



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320510-24

#### Development

Retention of alterations to the front elevation at ground and first floor levels and retention of a 1.77m high wall on the north-east boundary to support electrical supply cabinet.

#### Location

7 Bray Road, Loughlinstown, Dublin  
18, D18 HW25

#### Planning Authority

Dun Laoghaire Rathdown County  
Council

#### Planning Authority Reg. Ref.

D24A/0394

#### Applicant(s)

Michelle & Alan Colgan

#### Type of Application

Retention Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

Third Party

#### Appellant(s)

Rose O'Sullivan

#### Observer(s)

None

#### Date of Site Inspection

5<sup>th</sup> November 2024

**Inspector**

Emma Gosnell

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located at No. 7 Bray Road, a cul-de-sac which runs parallel and to the south-west of the N11 national road in Loughlinstown, Co. Dublin.
- 1.2. The site is adjoined to the north-west by No. 6 Bray Road, a single storey commercial property which is in operation as an ethic take-away, and to the south-west by a gated laneway which borders a single-storey garage/ tyre centre. The site is adjoined by a large overgrown development site to the rear. This portion of Bray Road is predominantly commercial and character and gives way to a 2-way cycle lane and an entrance to an area of public parkland on its north-west side.
- 1.3. The parking arrangements on the road appear ad-hoc with a mixture of on-street parallel parking and perpendicular parking on the front apron. The Shanganagh River (also known as the Loughlinstown River North/ Carrickmines Stream) runs through a riparian area which is located to the rear of the building and discharges into Killiney Bay.
- 1.4. The site forms part of a terrace of properties which share a common forecourt or front apron and comprises a semi-detached 2-storey property with attic accommodation which is setback from the adjoining roadway. The ground floor of the property is in use as a take-away coffee shop with its 5m x 7.5m front apron being used as external customer seating. The take-away trade is conducted via 2 no. ground floor front windows. This front apron opens out onto the adjoining footpath and is enclosed by a 2.75m long and 0.9m high boundary wall and fencing on its south-east side and by a 1.4m long, 1.77m high section of boundary wall to the north-west to which a large electricity supply cabinet is affixed. The first floor and attic level of the property are in use as a residential accommodation, with the commercial and residential uses both being served by the same ground-level access door.

## **2.0 Proposed Development**

- 2.1. The development comprises of the retention of alterations to the front elevation in the form of the replacement of 2 no. doors and a large shop window with roller shutter at ground floor level with a PVC double glazed door and 2 no. PVC double glazed windows, and the replacement of 3 no. PVC-type windows at first floor level with 2 no.

PVC double glazed windows. It also includes the retention of a 1.77m high and 1.4m long rendered block wall with electricity supply cabinet on the north-east boundary of the site.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission for retention granted subject to 2 no. standard conditions – requiring that the development be retained in accordance with the details lodged with the application and clarifying that the retention permission only related to the development described in the statutory notices.

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

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

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

- Principle of development and compliance with ‘mixed-use neighbourhood centre’ site land use zoning objective and policies.
- Compliance with climate action objectives.
- Impacts on residential and visual amenity.
- Unauthorised development on site not referenced in statutory notices.
- Impact on drainage, access and parking arrangements.

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

- Drainage Planning (10<sup>th</sup> July 2024) – Raises no objection to proposal.

##### **3.2.3. Conditions**

- It is noted that Condition No. 2 attached to the decision order sought to clarify that the retention permission granted related solely to the description of development as set out in the statutory notices. It would be prudent for the Board to attach such a condition in the event of a grant of permission.

### **3.3. Prescribed Bodies**

None.

### **3.4. Third Party Observations**

1 no. third party observation was received from the neighbouring property owner at No. 6 Bray Road in respect to the application for retention permission. The observation queried the planning status of the boundary wall/ cabinet and other works to the property at No.7 and raised concerns about flood risk and the development's impact on their business at No. 6 and on the operation of the common front apron and

## **4.0 Planning History**

### **4.1 Site**

P.A. Ref. D22A/0312/ ABP Ref. 314135/22 – Retention permission refused on 17<sup>th</sup> November 2023 for the change of use of the ground floor from retail to residential; the construction of a 1.83m north-east boundary wall affixed with an electricity supply cabinet and timber bin store; and, the retention of a double car parking bay for 3 no. reasons. The planning authority cited unacceptable flood risk as a reason for their decision to refuse, in addition to the proposal's conflict with site zoning objective and policies RET7 (Neighbourhood Centres) and RET11 (Active Frontages), and unacceptable impact on visual amenity arising from bin store and timber fence.

P.A. Ref. D09/0782 (larger landholding including subject site) – Permission refused for demolition of Nos. 4 - 7 Bray Road, Loughlinstown, Dublin 18 and construction of 4-storey building with 4 no. commercial/ retail ground floor units and 4 no. 2-bed duplex apartments. 2 no. reasons for refusal related to overdevelopment and conflict with neighbourhood centre zoning, and creation of traffic hazard.

