



An  
Bord  
Pleanála

## Inspector's Report

**ABP 321167-24**

<b>Development</b>	Retention of a detached single-storey garden room and all associated site works
<b>Location</b>	72 Roebuck Road, Roebuck, Dublin 14, D14 H7X8
<b>Planning Authority</b>	Dun Laoghaire-Rathdown Co. Council
<b>Planning Authority Reg. Ref.</b>	D24B/0371/WEB
<b>Applicant(s)</b>	Simon & Lesa Costello.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	William Doran
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28/1/2025
<b>Inspector</b>	Rosemarie McLaughlin

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## Appendix 1 – Form 1: EIA Pre-Screening

## **1.0 Site Location and Description**

- 1.1. No. 72 Roebuck Road is a large 2 storey detached house located in a mature suburban residential area, set back c. 60 m south from Roebuck Road, Dublin 14. The appeal site with a stated site area of 0.176 ha. is an irregularly shaped backland site bounding several properties. East and west of the access are No.s 74 and 70 Roebuck Road respectively and the site also bounds the rear gardens of No.s 76, 78, 80, and 82 Roebuck Road to the northeast.
- 1.2. No. 26 Harlech Downs, a 2 storey, extended semi detached house with a large open space to the front (south), bounds the west of the site and is the closest property to No. 72. The grounds of Harlech House a protected structure (RPS No. 212) bound the appeal site to the southwest. To the south and southeast are the rear boundaries of No.s 33, 34, 35 and 36 Harlech Crescent. A gated laneway between No.s 34 and 35 Harlech Crescent connects that road northwards to the boundary of the appeal site and is not included within the red line or application.
- 1.3. The subject of the appeal is a single storey, garden room to the rear of No.72 which has been constructed in the southwest corner of the appeal site adjacent to the boundaries of the sites at Harlech House, No.33 Harlech Crescent and a small section of the boundary of No. 26 Harlech Downs.

## **2.0 Proposed Development**

- 2.1. This is an application for the retention of a detached single storey garden room with a stated area of 47 sqm containing gym and office to the rear of existing detached dwelling, with associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission was recommended to be granted subject to 7 conditions, summarised below.

#### 3.1.1. Conditions

1. Condition 1: Standard condition
2. Condition 2: Use to be solely incidental to house and shall not be sold/sublet.
3. Condition 3: Drainage condition
4. Conditions 4-7: Contribution section 48.

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

#### 3.2.1. Planning Report (14/10/2024)

- The planning report refers to enforcement. The relevant planning policy is outlined. The principle of development is considered acceptable in terms of impact on residential amenity. The contents of the drainage report can be dealt with by condition. The observation is outlined, Matters relating to boundaries are considered civil matters and section 34(13) of the Planning and Development Act 2000 as amended applies.

#### 3.2.2. Other Technical Reports

- Municipal Services Department, Drainage Planning (02/10/2024) held it was unclear how surface water run-off is disposed on site. The applicant was requested to demonstrate the proposal is in accordance with Policy Objective EI6: Sustainable Drainage Systems and if the applicant does not consider infiltration feasible the applicant shall prove that by submitting a report, signed by a Chartered Engineer, showing an infiltration test and shall propose an alternative SuDS measure for agreement.

### 3.3. **Prescribed Bodies**

3.4. None noted on file.

### 3.5. **Third Party Observations**

3.6. One observation was made by the appellant as summarised below. The points are elaborated on in the grounds of appeal.

- The gym/office at No. 72 is adjacent to the garden wall of Harlech House where the curtilage was developed in part as housing in the 1940s. Drawing No 2-211 Rev 0 is incorrect as it shows that the room is set back 1.2 from the wall rather than c 200mm off the rear/west wall of the structure to be retained.
- A form of gutter appears to be attached to the garden wall within the curtilage of Harlech House and attached to the garden wall of No. 33 Harlech Crescent with no method of drainage shown which will get blocked and damage the walls. The application form indicates the surface water is taken to the public sewer rather than be disposed off on site.
- The applicant built an unauthorised structure to the Exempted Development Regulations, class 3 and conditions thereto. The total area applies in exempted development and the development is c 61sqm, 50% larger than exempted development, slightly larger than the floor area of 45 sqm specified in the current Government guidelines for a one bedroom dwelling
- The connection to the water supply is not shown. The fee may be wrong.
- The development impacts on the daylight and sunlight in adjoining gardens and impacts on the flora and fauna.

