



An
Bord
Pleanála

Inspector's Report

ABP-320807-24

Development

Retention: the construction of a section of side wall and a rear wall to the existing storage shed and also a mezzanine floor for storage purposes and all associated works.

Location

Knockane, Newcastle West, Co.
Limerick.

Planning Authority

Limerick City and County Council

Planning Authority Reg. Ref.

24254

Applicant(s)

Andy Blashkiv

Type of Application

Retention Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Andy Blashkiv

Observer(s)

None

Date of Site Inspection

25th November 2024

Inspector

Emma Gosnell

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1.0 Site Location and Description

- 1.1. The appeal site is located at Knockane in Newcastle West, Co. Limerick on the south-east side of the South Key/ Cullinagh (N21 road).
- 1.2. The site is adjoined to the south-west by the Knights Court housing estate, to the north-east by a detached residential property and to the rear (south and south-east) by undeveloped/ agricultural lands. Newcastle West Rugby and Football Club is located further to the east and the River Arra runs to the south of the lands.
- 1.3. The c. 0.5ha L-shaped site comprises of a large (c. 314sq.m) detached residential dwelling which is in the process of being refurbished and extended to the rear, with a large domestic storage shed to the rear.
- 1.4. The single storey shed is c. 180sq.m in size and features a 61sq.m mezzanine floor.

2.0 Proposed Development

- 2.1. The development comprises of retention for the construction of sections of wall with opes to the rear (south-east elevation) and rear side (north-east elevation) of an existing storage shed in order to enclose a previously open storage area, together with the retention of a partial mezzanine floor and additional opes (3 no. doors and 2 no. windows) on the south-east (rear) and north-east (side) elevations of the shed.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for 1 no. reason relating to the excessive size/ scale of the structure on a domestic site and its potential to negatively impact on neighbouring residential amenities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One planning report forms the basis of the assessment and recommends that retention permission be refused. The report considered the following:

- The scale of the proposal versus the scale/ design of shed as permitted given its location on a domestic site.
- The applicant's failure to provide a justification for the increased scale and additional opes.
- Potential for negative impacts on adjoining residential amenity.

3.2.2. Other Technical Reports

Mid-West National Road Design Office (09/07/2024) – No observations.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (09/07/2024) – Requests that regard is had to relevant Section 28 and TII Guidance on planning adjoining national roads and rail systems.

Uisce Eireann (19/07/2024) – No objection in principle subject to standard conditions.

3.4. Third Party Observations

2 no. third party observations were received from neighbouring property owners at No's 5 and 6 Knights Court. The observations raised procedural, validation and compliance issues in respect to the previous planning applications for the shed and concerns about the existing size, scale and use of the shed and its impact on neighbouring light, privacy and property values. The observations also raised a number of issues in respect to the ongoing construction activities on site. These related primarily to noise/ disturbance, working hours, parking, public safety and surface water run-off. The applicant also nominated Cllr. Michael Collins to make representations on his behalf in respect to the planning application.

4.0 Planning History

4.1. Site

P.A. Ref. 221021 – Permission granted for the construction of a domestic storage shed and new boundary wall in the position granted permission under planning reference 22/571 and all associated works, subject to 6 no. conditions including one requiring the shed to remain in domestic use ancillary to the main dwelling on site.

P.A. Ref. 22571 – Permission granted for the refurbishment and extension of the existing dwelling and for a domestic double garage, the setting back of the original entrance and boundary wall for improved sightlines and all associated site works, subject to 10 no. conditions including the requirement that the dwelling and garage remain in domestic use.

5.0 Policy Context

5.1. Local Policy

The Limerick County Development Plan 2022-2028 (LCDP) and Newcastle West Local Area Plan 2023-2029 (LAP) apply.

5.1.1. Zoning

The LAP's zoning map illustrates how front portion of the application site is zoned 'Existing Residential' with the objective 'To provide for residential development, protect and improve existing residential amenity', with the rear portion of the site (i.e. where the shed is located) being zoned for 'Open Space and Recreation' with the objective 'To protect, provide for and improve open space, active and passive recreational amenities'. The lands to the south of the site, adjoining the River Arra, are also zoned for open space/ recreation and come within Flood Zones A and B.

