appropriate Assessment issues arise as 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.

## 9.0 Recommendation

I recommend that retention and planning permission be granted, subject to conditions, for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

Having regard to the location and character of the site and surrounding area in a serviced urban area together with the provisions of the Dublin City Development Plan 2022-2028 including section 15.14.18 and the 'Z1' zoning objective for the area, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable. The development complies with local design guidance and does not seriously injure the visual or residential amenity of the area. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application on the 08 <sup>th</sup> day of April 2024, 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.
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	Reason: In the interest of clarity.
2.	<p>The pigeon loft shall be used solely for that purpose and shall revert to ancillary domestic storage use in conjunction with the residential use of the main house on the cessation of such use. The structure shall not be used for any commercial purpose.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
3.	<p>The pigeon loft shall not operate as an open loft and shall be appropriately maintained and cleaned regularly to ensure no odour, vermin or waste generation issues arise.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with</p>

	the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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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.



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Sarah O'Mahony  
Planning Inspector

27<sup>th</sup> August 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	Partial retention, partial demolition and reconstruction of pigeon loft.		
<b>Development Address</b>	46 Beech Hill Drive, Donnybrook, Dublin 4		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>	X		No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** Sarah O'Mahony**Date:** 27<sup>th</sup> August 2024