## 4.0 Planning History

### 4.1. Relevant history on site

**D11A/0019:** Demolition of existing single storey bungalow and replacement with construction of a new two-storey dwelling house was granted on 14/4/2011.

**PL06D.247826/ D16A/0742:** Permission was refused by the Board for the construction of one house and all ancillary works on an infill site between 34 and 35 Harlech Crescent, Clonskeagh Dublin 14. The application details included that application site in red and the site the subject of the current appeal as within the blue line.

### 4.2. Relevant history in the vicinity

**ABP Ref. 319888 /D24A/0189/WEB:** Current third party appeal on adjacent site (to the west) against the decision to grant permission for construction of 3.5m wide

vehicular entrance with timber gates to rear of Harlech Downs (a protected structure) with removal of non-historic wall and installation of new brick gate piers and all associated site works. The access proposed includes a cobblestoned parking area c 12 m from the boundary of the appeal site and garden room.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Dun Laoghaire-Rathdown Development Plan 2022-2028 (CDP) applies. The site is located in zoning Objective A *‘to provide residential development and improve residential amenity, while protecting the existing residential amenities’*.
- 5.1.2. Relevant policies and statements in the CDP include:
- 5.1.3. Section 12.3.7 provides guidance on additional accommodation in existing built-up areas. It is stated in 12.3.7.4 that detached habitable rooms “...*can provide useful ancillary accommodation such as a playroom, gym, or study/home office for the main residence. It should be modest in floor area and scale, relative to the main house and remaining rear garden area. The applicant will be required to demonstrate that neither the design nor the use of the proposed structure will detract from the residential amenity of adjoining property or the main house. Any such structure shall not be to provide residential accommodation for a family member/ granny flat nor shall the structure be let or sold independently from the main dwelling.*”
- 5.1.4. Adjacent to the southeast is a Protected structure Harlech House. Within the curtilage of Harlech House, to the northeast of the protected structure is a specific objective *“To protect and preserve Trees And Woodlands”*. Section 12.8.11 states *“new developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows. New developments shall, also have regard to objectives to protect and preserve trees and woodlands (as identified on the County Development Plan Maps). The tree symbols on the maps may represent an individual tree or a cluster of trees and are not an absolute commitment to preservation....”*
- 5.1.5. Policy Objective EI6: It is a Policy Objective to ensure that all development proposals incorporate Sustainable Drainage Systems (SuDS).

## **5.2. Natural Heritage Designations**

- 5.2.1. The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA. The nearest sites are the South Dublin Bay and River Tolka Estuary SPA, [Site code 004024], located c. 2.3 km northeast, South Dublin Bay SAC [Site Code 000210] and South Dublin Bay pNHA [Site Code 000210] located c 2.4 km, northeast.

## **5.3. EIA Screening**

- 5.3.1. 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. Refer to Form 1 in Appendix 1 of report.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

An appeal has been received from Mr William Doran of St. Marys Road, Ballsbridge, Dublin 4, objecting to the proposed development and requesting it be refused.

