



An  
Bord  
Pleanála

## Inspector's Report ABP312874-22

### Development

Retention of the single storey detached, timber clad flat roofed building in the rear garden area for the proposed use as a games room / amenity space to the main house.

### Location

25A Park Villas, Castleknock, Dublin 15.

### Planning Authority

Fingal County Council.

### Planning Authority Reg. Ref.

FW21B/0174.

### Applicant(s)

Pat Holmes.

### Type of Application

Permission.

### Planning Authority Decision

Refuse.

### Type of Appeal

First Party

### Appellant(s)

Pat Holmes.

### Observer(s)

N/A.

### Date of Site Inspection

24.05.2022.

### Inspector

Mary Mac Mahon.

## 1.0 Site Location and Description

1.1. The site is located in a suburban area of Castleknock, Dublin 15. Park Villas is a cul-de-sac with an unusual pattern of development of large, individual houses on large plots, where infill development has occurred. The site has been annexed from a larger site and is roughly an inverted 'L' shape, running across the rear of 25 Park Villas, from which the site was originally subdivided. There is an existing detached dwelling house and permitted shed on the site. The building seeking retention permission is timber clad. Both the shed and it are set back from view of the main rear wall of the existing house, on the left hand side of the garden. A fence separating the shed and building to be retained was in the process of being removed on the day I visited the site. The site area is stated as 0.0747 ha.

## 2.0 Proposed Development

2.1. The proposed development is a 'shomera' style rectangular box building, with a stated gross floor area of 23.4 square metres and maximum height of 2.76 metres. Comfort facilities are provided, as well as a kitchen sink. The site is connected to the public mains for water supply and drainage.

## 3.0 Planning Authority Decision

### 3.1. Decision

Retention permission refused for two reasons:

- 1. The structure seeking retention is located on land which has been subdivided from the parent dwelling No 25A Park Villas by the erection of a wooden fence, without the benefit of planning permission. A second structure on the site has been used for habitable living, in contravention of Condition No.2 of Reg. Ref. FW10B/0103. Therefore, an intensification of use has occurred on the application site, which is contrary to the RS zoning objective in the Fingal County Development Plan 2017-2023 which seeks 'to provide for residential development and protect and improve residential amenity', is contrary to the parent permission under Reg. Ref. F08A/115, would create an undesirable*

*precedent for future such development and would be contrary to the proper planning and sustainable development of the area.*

2. *The structure seeking retention and the existing structure on site, due to their proximity to adjoining residential properties, particularly the rear garden of No. 25 Park Villas, would seriously injure the amenities and depreciate the value of property in the vicinity. The proposed development would be contrary to the proper planning and sustainable development of the area.*

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

#### **3.2.1. Planning Report**

3.2.2. The application arises from enforcement, where the garden shed, permitted under Reg. Ref. FW10B/0103 was being used for habitable purposes, contrary to Condition 2 of that permission. The site is zoned RS, which seeks to provide for residential development and protect and improve residential amenity. One third party submission has been made and has been taken into account. The report notes the presence of a third shed on the site, not shown on the drawings.

3.2.3. There is a 'For Sale' sign on the house. On Daft.ie, the two sheds are described as mews dwellings.

#### **3.2.4. Other Technical Reports**

Water Services – no objection subject to condition.

Irish Water - no objection subject to condition.

### **4.0 Planning History**

Enf: 21/286B A Warning Letter issued in relation to the use of the permitted shed for human habitation and the construction of a second building to the rear of 25A Park Villas for human habitation.

Reg. Ref. FW10B/0103 – 25 Park Villas – Retention Permission granted for a shed to rear (copy of plans in pouch) to Pat Holmes. Condition 2 required that the garden shed be used solely for purposes incidental to the main dwelling house and shall not be

used for human habitation, multiple occupancy or commercial activity. It should be noted that while 25A Park Villas were shown on the plans, the rear boundaries were different from that permitted under F08-1155, with the area where the single shed is located being shown as part of the rear garden of 25 Park Villas. From the planner's report, the overall land holding is described as having two dwellings. The floor area of the shed is stated as being 29.2 square metres in area.

Re. Ref.: F08A/1155 – 25 Park Villas - Permission granted on 16.01.2009 for the demolition of an existing shed to the side and construction of a detached dwelling of two storeys to Pat Holmes. Condition 2 required that each house be used as a single dwelling house and Condition 3 authorised one no. dwelling only. It should be noted that the rear private open space of the existing dwelling is 130.5 square metres in area, and the rear private open space for the proposed dwelling is 349.92 square metres. The boundaries were consistent with the current boundaries.

## **5.0 Policy and Context**

### **5.1. Development Plan**

The Fingal Development Plan 2017-2023 applies. The land use objective for the site is 'RS', the objective of which is '*To provide for residential development and protect and improve residential amenity*'.