P.A. Ref. D07A/1492 / PL06D.227549 (larger landholding including subject site) – Permission refused for demolition of Nos. 4 - 7 Bray Road, Loughlinstown, Dublin 18 and construction of 5-6 storey over basement mixed-use building comprising 4 no. commercial/ retail ground floor units, 13 no. apartment units and basement parking for 17. No cars. 2 no. reasons for refusal related to overdevelopment and traffic hazard.

### Enforcement History

ENF 25021 – Alleged unauthorised development of a bin storage structure to the front of the property; raising of front boundary wall; and, subdivision. File remains open.

ENF434107 and ENF12303 – Alleged unauthorised advertising/ bin structures. Files closed following compliance with warning letters.

## 4.2 Neighbouring Sites

### N11 Bray Road

HA27.317742 - Bus Connects Bray to City Centre Core Bus Corridor Scheme

Road development application lodged by National Transport Authority on 04/08/2023 and is currently under consideration by An Bord Pleanála.

## 5.0 Policy Context

### 5.1 Local Policy

The Dun Laoghaire Rathdown County Development Plan 2022-2028 applies.

#### 5.1.1 Zoning

##### Table 13.1.12 (Zoning Objective 'NC')

- The site is zoned 'Objective NC' with the Objective 'To protect, provide for and/or improve mixed-use neighbourhood centre facilities'.
- The property's front apron, the footpath and adjoining roadway are all unzoned.

#### 5.1.2 Mixed-Use/ Neighbourhood Centre

##### Section 7.5.4.1 (Policy Objective RET7: Neighbourhood Centres)

- Seeks to provide for an appropriate mix, range and type of uses – including retail and retail services – in areas zoned objective 'NC' subject to the protection of the residential amenities of the surrounding area.

#### 5.1.3 Boundaries/ Hardstanding Areas

##### Section 12.4.8.2 (Visual and Physical Impacts)

- Potential for negative cumulative effects from creation of front boundary treatments in terms of area character and appearance, pedestrian safety, parking etc.

#### Section 12.8.7.2 (Boundaries)

- Suitable boundary treatments to be provided around/ between dwellings.
- Front boundaries to be softer/ more open i.e. low-level boundaries, planting.

## **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:

- Rockabill to Dalkey Island SAC (Site Code 003000) - approx. 3.1km to the north-east.
- Dalkey Islands SPA (Site Code 004172) - approx. 4.3km to the north-east.
- Loughlinstown Woods pNHA (Site Code 001211) – approx. 40m to the south-east.
- Dalkey Coastal Zone and Killiney Hill pNHA (Site Code 001206) – approx. 1500m to the north-east.
- Dingle Glen pNHA (Site Code 001207) - 3km to the south-west.
- Dalkey Coastal Zone and Killiney Hill pNHA (Site Code 001206) – approx. 2km to the 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**

6.1.1 One third party appeal submission was received from Rose O'Sullivan of Caramona Limited, 6 Bray Road in Loughlinstown, Dublin 18 who is the owner of the adjoining commercial property to the north-west. The grounds of appeal can be summarised as follows:

- The new wall and electricity cabinet are physically and visually obtrusive.
- The new wall undermines the shared functionality of the open plan apron which extends across the front of the properties.
- The applicant has recently extended the north-east boundary treatment.
- The wall undermines customer access to, and visibility of, the appellant's adjoining commercial unit.
- An Bord Pleanála have previously refused permission for this same development.
- Granting retention permission would set an undesirable precedent.

The appeal was accompanied by a number of dated and undated photos of the appeal site.

### **6.2. Applicant Response**

None received.

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

The planning authority refer the Board to their Planner's Report and state that, as the grounds of appeal do not raise any new matters, no change of attitude to the proposal warranted.

### **6.4. Observations**

None received.

## **6.5. 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
- Impact on Neighbouring Business Operation
- Planning History
- Other Matters

### **7.1. Principle of Development**

7.1.1 The proposed development is located in an area zoned for mixed uses/ neighbourhood centre facilities. The principle of development is therefore acceptable, subject to the detailed considerations below.

### **7.2. Planning History**

7.2.1 The grounds of appeal note that An Bord Pleanála previously refused permission for the retention of the construction of the wall and for alterations to the front elevation of the property in November 2023. The appellant also contends that a grant of permission now would set an undesirable precedent.

7.2.2 Whilst it is not immediately clear which planning application the appellant is referring to, it would appear to be the refusal of permission under P.A. Ref. D22A/0312/ ABP Ref. 314135/22. The grounds of refusal on this application relate to the flood risk which would arise if the change of use of the ground floor from retail to residential were permitted and did not refer to the wall or the alterations to the front elevation. Therefore, whilst planning permission was not previously granted for the retention of

the wall, the planning authority did not identify any issue with its retention. Notwithstanding this planning history, I note that every application is considered on its own merits having regard to the sensitivity of the receiving environment and the specifics of the proposal.