- The Planner's report is criticised for omissions of adjoining properties and planning history ABP PL06D.247826/ D16A/0742 . The report also failed to note that the building was not set back 1.2 m from the boundary as set out in Drawing No 2-211 Rev 0 but c 200mm. A photograph is submitted on this point. A gutter against the garden wall Harlech House already overflows causing damage to the wall of the protected structure. The wall is too close preventing maintenance. The applicant mislead the PA with the drawings showing a set back of 1.237 m
- A folio is attached showing the appeal site including the narrow lane to the south to Harlech Crescent. The application fails to comply with Art 22(2)(b)(i) and (ii) of the Planning and Development Regulations 2001 as amended (PDR2001) which relates to red and blue lines. The failure to include the

section of land onto Harlech Crescent misled the PA and public by omitting pertinent details and residents did not have an opportunity to object. The public notice was placed on Roebuck Road and not the entrance to Harlech Crescent contrary to Art. 19 of the PDR 2001. Had the PA been aware, it would have invalidated the application. The applicants and their agent were the same in the planning history D11A/0019 which included the lane to Harlech Crescent.

- The floor area of 45 sqm specified in the current Government guidelines is suitable for a one bedroom dwelling and a twin room as 13sqm. The floor areas of the gym is 29.8 sqm and the office is 13 sqm.
- The history of the estate of Harlech House is set out similar to the observation. The gym/office is wholly within the curtilage of Harlech house.
- The points in the observation are repeated about the gutter, set back, connection to water supply, surface water drainage and planning fee. In addition, the finish on the west wall is described as render but it is too close to the wall to render. The wastewater connection is not illustrated.
- The applicant built an unauthorised structure contrary to the Exempted Development Regulations, class 3 and conditions thereto. The regulations are set out. The regulations apply to total floor area not the internal floor area and therefore the application is for c 61 sqm. The height is c 3.42m whereas exempted development is 3m. The development is visually overbearing owing to height, bulk, massing and location to the protected structure.
- The development impacts on the daylight and lesser extent sunlight in adjoining gardens and impacts on the flora and fauna ecosystem.

## **6.2. Applicant Response**

- None on file.

## **6.3. Planning Authority Response**

- The PA indicated (13/11/2025) there is nothing in the grounds of appeal to alter their attitude in the planning report.



#### 6.4. **Observations**

- None

#### 6.5. **Further Responses**

- None.

### 7.0 **Assessment**

7.1. The appeal site is zoned 'A' with the stated objective "to protect and/ or improve residential amenity." The construction of a garden room is acceptable in principle subject to an assessment of the impact of the proposal on residential amenity and compliance with other relevant Development Plan policies and objectives. I consider the issues may be assessed under the following points.

- Compliance with the Regulations – site boundary, drawings and exempted development
- Impact on Protected Structure
- Impact on adjacent residential amenity
- Potential subdivision of property
- Impact on flora and fauna
- Drainage
- Other

#### 7.2. **Compliance with the Regulations – site boundary, site notice, drawings and exempted development**

7.2.1. The appellant sets out the requirements of the PDR2001. Art. 22(2)(b)(i) requires outlining an application site in red and (ii) any land which adjoins, abuts or is adjacent to the land under the control of the applicant or the person who owns the land in blue. The appellant is correct these are mandatory requirements with the use of "shall". The response by the PA to the appeal indicates they do not consider that there are any issues raised in the appeal that would change their view and there is no response by the applicant to the appeal on this issue. The appellant attaches a snip of Folio DN206855F from the Land registry site, illustrating the inclusion of the

lane from the appeal site south to Harlech Crescent as part of the overall site and points to the inclusion of the lane in the planning history.

