



An
Bord
Pleanála

Inspector's Report

ABP-320036-24

Development	Permission for construction of shed and retention permission for foundations, together with all associated site works.
Location	45 Castlewood Gardens, Carlow, Co. Carlow
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	2460016
Applicant(s)	Krzysztof Dziadura
Type of Application	Permission and retention permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Donna and Peter Fagan Kate Ray and Fiachra Devlin
Observer(s)	None
Date of Site Inspection	11 th September 2023

Inspector

Aisling MacNamara

1.0 Site Location and Description

- 1.1. The site is an existing two storey detached house located at the end of a cul de sac road within an urban residential area characterised by predominantly 2 storey semi detached suburban housing. The site has an area of 0.68h with a good sized rear garden and a small extension has been constructed to the rear of the house. The side boundaries of the house are treated with 2m walls and the rear boundary is treated with a 2m fence. These boundaries are shared with the adjoining residential properties. These adjoining properties all have rear gardens backing onto the site. The southern / side boundary of the house adjoins the rear boundaries of the adjoining dwellings no. 17, 18 and 19 Castlewood Gardens. These houses are set back about 11m from the shared boundary wall. There is a separation distance of approximately 50m between the rear of the house and the adjoining rear property at Beechwood Drive. On day of site visit there were two temporary shed structure within the rear garden of the site.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
- 2.2. (i) Permission for the construction of a shed near the south boundary wall at the rear of the garden. The shed has a floor area of 44sqm and contains a 26.1sqm storage room and a 16.9sqm wood storage room. At further information stage the applicants submitted revised drawings showing the height of the shed reduced to 2.87m. The shed is to be finished with timber cladding walls and corrugated panel roof.
- 2.3. (ii) permission to retain the foundations constructed for the above mentioned structure including site works.

3.0 Planning Authority Decision

3.1. Decision

Following a Further Information request on 22nd March 2024 and subject to Further Information received on 16th May 2024, the planning authority issued a notification of decision to grant permission subject to 13 conditions. Conditions of note include:

Condition 3 – No part of the development, including any fascia, soffit or rainwater goods, shall be constructed on or over shared party boundary walls with neighbouring properties. Reason: In the interest of the amenity of the area.

Condition 4 – The use of shed garage shall be for private domestic use only, solely for purposes incidental to the enjoyment of the dwelling house and shall not be used for commercial, trade or industrial purposes, housing animals or for human habitation. Reason: In the interest of clarity and proper planning and sustainable development.

Condition 5 – Within four weeks from the completion of the development, the existing temporary storage shed shall be demolished and removed from the site. Reason: In the interest of clarity and proper planning and sustainable development.

Condition 6 – External finishes to the shed to be in accordance with the details on the drawings. Reason: In the interest of character and visual amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Further Information was requested to address concerns in relation to the impact of the development on residential amenity. The applicant was requested to submit a Daylight and Sunlight Assessment to show the effects of the proposed development on neighbouring properties, or alternatively revised drawings could be submitted.
- In the further information response, the applicant submitted a shadow assessment and revised the designs for the shed which was reduced in height from 3.37 to 2.87m.
- The case planner considered the further information response to be acceptable and recommended grant of permission. The key considerations included the following:
 - The proposal for an ancillary shed within the curtilage of a dwelling is acceptable in principle and is in accordance with the zoning objective.

- Impact on residential amenity – the further information response was deemed acceptable and the shed would not diminish daylight or sunlight to adjoining dwellings.
- The works will integrate with the existing dwelling, will not impact on the character of the area or the amenity of adjoining dwellings.

3.2.2. Other Technical Reports

- Municipal District Engineer – recommends grant of permission
- Environment section – no objection, recommended conditions relating to management of surface water.
- Carlow Fire Authority – no objection

3.3. Prescribed Bodies

none

3.4. Third Party Observations

One third party observation was received. The issues raised were as follows:

- The address of the property was not correctly referenced.
- Concerns regarding the impact on residential amenity, particularly overshadowing and loss of daylight.
- The height and scale of the development is excessive.
- Unclear if the development directly adjoins the shared garden wall – any gap poses a risk for rodents and health and safety risk.
- The development is out of character with the pattern of development in the area.
- A revised location / revised design would reduce impacts.