The LCDP and LAP state that purpose of the existing residential zoning includes providing for design which is complimentary to its surroundings, and which does not adversely impact on the amenity of adjoining residents. The purpose of the open space/ recreational zoning is stated to be the provision of active and passive recreational resources.

Residential uses (including for example domestic sheds) are generally permitted on the front portion of the site but are neither generally permitted nor open for consideration on the rear part of the site.

Section 12.4 of the LCDP states that non-conforming uses (i.e. uses which do not conform to their zoning objectives) or extensions/ improvements to these uses shall be considered on their merits on a case-by-case basis, where they do not adversely

affect the amenities of properties in the vicinity and are not prejudicial to proper planning and sustainable development.

5.2. Natural Heritage Designations

The appeal site is not located within or adjoining any designated site.

The nearest European Sites and Natural Heritage Areas in close proximity to the appeal site are as follows:

- Glenastar Wood pNHA (Site Code 001431) - approx. 5.8km to north-west.
- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) – approx. 4km to the west.
- Carrigerry Bogs NHA (Site Code 002399) - approx. 8km to north-west.
- Lower River Shannon SAC (Site Code 002165) - approx. 8km to the north-west.
- Askeaton Fen Complex SAC (Site Code 002279) – approx. 15km to north-east.
- Ballymorrisheen Marsh pNHA (Site Code 001425) – approx. 15km to north-east.
- Cappagh Fen pNHA (Site Code 001429) – approx. 16km to north-east.
- Adare Woodlands pNHA (Site Code 000429) - approx. 20km to north-east.

5.3. EIA Screening

The proposed development to be retained is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report - EIA Pre-Screening.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal submission was received and seeks to address the planning authority's (PA) reason for refusal. The grounds of appeal can be summarised as follows:

- Shed sited to avoid flood risk area and to minimise visual impact from N21.

- New walls to rear/ side erected to further weatherproof shed and to protect domestic fuel/ construction materials being stored within.
- Enclosure of permitted open storage area and provision of partial mezzanine floor did not increase building footprint or change its external appearance from that permitted under P.A. Ref. 221021.
- Shed being temporarily used to store construction materials. Will be used to store applicant's cars/ boat once refurbishment and extension works are completed.
- Mezzanine will allow for additional storage in longer term when main ground floor space will be occupied by stored vehicles.
- Structure is in private domestic use and not in commercial use.
- Refutes points raised by third party observers in respect to compliance with planning conditions and construction working hours.

6.2. Planning Authority Response

None received.

6.3. Observations

None received.

6.4. Further Responses

None received.

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, and having inspected the site, and having regard to the relevant local/ regional/ national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Scale

- Impact on Neighbouring Properties
- Other Matters

7.1. Principle of Development

7.1.1 The development to be retained is located in an area zoned 'Open Space and Recreation'. Whilst residential and ancillary development is neither generally permitted nor open for consideration under this zoning, I note that the storage shed is an existing permitted structure and that Section 12.4 of the LCDP allows that extensions/improvements to non-conforming uses can be considered on their merits on a case-by-case basis, where they do not adversely affect the amenities of properties in the vicinity and are not prejudicial to proper planning and sustainable development. I therefore consider the proposal to be acceptable in principle, subject to the detailed considerations below.

7.2. Scale

7.2.1. The PA deem the scale of the storage shed as constructed to be excessive given its domestic location, noting that the permitted shed had an internal floor area of 134sq.m with an additional 44.72 sq.m open storage area to the rear.

7.2.2. The appellant contends that their enclosure of the open storage area permitted under PA. Ref. 221021, together with the provision of partial mezzanine floor, does not increase the building's footprint or change its external appearance from that permitted.

7.2.3. Having visited the site and reviewed the nature and extent of the shed as permitted against the retention proposal, it is clear to me that the footprint of the internal storage area has been increased by c. 45sq.m on account of the enclosure of the permitted partially external storage area to the rear which was to be open to the elements on its south-east and north-east sides. However, given that the permitted open storage area was fully roofed and enclosed by a c. 5m long and c. 4.5m high wall on its south-west side where it adjoins the Knights Court residential estate, I consider that it already contributed to the significant overall scale, massing and footprint of the domestic storage shed structure as permitted by the PA – particularly when viewed from this neighbouring estate. On this basis, it is my opinion that the addition of sections of wall to the rear (c. 10m) and rear side (c. 5m), whilst somewhat altering the massing and

visual appearance of structure when viewed from the rear (south-east) and rear side (north-east), could not in and of themselves reasonably be considered to render the scale of the structure to be excessive. Given their placement on the structure, I also do not consider that the changes give rise to an unacceptable impact on visual amenity.