### **5.2. Natural Heritage Designations**

5.3. Having regard to minor scale and the foreseeable emissions from the proposed development 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.

### **5.4. EIA Screening**

5.5. The development to be retained does not fall within a class of development that comes within the scope of Environmental Impact Assessment.

## 6.0 The Appeal

6.1. The applicant's agent, Stephen Molloy Architects, submitted the appeal, which is summarised below.

### 6.2. Grounds of Appeal

- The applicant is the previous owner of No. 25 Park Villas and has now sold 25A Park Villas.
- The applicant, who spent limited time in No. 25, decided to rent it out and provide for living accommodation for himself in the shed.
- The building for retention was used as a living room and the shed was now used as a bedroom.
- The timber fence was erected to give privacy.
- The applicant now lives permanently in Spain and the shed has been returned to use as a shed, which is authorised, and the wooden fence removed. The games room is in use as a games room.
- The application is to resolve the planning matters as the unauthorised use has ceased. The new owners are aware that the use for habitable living purposes is unauthorised.
- The games room is of a type replicated in thousands of homes in Ireland.

### 6.3. Planning Authority Response

- The site has been subdivided by a wooden fence from the parent dwelling of 25A. The shed is being used for habitable purposes, contrary to Condition 2 of FW10B/0103 and contrary to the parent permission, F08A/1155.
- The development proposed to be retained has been assessed having regard to the residential zoning of the site, its location, the established pattern of development of the site and its relationship with adjoining development.

## 7.0 Assessment

- 7.1. There are two issues to be considered, in my opinion. The first is the use wooden clad building. The second is whether the retention of the building would seriously injure the amenities of no. 25 Park Villas.
- 7.2. I visited the site and the wooden fence separating the two single storey buildings from the main house was in the process of being removed. I inspected the wooden clad building and found that there was no evidence of human habitation at this time. Should permission be granted for the retention of this development, I would recommend a condition that the fence be removed within 3 months of the date of the order and that the use of the building shall be ancillary to the dwelling house.
- 7.3. I accept that the appellant, who formerly occupied the two single storey buildings on site, used them jointly as a separate, independent dwelling from the main house, in contravention of Condition 2 of Reg. Ref. FW10B/0103, but that with the sale of the property, this use has now ceased.
- 7.4. The permitted shed is approximately 29 square metres – circa 4 square metres above the area allowed for exempted development, under the Planning and Development Regulations, 2001, as amended. I make this point to illustrate that the permitted shed is not overly large for its general use as a garden shed.
- 7.5. The development to be retained is stated as 23.4 square metres in area. There has been general increase in demand for this type of ‘garden room’ development in recent years to provide for games rooms, home offices, etc. The rise in ‘Working from Home’, particularly where more than one resident needs to do so, has escalated the intensity in which homes are used. Therefore, I would consider that the provision of a separate space for use ancillary to the main use of the dwelling house and separate from a utility space, such as a shed, is compatible with the general land use zoning.
- 7.6. The remaining rear garden area of No. 25A Park Villas is more than sufficient to provide for outdoor amenity space for the residential unit.
- 7.7. The impact the retention of the timber clad building on No. 25 Park Villas is to be considered. The single storey building is stated as being 7.3 metres from the rear

boundary wall of that property. It is approximately 18 metres from the main rear wall of that property. Irrespective of the presence of landscaping on the applicant's property, there is no significant overlooking of that property from the development to be retained. Providing the development to be retained is used for ancillary purposes to the main house, I do not consider that any noise nuisance arises greater than that which would be experienced in standard suburban gardens.

7.8. The development to be retained is circa 1 metre from the rear of No. 29 Phoenix Mews, where there is an existing shed abutting the property boundary. I do not consider that the proposed development to be retained impacts on the residential amenity of this property.

## 8.0 Recommendation

8.1. I recommend that permission be granted, subject to condition.

## 9.0 Reasons and Considerations

Having regards to the size and location of the development to be retained and the reintegration of the area into the rear garden of 25A Park Villas, and subject to the conditions set out below, it is considered that the proposed development to be retained, would not seriously injure the residential amenities of the area and would be acceptable in its use as ancillary to the dwelling house on the site. The proposed development to be retained, would therefore, be in accordance with the proper planning and 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 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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	<p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The wooden fence subdividing this property shall be removed within 3 months of the date of this order.</p> <p><b>Reason:</b> To ensure that development to be retained is successfully integrated into the property, in the interest of residential amenity.</p>
3.	<p>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p><b>Reason:</b> To restrict the use of the extension in the interest of residential amenity.</p>
4.	<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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the</p>



	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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Mary Mac Mahon  
Planning Inspector

14 June 2022