4.0 Planning History

No relevant planning history

5.0 Policy Context

5.1. Carlow County Council Development Plan 2022-2028

The site is zoned 'Existing / Infill residential' where the objective is "To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services".

The following detail is provided: "The purpose of this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties. The strengthening of community facilities and local services will be facilitated subject to the design, scale, and use of the building or development being appropriate for its location."

5.2. Natural Heritage Designations

None relevant

5.3. EIA Screening

The proposed development is not a class of development set out in Schedule, Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended) and therefore the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is on behalf of the residents of no. 17 and 18 Castlewood Gardens which are the properties adjoining the southern boundary of the site. The grounds of appeal can be summaries as follows:

- Concern that the shed will result in overshadowing and loss of daylight and will adversely impact on their residential amenity.
- Relocating the shed to an alternative location on the site or reducing the height of the shed would address the concerns of the appellant.
- Have a constrained site, there is limited sunshine in Ireland, and wish to protect and retain the existing level of sunlight received in their private garden. and wish to enjoy the limited amount of sunlight received on garden on sunny evenings.
- Third parties were not notified of the further information response.

6.2. **Applicant Response**

The applicant's response to the grounds of appeal can be summarised as follows:

- Any overshadowing concerns are over exaggerated.
- The development complies with the Building Regulations and complies with BRE Guidance.
- The impact of existing overshadowing should be noted.
- Revised drawings have been submitted showing a modified design of the shed. The revised design is to retain the location of the proposed shed but to alter the roof so that the closest eave to the boundary is elevated 200mm above the existing boundary wall. This will reduce the overshadowing and visual impact. Revised drawings have been submitted showing this revision for consideration.

6.3. **Planning Authority Response**

The planning authority responded indicating no further comment and its position remains as per the planners report recommendation.

6.4. **Observations**

None

7.0 **Assessment**

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

- Impact on residential amenity
- Other matters
- Appropriate assessment screening

7.1.1. The applicant has submitted revised drawings at appeal stage to address the issues raised by third parties. I propose to assess the development which was the subject of the planning authority decision in the first instance and there after consider the modified proposals.

7.1.2. The site layout plan submitted with the application shows the rear garden with foundations in the south-west corner for the proposed shed and shows an existing temporary storage shed to be demolished after new works are completed. On day of site visit, the rear garden contained the foundations in the south-west corner and two make shift shed structures on concrete blocks. The existing planning status of the two shed structures is not clear.

7.2. **Impact on residential amenity**

7.2.1. The site is zoned 'Existing / Infill residential' where the objective is "To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services".

7.2.2. The third parties have raised concerns regarding the impact of the proposed shed on their amenity. A key issue is the overshadowing impact of the proposed development. At further information stage, the applicant submitted revised drawings reducing the height of the shed and a Sunlight Daylight report which considered the impact of the revised shed design. The analysis is carried out having regard to the standards in BRE guidance 'Site Layout Planning for Daylight and Sunlight'. The

guidelines state “It is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March.”. The report compares shadow of the existing and proposed development on 21st March. The shadow diagrams show that the proposed shed does not result in additional shadow of the neighbouring properties. Therefore, I am satisfied that the proposed shed will not adversely impact on the amenity of adjoining properties by reason of overshadowing impacts.

