



An
Bord
Pleanála

Inspector's Report ABP-320785-24

Development	Retention of single storey shed type structure with chimney flue and all associated site works to the rear of existing dwelling house		
Location	71 The Oaks, Abberley, Killiney, Co. Dublin A96 E763		
Planning Authority	Dún Laoghaire-Rathdown County Council		
Register Ref. No.	D24B/0288		
Applicant	Alan O'Mahony		
Type of Application	Retention	PA Decision	Grant retention permission.
Type of Appeal	Third Party	Appellant	Kathy Moynihan & Residents of Abberley
Observers	None		
Date of Site Inspection	17 th February 2025	Inspector	Michael Walsh

1. Site Location/ and Description.

The site of the proposed development is located in a predominantly residential area south of Ballybrack village, in which much of the development has taken place in recent decades. There are significant variations in density. There are houses on substantial plots in the vicinity of Killiney Hill Road and Seafield Road while there are newer developments in the vicinity of Shanganagh Road at moderate to high densities.

Abberley is a relatively new development having access from Shanganagh Road. It has been developed to a moderate to high density and has an innovative layout with clusters of housing and curving roads. Parking spaces are set out in groups in the communal areas in front of the houses and there are no fenced front gardens.

No. 71, the subject property, is an end-of-terrace two-storey house. There is a single-storey extension to the rear. There is a pathway to the front door from the communal area. The plot is irregular in shape and widens out to the back. The side passageway is very narrow at its entry. This entry is closed by a wooden gate and fence, set back a short distance from the building line.

There is a yard to the side and back of the house. Some materials are stored in the side yard; there is also a small shed in this location. From this yard there are some steps up to the back garden, which is effectively a terrace. The shed type structure is located in the extreme right-hand corner of the garden, as shown on the Site Layout Plan submitted. The details of its construction are shown on plans submitted. Its external finish is comprised of lapped timber and its roof comprised of asphalt shingles.

The internal layout is shown. One feature is a toilet and shower room. There are also some kitchen fittings. There is a stove in the corner to the right of the entrance door. The flue is located as shown but, as noted in the Planner's report, it appears that the flue rises to a greater height than stated on the plans. Fuel for the stove comprising logs is stored in the yard immediately behind the house.

The use of the shed type structure includes use for storage. There are several windows, the main one of which overlooks the garden. The property is generally

bounded by a combination of walls and fences, having heights generally in the region of 1.8 metres. Some boarding has been added to the wall immediately outside the entry to the shed structure; this prevents overlooking of the garden of no. 76.

The layout of residential property in the vicinity can be inferred generally from plans and photographs submitted. The houses mostly have two storeys but vary in size. Building lines are staggered. There is a garden shed of some substance at the back of the garden of no. 70; this can be seen in photographs submitted with observations to the Planning Authority.

2. Proposed Development.

The full description of the development, as set out in the public notices, is as follows:

Retention planning permission for a single storey shed like structure with chimney flue and all associated site works to the rear of existing dwelling house at 71 The Oaks, Abberley, Killiney, Co. Dublin, A96 E763.

The site area is stated to be 0.0288 ha and the floor area to be 28.4 m² (external) and 24.6 m² (internal). Surface water disposal is to be by means of water butts for garden use. The ground floor plan shows a solid fuel log burner within the structure.

3. Planning Authority Decision.

The Planning Officer's report noted the receipt of two third party submissions, noted other decisions in the vicinity of the property, referred to relevant policy provisions of the County Development Plan, discussed the residential and visual amenity impact of the structure and concluded that the development would not adversely impact on the residential amenity of adjacent properties nor be contrary to the proper planning and sustainable development of the area.

Three conditions were attached. These relate to the retention of the structure in its entirety, limitations on its use and requirements for surface water drainage.

4. Planning History

No record is available of any recent planning history relating to this site. There is however a reference in the Planning Officer's report to an enforcement file relating to a shed type structure, chimney flue and site works to the rear of this house.

Referring to some details of recent planning decisions noted in the Planning Officer's report, three of these relate to applications for the construction of a house at Belline, Killiney Hill Road, close to but not abutting the current appeal site. The other three relate to renovations / alterations to dwellings in this general area. The site of one of these developments abuts the current appeal site (Reg. Ref. D10B/0461). One component of that proposed development was the demolition of a garden room at the northern end of the site, abutting the wall of the current appeal site.