### **7.3. Impact on Neighbouring Business Operation**

7.3.1 The applicant is seeking permission for the retention of a section of rendered block wall on the north-east boundary of the site which borders a neighbouring commercial property at No. 6 Bray Road. The drawings show the wall to be c. 1.77m in height, c. 1.45m in length and c. 0.35m in width. There is a large rectangular electricity supply cabinet (1.15m x 0.8m x 0.3m) affixed to the interior side of the wall and the applicant is also seeking retention permission for this fixture.

7.3.2 The crux of the 3<sup>rd</sup> party appeal centres around the issue of the wall and electricity cabinet which delineate No's 6 and 7 Bray Road (in part). Namely, that they are visually obtrusive and that they physically obstruct the shared amenity and functionality of the properties' front apron thereby injuring/ damaging the cooperative/ common usage of the open plan area to the front of the terrace of properties. The appellant also contends that the subject wall reaches a height of 1.83m as it extends out into the front apron and that it blocks customers' view of, and restricts/ inhibits access to, their adjoining commercial unit.

7.3.3 I note, from the site location map submitted with the application, that the property boundary for No. 7 incorporates the area to the front of the building, which extends from the front elevation to the edge of the public footpath and is hereinafter referred to as 'the front apron'. I also note that the party boundary between No's 6 and 7 extends to approx. 5m running the full length of the north-east side of the front apron (i.e. from the front of No. 7 to the public footpath). The section of wall subject of this retention application accounts for just 1.45m or less than 25% of this shared boundary and sits below the full height of the adjoining windows. On this basis, it is my opinion that the section of wall could not undermine the shared functionality of the properties' front apron given that its open plan nature would remain largely intact. Furthermore, having its siting perpendicular to No. 7's front elevation and approx. 2m setback from the access door to the commercial unit at No. 6, this relatively short section of wall could not restrict or inhibit access to the adjoining commercial unit. In respect to the

appellant's contention that the wall would block customer's view of their commercial unit, I note that the premises remains highly visible from the adjoining Bray Road and N11 having regard to the location of its entrance door which projects out from the front elevation and to the fascia signage above the entrance door together with its large, prominent advertising signage at roof level.

- 7.3.4 On the basis of the foregoing, I consider the section of wall and electricity supply box to constitute relatively minor development which adequately integrates with the existing built context and would not unduly impact on the visual amenity of, or the operation of the neighbouring business at, No. 7.

#### **7.4 Other Matters**

The grounds of appeal allege that the applicants have extended a barrier out to the line of the public footpath by placing wooden barrels on their property. The appellants include a date stamped photograph of these barrels in-situ along the north-east property boundary. Any potential issues relating to non-compliance with planning falls under the jurisdiction of the planning authority to be pursued through the appropriate channels.

### **8.0 AA Screening**

- 8.1. I have considered the proposal for retention permission at No. 7 Bray Road, Loughlinstown in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 8.2. The subject site is located in an established mixed-use area on zoned and serviced lands. It is also located approx. 3.1km to the south-west of the nearest European Site (Rockabill to Dalkey Island SAC (Site Code 003000)) where the qualifying interests are Reefs [1170] and Harbour porpoise *Phocoena Phocoena* [1351].
- 8.3 The proposed development to be retained comprises of minor amendments to the front façade of an existing mixed-use property and the addition of a 1.77m high boundary wall and electricity supply cabinet within the property's front apron.
- 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 planning authority.

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 zoning objective of the site 'Objective NC' the objective for which is 'To protect, provide for and/or improve mixed-use neighbourhood centre facilities', and to the planning policies, objectives and development standards of the Dun Laoghaire Rathdown County Development Plan 2022-2028, the nature, scale and design of the development to be retained relative to the existing property and adjoining property, 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><b>Reason:</b> To clarify the plans and particulars for which permission is granted.</p>
2.	<p>The development to be retained hereby permitted relates only to:</p> <p>(a) Retention of alterations to the front elevation at ground and first floor levels.</p> <p>(b) Retention of a 1.77m high wall on the north-east boundary to support electrical supply cabinet.</p> <p><b>Reason:</b> In the interest of clarity and the avoidance of doubt and the proper planning and sustainable development of the area.</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.

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Emma Gosnell  
Planning Inspector

28<sup>th</sup> November 2024

# Appendix 1

## Form 1

### EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-320510-24		
<b>Proposed Development Summary</b>	Retention of alterations to the front elevation at ground and first floor levels and retention of a 1.77m high wall on the north-east boundary to support electrical supply cabinet.		
<b>Development Address</b>	7 Bray Road, Loughlinstown, Dublin 18, D18 HW25		
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: \_\_\_\_\_