



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317450-23

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<b>Development</b>	Retention planning permission for a single storey detached office/storage to side garden. Retention for wall to front/side garden within curtilage of site. Permission to reinstate hedgerow along front boundary all with associated ancillary works.
<b>Location</b>	16 St. Enda's Drive, Rathfarnham, Dublin 14
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD23B/0151
<b>Applicant(s)</b>	Eoin O'Dell
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Eoin O'Dell
<b>Observer(s)</b>	Andrew Sheehan
<b>Date of Site Inspection</b>	2 <sup>nd</sup> September 2023
<b>Inspector</b>	Niall Haverty

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the southern side of St Enda's Drive, a residential street in Rathfarnham, Dublin 14. St Enda's Drive runs in a southwest-to-northeast direction from Whitechurch Road to Grange Road. The appeal site occupies a corner site close to the junction of St Enda's Drive and St Enda's Park and consequently is triangular in shape.
- 1.2. The site is occupied by a two storey semi-detached dwelling with a recently constructed single storey side extension. The houses along St Enda's Drive are generally parallel to the road, with a consistent building line, except for the two pairs of semi-detached houses at the junction, which are angled at c. 45 degrees to both roads.
- 1.3. A single storey timber shed or cabin type structure is located in the north west corner of the site aligned with St Enda's Drive, and forward of the building line of both No. 16 and No. 18 (the neighbouring house to the west). A mature hedge exists along parts of the site boundary, including to the side boundary with No.18.

## 2.0 Proposed Development

- 2.1. The development is described in the statutory notices as follows:
  - Retention permission sought for a single storey detached office/storage to side garden.
  - Retention permission sought for wall to front/side garden within curtilage of site.
  - Permission to reinstate hedgerow along front boundary.
  - Associated ancillary works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to refuse retention permission for the following two reasons:

1. Apart from the application site, there are currently no similar buildings in the front gardens of properties along Saint Enda's Drive. The character of the area is one of open front gardens with mature planting. Having regard to this, the siting, scale and design of the detached single storey office/store unit, and the wall would be significantly out of character with the streetscape of this residential area and would have an adverse impact on residential and visual amenity of the area, and in particular the dwelling to the west by reason of overbearance and overlooking. Thus the proposed development would be contrary to the zoning objective 'RES' 'To protect and/or improve Residential Amenity' of the South Dublin County Development Plan 2022- 2028 and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development for retention would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

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

3.2.1. The Planning Officer's report can be summarised as follows:

- The site is located in an area zoned 'RES' 'To protect and/or improve Residential Amenity'. Extensions and other uses ancillary to the main dwelling are 'Permitted in Principle' subject to accordance with the Development Plan and House Extension Design Guide.
- The unit is highly visible from the public street set in the front amenity space/garden of the dwelling and despite any remedial feature of reinstating the front boundary hedgerow to potentially screen the unit, it has a significant impact in terms of overshadowing and overbearing impact on neighbouring dwellings and on the public realm and would negatively impact the residential and visual amenity of the area.
- The surrounding area has a consistent streetscape.
- There are no similar buildings in the front gardens of dwellings on this road.

- The proposal would be out of character with the streetscape in this area and contrary to the 'RES' zoning objective 'RES'.
- Wall for which retention permission is sought is visually out of character with the prevailing pattern of walls to the front of dwellings along this road and should be refused.
- Planning permission is not required to plant a hedgerow.
- Appropriate Assessment or EIA not required.
- Concludes that the proposal would have an adverse impact on the residential amenities of the area and would be unacceptable due its location, scale, design which would be out of character with the surrounding area and would not protect the amenities of the area. It is not considered that the proposed development would be in compliance with Council policy.

#### 3.2.2. Other Technical Reports:

- **Water Services:** Additional information sought regarding surface water management.
- **Roads Department:** No objection subject to condition requiring maintenance of a visibility splay at the entrance.

### 3.3. Prescribed Bodies

#### 3.3.1. None.

### 3.4. Third Party Observations

- 3.4.1. Two third party observations were made by Charles Kevin Rafter (No. 18 St Enda's Drive) and Andrew Sheehan (No. 33 St Enda's Drive). The issues raised in both observations were the same as those contained in the observation on the appeal (see Section 6.3 below).

## 4.0 Planning History

- 4.1. **Reg. Ref. SD21B/0145:** Permission granted in 2021 for demolition of existing single storey side extension and the erection of single storey extension to side comprising a kitchen and dining room along with a utility room and shower room/W.C.
- 4.2. **S8890:** Enforcement case (opened 15<sup>th</sup> February 2022) regarding structures to the front which may require planning permission. Enforcement notice issued, according to Planning Officer's report.