5.1 National/Regional/Local/Planning Policy

The current development plan for the area of the planning authority is the Dún Laoghaire-Rathdown County Development Plan 2022-2028, which came into effect on the 21st of April 2022. It has regard to relevant national and regional policies. The zoning objective applicable to this site is A. The associated zoning objective is expressed as follows: *To provide residential development and improve residential amenity while protecting the existing residential amenities.*

5.2 Natural Heritage Designations

The site of the proposed development is located in a largely built-up residential area. It is located well clear of any natural heritage area, special protection area or special area of conservation.

6. The Appeal

The substance of the grounds of appeal is as set out below.

Reasons for Appeal

Contrary to DLRCC findings, this development detracts from the amenities in the area and is an eyesore. It is not sustainable in a high-density area and, as a fully serviced structure, there is a risk of it being used as an independent dwelling.

Appropriate Assessment Screening

Virtually the whole area of green space to the rear of the house has been subsumed by the new construction, giving rise to negative effects on visual amenity, biodiversity and the health of surrounding residents.

Environmental Impact Assessment Screening

This development, being fully serviced, cannot be simplified into a “shed-type structure.” The burning of bituminous fuels and the noxious fumes generated are having a significant negative effect on surrounding residents. Furthermore, another chimney was recently installed at first floor level in immediate proximity to neighbours’ bedroom windows.

Second Schedule – Condition 1

The appellants request that this development be removed in its entirety. Its scale is out of proportion and, at the very least, it should be drastically reduced. It is disappointing that the Council did not impose any sanctions on the development and this decision is giving a virtual green light to all types of unauthorised developments that are not sustainable in the environs of Abberley.

Second Schedule – Condition 2

Notwithstanding the condition excluding use as residential accommodation and use for trade or business purposes, material provided in the original observation indicated use of the building in question for business / trade purposes. In addition, the condition excluding use for residential accommodation is impossible to monitor; expectations that residents / neighbours could report untoward activity of this nature are unrealistic.

Further material, including photographs, is contained in the original observations to the Planning Authority and one other objection to that body was made by a neighbour.

No response to the appeal has been received on behalf of the applicant.

The response from the Planning Authority was to the effect that the grounds of appeal did not raise any new matter which, in their view, would justify a change of attitude to this development.

7. EIA Screening.

The proposed development 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.

8. AA Screening

Having regard to the modest nature and scale of the development, location in a substantially developed suburban area, connection to existing services and absence of connectivity to European sites, 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.

9.0 Assessment

9.1 Context and Policy Framework

9.1.1 This appeal relates to the retention of a shed type structure. This structure is of a size and type commonly built in the back gardens of houses. Structures of this type can in some circumstances be built without permission, in line with the provisions of the Regulations providing for exemptions for certain classes of development. These provisions are conditional on compliance with specified limitations. The situation in this case is that an application for permission has been made and the appeal arising from the decision in this case must be determined by An Bord Pleanála. Any consideration of whether this development might fall within the relevant class of exempted development does not therefore arise. There is a reference in the appeal to a chimney installed in the extension to the main house; I do not see that this has any relevance to the consideration of the matters arising in this appeal.

9.1.2 The policy of the Planning Authority relating to developments of this type is set out in Section 12.3.7.4 of the Dún Laoghaire–Rathdown County Development Plan. The need for and likely uses of such structures are set out, as also is the requirement

that such a structure should not detract from the residential amenity of adjoining property nor of the main house. Referring to the grounds of appeal in the current case, it can be inferred that the reality of this structure detracting from the amenities in the area is a particular concern of the group of appellants in this case, noting that other concerns include queries about the nature of possible uses of the structure and the effects of the use of the stove installed in it.

9.2 Details of the Shed Type Structure

9.2.1 In so far as this structure is concerned, it can be taken that its size and height are appropriate for its location in this garden. It is not readily visible from any public area and the quality of its construction appears to be of a high standard. It is raised a small amount above the level of the yard immediately outside the back of the house. The incorporation of shower / toilet and some cooking facilities is not necessarily inappropriate, having regard to the provisions of the section of the Development Plan referred to above. Referring to the claim that virtually the entire green space behind the house has been subsumed by the new construction, this claim is not substantiated by an assessment from the Site Layout Plan of the use of the space behind the house.