7.2.4. I note the appellant's rationale for the partial mezzanine floor which, on account of its internal location, I consider has no bearing on the overall scale or mass of the storage shed.

7.3. Impact on Neighbouring Properties

7.3.1. In response to the concerns raised by third parties in respect to the likely commercial use of the shed, the appellant clarifies that it is and will be maintained in domestic use only. I consider that the matter of the structure's use has already been addressed via the attachment of a suitable condition to the grant of planning under PA. Ref. 221021.

7.3.2. In considering the PA's refusal reason which cites unacceptable impacts on the amenities of neighbouring residential properties, I note that the structure's scale, massing and blank west side elevation bordering the Knights Court residential estate is unchanged from that permitted under PA. Ref. 221021. The additional sections of wall and new opes are located to the rear (south-east) and side (north-east) elevations of the structure and, given their placement/ orientation and significant separation from undeveloped/ open space lands to the south and south-east, in addition to the nature of the use of the shed for storage only, I consider that they give rise to no potential for undue overlooking of neighbouring properties. On the basis of these considerations, I cannot see how a refusal on the aforementioned grounds is justified.

7.4. Other Matters

I note that the grounds of appeal refute various allegations in respect to planning and construction compliance made by the third party observers during the initial planning stage. Any potential issues relating to non-compliance with planning or construction requirements falls under the jurisdiction of the PA to be pursued through the appropriate channels.

8.0 AA Screening

- 8.1. I have considered the proposal for retention permission at Knockane, Newcastle West, Co. Limerick in light of the requirements S177U of the Planning and Development Act 2000 (as amended).

The subject site is located on zoned and serviced lands within a band of residential development adjoining the N21 on the outskirts of Newcastle West. It is also located approx. 4km to the east of Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161). It is also located approx. 8km to the south-east of the Lower River Shannon SAC (Site Code 002165) and approx. 15km to the south-west of Askeaton Fen Complex SAC (Site Code 002279).

- 8.3 The proposed development to be retained comprises of the construction of sections of wall with new opes to the rear and side of an existing storage shed in order to enclose a previously open storage area, together with the retention of a partial mezzanine floor.

- 8.5 No nature conservation concerns were raised in the planning appeal.

- 8.6 Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The minor nature of the development to be retained.
- The location-distance from the nearest European Site and lack of connections.
- Taking into account the screening report/ determination by the PA.

- 8.7 I conclude that on the basis of objective information, the proposed development to be retained would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

- 8.8 Likely significant effects are excluded and therefore Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend a GRANT of retention permission subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the existing residential and open/ space zoning objectives for the site, together with the policy guidance governing extensions/ alterations to non-conforming uses, and to the planning policies, objectives and development standards of the Limerick County Development Plan 2022-2028, the nature, scale and design of the development to be retained relative to the existing property and adjoining properties, and to the existing pattern of development in the wider area, it is considered that subject to compliance with the conditions set out below, the development to be retained is an acceptable form of development at this location and would not seriously injure the amenities of adjoining properties, and would therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be retained in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by the following conditions.</p> <p>Reason: To clarify the plans and particulars for which permission is granted.</p>
2.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development to be retained shall be restricted to use as a domestic garage/ store (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.</p> <p>Reason: To protect the amenities of the adjoining properties to the south-west.</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.

Emma Gosnell
Planning Inspector

5th December 2024

Appendix 1

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320807-24		
Proposed Development Summary	Retention: the construction of a section of side wall and a rear wall to the existing storage shed and also a mezzanine floor for storage purposes and all associated works.		
Development Address	Knockane, Newcastle West, Co. Limerick.		
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 ✓	Proceed to Q2.
		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)?			
Yes		State the Class here.	Proceed to Q3.
No	✓		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	✓	Screening determination remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: _____ Date: _____