## 5.0 Policy Context

### 5.1. South Dublin County Development Plan 2022 – 2028

- 5.1.1. The appeal site and surrounding area are zoned as Existing Residential (RES). The objective for RES zoning is "to protect and/or improve residential amenity".
- 5.1.2. The Development Plan does not appear to have any specific policies or objectives relating to garden cabins/sheds/offices. The following Policies, relating to extensions, are noted:
  - **Policy QDP11:** Materials, Colours and Textures – Promote high-quality building finishes that are appropriate to context, durable and adhere to the principles of sustainability and energy efficiency.
  - **Policy H13, Objective 5:** To ensure that new development in established areas does not unduly impact on the amenities or character of an area.
  - **Policy H14:** Residential Extensions – Support the extension of existing dwellings subject to the protection of residential and visual amenities.
- 5.1.3. Section 12.6.8 Residential Consolidation states that:

"The design of residential extensions should have regard to the permitted pattern of development in the immediate area alongside the South Dublin County Council House Extension Guide (2010) or any superseding standards."
- 5.1.4. The South Dublin County Council House Extension Guide contains detailed guidance on house extension design matters.

## 5.2. EIA Screening

- 5.2.1. Having regard to the nature and scale of the development comprising retention of a shed/cabin structure and a wall in an established residential area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. A first party appeal was lodged by Eoin O'Dell and can be summarised as follows:

- Site is a funny triangular plot. Log cabin was built as a study in what they thought of as their side garden.
- Stopped all works as instructed, when they got the first pre-enforcement notice.
- Problem stems from the fact that their side garden is next to the adjacent next-door neighbour's front garden, due to corner location of their house. All four houses on the corner are set at 45 degrees to the roads, giving rise to triangular plots.
- Hedge was removed to construct cabin/study. They haven't been able to reinstate due to stopping works on foot of notice.
- Hedge to right of study, between appellants house and neighbour is more than 10 foot high, so study is not visible from that property or to anyone walking from that side of St Enda's Drive until they pass the hedge. If and when the hedge is reinstated, the study will no longer be visible.
- Many examples of high hedges and walls in the area, e.g. 53 Grange Road.
- House at 216 Butterfield Avenue has a cabin in their back garden that is plainly visible from Owendore Crescent.

- There are three issues: Firstly, the garden is a side garden and not a front garden because that is what it is relative to the house; secondly, the cabin does not project past the front of the house by very much and they are happy to accept any conditions that the Board might impose to bring this unintended transgression into compliance; thirdly, the side garden is their main amenity space due to the small rear garden resulting from the triangular nature of the plot. They would have put it in the rear garden but there is not enough space.
- The enforcement notice is threefold, relating to the cabin/study, a garden shed and side wall. They have removed the shed. The retention application relates to the cabin/study and the side wall clearly dividing the side garden from the front garden.
- The cabin/study will be fully obscured from the road if and when the hedge is reinstated or if a suitable wall is constructed.
- Oral hearing requested.

## 6.2. Planning Authority Response

6.2.1. None.

## 6.3. Observations

6.3.1. One third party observation was submitted by Andrew Sheehan (No. 33 St Enda's Drive). It can be summarised as follows:

- Contrary to what is stated by the appellant, the cabin is fully built, all works were completed and it has been used by the owners.
- The Cabin breaks the boundary of all neighbours front gardens to the left and right of the existing property on St. Enda's Drive by more than 5m and also breaks the boundaries of properties located on St. Enda's Park, not just "the adjacent next door neighbours front garden".
- Precedent for other property owners to erect similar units in the future, if granted. St. Enda's Drive consists of residential and commercial properties, including a creche and concern that commercial properties would use this as a precedent to expand their commercial units.

- Significant negative visual impact on the street and neighbouring dwellings.
- Floor area of unit is 13 sq m, but floor area of any extension above ground level must not exceed 12 sq m for semi-detached houses.
- Planning permission should have been sought in advance of erecting the unit.
- Combined with the new authorised side extension, the total open space from the side of the house to the unit is less than 25 sq m.
- Build-up of wooden hedgerow units is a hazard and danger to pedestrians walking on the path.
- Unit's finish does not match the existing house and does not respect the style of the existing house and/or neighbouring dwellings.
- Observer informed that unit includes a fully functioning toilet, however it is marked "store" in architects' drawings. This is a material omission that also impacts the sewage system of the entire road.
- Rear of unit is less than 1m from pedestrian footpath and it poses a danger to pedestrians and children due to potential wood rot.
- Overshadowing and loss of light to habitable rooms in the adjoining dwellings and opposite dwellings.
- Should owners decide to cut the boundary hedge in future, the unit's front elevation windows would result in overlooking or loss of privacy to neighbouring properties.
- Build up of a "suitable wall" could encourage vandalism.
- Cabin projects more than 5m from the front elevation of 18 St. Enda's Drive.