9.3 Implications for Amenities of Property in Vicinity

9.3.1 Though the main part of the garden is raised somewhat above the floor level of the house, the height of the structure does not greatly exceed the heights of the garden walls so that there is scarcely any overshadowing of adjoining gardens. The main window faces directly into the area of the garden so that it does not give rise to overlooking of any adjoining garden. In so far as there might be a view towards first floor windows of houses close by, any such view would be very much at an angle and would be partly obstructed by planting. There are two windows to the front beside the door but these are very narrow and, while they face the back of an adjoining house, the boundary walls and planting tend to curtail such views, as do their limited width.

9.3.2 The stove and associated flue are a source of concern to residents nearby. Given the nature of appropriate uses for a structure of this type, it is not unreasonable that some form of heating should be provided. An electric radiator would be one possible

source of heat but the stove installed in the structure is the source chosen by the applicant. In this regard it can be inferred that the logs stored in the yard are a source of fuel for the stove. In so far as unsuitable fuels giving off objectionable fumes may have been used at some point, this concern was addressed in the Planner's report, wherein it was noted that the assessment of such activities is not within the range of matters which are appropriate to be considered within the planning legislation.

9.4 Implications of Possible Uses of Structure

- 9.4.1 The appellants are clearly concerned about certain types of use which they consider are taking place on this property. The first such use is claimed to be as a de facto independent dwelling house. In support of this opinion, they have pointed to the high specification of the structure. The good quality of construction is a reality but that in itself does not in any way confirm the use of the structure as a separate dwelling; no evidence has been provided to support this opinion.
- 9.4.2 The second claimed use is in association with the applicant's business. This business is briefly described in a page stated to have come from a Google search. This appears to be a genuine business but there are some ambiguities in the details shown. One detail is that the map extract included is of a different part of the Dublin area. It might be noted in any case that use as a *home office* would be consistent with the provisions of the relevant section of the Development Plan. In the appeal there is a reference to "comings and goings of clients", but it is not clear whether this is a statement based on actual observations or on an opinion of possible occurrences. It is of some relevance that the entry to the side passage is very narrow and somewhat uninviting and that the area to the side of the house appears to be used for storage of materials, thereby giving rise to a degree of obstruction.

10.0 Recommendation

On the basis of the above assessment, I recommend that permission be granted, subject to conditions, for the retention of this single storey shed type structure with chimney flue and all associated site works to the rear of existing dwelling house at 71, The Oaks, Abberley, Killiney, Co. Dublin.

Reasons & Considerations

Having regard to the nature and scale of this structure, its location to the rear of the existing house at the address in question and its current use, it is considered that its retention, subject to compliance with the conditions set out below, would be consistent with the relevant policies of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, would not materially affect the amenities of property in its vicinity and would in general be consistent with the proper planning and sustainable development of the area.

Conditions

1.	<p>The development shall be retained in its entirety as constructed, save as may be required by the other conditions attached hereto.</p> <p>Reason: To ensure that the development shall be in accordance with the retention permission and that effective control be maintained.</p>
2.	<p>This development shall be used solely for uses incidental to the enjoyment of the existing dwelling house on this property and shall not be used for residential accommodation or the carrying out of any trade or business, including the let or sale of the structure independently from the existing dwelling house on this property.</p> <p>Reason: To prevent unauthorised development.</p>
3.	<p>The applicant shall implement a SuDS measure, appropriate to the scale of development, in accordance with Policy Objective EI6 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, and this measure shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</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.

Michael Walsh

Planning Inspector

Date:

Appendix 1 - Form 1

EIA Pre-Screening

(EIAR not submitted)

An Bord Pleanála Case Reference	ABP-320785-24		
Proposed Development Summary	Retention of single storey shed type structure with chimney flue and all associated site works to the rear of existing dwelling house		
Development Address	71, The Oaks, Abberley, Killiney, Co. Dublin		
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	<input checked="checked" type="checkbox"/>
		No	<input type="checkbox"/>
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	<input checked="checked" type="checkbox"/>		Proceed to Q3.
No	<input type="checkbox"/>		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	<input type="checkbox"/>		

No	<input checked="" type="checkbox"/>		
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	<input checked="" type="checkbox"/>		

5. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	
Yes	<input type="checkbox"/>	

Inspector: Wendell Webb

Date: 27th February 2025