- 7.2.3. In terms of overbearing impact, the proposed shed is shown abutting the southern boundary wall of the site. The length of the shed along the boundary is c 13.6m. This section of boundary wall is shared with the adjoining properties no. 17 and 18 Castlewood Gardens. The shed, as amended by way of further information, has a ground to ridge height of 2.87m. The elevation drawings show the view of the southern elevation of the wall facing the neighbouring properties. At its highest point, the shed would be 1.1m above the existing boundary wall. The rear boundary of no.18 Castlewood Gardens extends along approximately 18m distance of the wall. The proposed shed is to be located along the western part of the wall and will span across approximately half of no.18's rear boundary. The site's southern boundary wall is also shared with no. 17 Castlewood Gardens. The proposed shed is to extend along only a small part of the corner boundary shared with no.17. Both no. 17 and no.18 benefit from good sized gardens and there is a separation distance of approximately 12m between the rear elevation of no.18 and the rear boundary wall.
- 7.2.4. Having regard to the modest height of the proposed shed relative to the existing boundary wall, to the overall length of the shed relative to the length of boundaries impacted, to the good separation distance between the shed and the adjoining dwellings, including the size of the rear amenity space provided for the adjoining dwellings, I consider that the height and scale of the shed is acceptable and would not result in overbearing impacts by reason of visual intrusion.
- 7.2.5. The shed is to be finished in timber cladding and metal. I consider that the finishes are acceptable and typical of that common for shed structures and there would be no significant adverse visual impacts for the adjoining properties.

- 7.2.6. Having regard to the fact that I consider that the proposed development as shown in the drawings and details submitted to the planning authority at application stage are acceptable, I do not consider that the further modifications to the design proposed by the applicant at appeal stage are warranted. Furthermore, I do not consider that there is a reason to relocate the shed to an alternative location within the garden.
- 7.2.7. Due to the proximity of the shed to the shared boundary wall, I recommend a condition be attached to ensure that all works are within the boundary and do not adversely impact on the common boundary wall.

7.3. **Other matters**

7.3.1. Size and scale of shed

The shed is for storage for the use of the main dwelling. I consider that the size and scale of the shed is satisfactory having regard to the nature of its use and to its size and scale ancillary to the dwelling and to the large garden available. A condition can be attached to a grant of permission restricting the use of the shed to purposes incidental to the enjoyment of the main house. The dwelling house will retain a rear garden space of 451sqm and I am satisfied that the resulting quantum and form of the rear amenity space is satisfactory.

7.3.2. Procedural matters

The appellant has raised issues regarding the notification of the further information. In this regard, I am satisfied that the processing of the application documentation is a matter for the planning authority

7.3.3. Status of existing shed structures

The site visit identified that there are two existing temporary shed structures located within the rear garden. The drawings show one of these structures and state that the shed is to be demolished. The planning authority attached a condition stating that the temporary storage shed shall be demolished and removed from the site within four weeks from the completion of the development. For clarity regarding timescale for removal of the shed, I recommend that a similar condition be attached. The

second shed structure is not shown on the drawings and the planning status of this shed is unclear. The enforcement of any unauthorised development on a site is a matter for the planning authority.

7.4. Appropriate Assessment screening

7.4.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act as amended. The subject site is not located within or adjacent to any European site. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have an appreciable effect on a European site. The reason for this conclusion is as follows:

- The small scale and domestic nature of the development
- The location of the development in a serviced urban area, the distance to the Natura 2000 site network and the absence of pathways to any European site.

I consider 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 and appropriate assessment is therefore not required.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the established residential use on the site, the prevailing pattern and character of development in the area, and the nature, size and scale of the proposal, it is considered that, subject to compliance with the conditions set out below, the proposal would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 16th day of May 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.

Reason: In the interest of clarity.

2. The shed shall be used for purposes incidental to the enjoyment of the dwelling and shall not be used for any commercial / trade / industrial use or for human habitation.

Reason: In the interest of orderly development.

3. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

4. No part of the structure including gutters and eaves shall over sail any lands in separate ownership or impact upon the common boundary wall, unless with the written agreement of the adjoining owner(s).

Reason: In the interests of clarity and orderly development.

5. Within four weeks from the completion of the development, the existing temporary storage shed shown on the site layout drawing shall be demolished and removed from the site.

Reason: In the interest of clarity and proper planning and sustainable development.

6. 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

A. MacNamara

Aisling Mac Namara
Planning Inspector

30th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 320036-24		
Proposed Development Summary	Permission for construction of shed and retention permission for foundations, together with all associated site works		
Development Address	45 Castlewood Gardens, Carlow		
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	X
		No	
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			EIA Mandatory EIAR required
No	X		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)
			Conclusion
No	X	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: Aisling Mac Namara **Date:** 30th September 2024