6.3.2. The observation included a number of photographs of the development.

#### 6.4. **Further Responses**

6.4.1. None.

#### 6.5. **Oral Hearing**

6.5.1. The Board decided on 24<sup>th</sup> August 2023 that an oral hearing should not be held.



## 7.0 Assessment

- 7.1. The timber cabin structure for which retention permission is sought is a relatively sizable structure, with an area of 13 sq m or 15 sq m indicated in various places on the drawings and application form. It projects forward of the front building line of the appellant's house (No. 16) and is located adjacent to and entirely forward of the front building line of the neighbouring house to the west (No. 18). Due to the presence of a mature hedge between Nos. 16 and 18, the cabin is not visible from the driveway of No. 18, but it is highly visible from the public road and footpaths on St Enda's Drive.
- 7.2. The structure has a door facing onto the public footpath, which is not shown on the submitted drawings. Due to the manner in which the door is attached, it is not clear if it is functional or fixed in place. It is stated that the cabin is used for office and storage purposes.
- 7.3. The appellant's property is clearly unusual in its corner context, with the triangular shape of the site and the angled orientation of the house resulting in it having a larger than average front and side garden and smaller tapering rear garden than most properties in the area. This clearly presents difficulties with regard to the potential for erecting garden offices/cabins etc. While such garden cabins have become an increasingly familiar sight in rear gardens of residential areas, I consider that the cabin, by virtue of its location in the front garden, forward of the building line of the associated house and neighbouring houses, represents an incongruous and haphazard form of development that has a detrimental and injurious impact on the residential and visual amenities of neighbouring properties.
- 7.4. I note in this regard the unsightly nature of the cabin when seen from the observer's property on the opposite side of the road (No. 33), and the overbearing and domineering impact it has on the public footpath and on the neighbouring house to the west which, as a result of its orientation and proximity, it appears to the casual observer to be associated with. I note that the owner of No. 33, which is currently advertised as being for sale, made a submission to the Planning Authority raising the same issues as Mr Sheehan, but did not make an observation on the appeal.
- 7.5. With regard to the precedent cited by the appellant at Butterfield Avenue (c. 1km to the north), I note that it relates to a cabin structure in a rear garden, which happens

to be partially visible above the boundary wall from behind the site. I do not consider that it is comparable to the development for which retention permission is sought.

7.6. In conclusion, I consider that the placement of the cabin is highly visually intrusive in this residential area, where houses have an established building line and generally mature planting in their front gardens. I consider that it is detrimental to the residential and visual amenities of the area, would not be in keeping with the established pattern of development in the area and would, if permitted, set an undesirable precedent for haphazard development and as a result would not accord with the proper planning and sustainable development of the area.

7.7. With regard to the wall for which retention permission is sought, this appears to be a means of separating part of the front garden to serve as a separate gated side garden where the cabin is located. I also consider that the retention of this wall would also be inappropriate and contrary to the established pattern of development in the area.

7.8. Finally, as noted by the Planning Officer in their report, planning permission is not required for the planting of a hedge. While the planting of a hedge would somewhat lessen the visual impact of the cabin structure, it would not address the fundamental issues with the cabin's position, as addressed above.

7.9. I recommend that the decision of the Planning Authority be upheld.

#### 7.10. **Appropriate Assessment Screening**

7.10.1. Having regard to the nature, scale, and location of the proposed development in an established residential area and the lack of proximity or pathway to any European site, 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.

### 8.0 **Recommendation**

8.1. I recommend that retention permission be refused, for the reason set out below.

## 9.0 Reasons and Considerations

1. Having regard to the design and scale of the timber cabin structure (referred to as a single storey detached office/storage unit) and the wall for which retention permission is sought, and their siting forward of the established building line of the houses on St Enda's Drive and adjacent to neighbouring properties, it is considered that the development represents a haphazard form of development and an overbearing and incongruous intervention to the existing streetscape that is out of character with the pattern of development in the area and would seriously injure the residential and visual amenities of properties in the vicinity. The development would therefore be inconsistent with the 'RES' zoning objective for the area under the South Dublin County Development Plan 2022 – 2028, which seeks "to protect and/or improve residential amenity". It is further considered that the retention of the development would set an undesirable precedent for other similar development and consequently would be contrary to the proper planning and sustainable development of the area.

9.1. 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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Niall Haverty  
Senior Planning Inspector

5<sup>th</sup> September 2023