- 7.2.2. The applicants previously made an application which included the lane in question to Harlech Crescent, indicating it was within their ownership in red with the remainder of the site in blue. The point by the appellant that the lane should have been outlined, appears reasonable, however, the assessment of this appeal is confined to the application before it. The applicant engaged agents to make the application, and they on behalf of the applicant have excluded the lane in this application.
- 7.2.3. While the appellant has included an extract from the online service from Tailte Éireann, I also note that the boundaries and plan areas on the online service are not conclusive. As this application has not included the lane to Harlech Crescent in a blue line as in the ownership or control of the applicant, I consider that I am confined to assess the application within the red line as provided in the planning application.
- 7.2.4. The appellant contends that a site notice was not included on Harlech Crescent and that residents were not informed in accordance with the PDR2001. Following the above point that I am considering the application as provided to the PA and the Board, this issue does not arise. I also note that the photographs that accompany the appeal are taken from neighbouring property but there are no observations from neighbours on the appeal.
- 7.2.5. The PA application drawings indicate a set back from the Harlech House site boundary as c 1.2m for the entire length. The northern section of the garden room is set back from the boundary, but the appellant is correct that the garden room is closer to the boundary to the west (in part) than the submitted drawings. The discrepancy in the drawings appears as c 1m and as the building is to be retained, there is no ambiguity on the site. I consider on balance, the discrepancy is de minimis.
- 7.2.6. The appeal contends the development is larger than 47 square metres. The planning application includes the gross floor area of the development to be retained. Gross floor space as set out in the planning application form, means the area ascertained by the internal measurement of the floor space of a building and therefore I consider that the applicants floor area is correct, and the fees are correct.

7.2.7. The appeal points to the exempted development regulations. This is an application for planning permission as the development does not comply with the available exemptions. In this regard, the exempted development regulations are not applicable to this application, save to illustrate the difference between an exempted development and the proposed size of the retention application.

### **7.3. Impact on protected structure**

7.3.1. I do not concur with appeal ground that the appeal site is located in the curtilage of the protected structure. A protected structure as defined by section 2 of the Planning and Development Act 2000 as amended, includes: a) the interior of the structure; b) the land lying within the curtilage of the structure; c) any other structures lying within that curtilage and their interiors.... To follow this ground of appeal, every house in the suburban housing built on the original estate would be within the curtilage of the protected structure and require assessment accordingly.

7.3.2. A current planning appeal is active on the Harlech House site before the Board ABP 319888-24 for construction of 3.5m wide vehicular entrance to rear of Harlech Downs (a protected structure) "with removal of non-historic wall and installation of new brick gate piers" and associated site works. Mr Doran, the appellant in this appeal is the agent for the applicant on that application/appeal. The boundary of Harlech house with the appeal site turns at a right angle to bound the southern boundary of No 26 Harlech Downs. I consider the wall around the Harlech House site at No. 26 Harlech Downs/the appeal site is a newer boundary that was created around the time of the development of the surrounding houses estates and is a non-historic wall. In this regard, I do not consider that the wall adjacent the garden room is of conservation significance.

7.3.3. Any damage to a boundary that could occur is a matter between the parties. I also note Section 34(13) of the Planning and Development Act 2000 as amended states a person shall not be entitled solely by reason of a permission under this section to carry out any development.

### **7.4. Impact on adjacent residential amenity**

7.4.1. The appeal contends the garden room by reason of height, size and location will impact daylight and sunlight on adjacent property. Harlech House adjacent to the appeal site is heavily planted and a tree preservation objective applies to the

northeast of the protected structure. Mature planting is located along the northern garden boundary of No.33 Harlech Crescent adjacent to the rear elevation of the garden room to be retained. In this regard I do not consider that there is any significant loss of daylight or sunlight to the extensive open space associated with the closest properties. I also consider the height of the garden room as modest at 3.42 m.

#### **7.5. Potential subdivision of property**

- 7.5.1. The garden room is laid out as a gym, office space and toilet. Any development changing the use to a dwelling would require planning permission. In this regard the potential use of the garden room as a dwelling and the potential subdivision of the site is not before the Board for assessment.

#### **7.6. Impact on flora and fauna**

- 7.6.1. A mature high hedge extends along the western access road from Roebuck Road as far as the new garden room to be retained. Part of the hedge appears to have been removed to facilitate the garden room. The extensive planting on neighbouring properties is noted and the objective 'to protect and preserve trees and woodlands' to the southwest on the adjacent property. The rear garden of No. 72 does not facilitate any flora or fauna that requires protection. In this regard I do not consider that the appellant has made a persuasive case that flora and fauna will be significantly impacted by the retention of the garden room.

#### **7.6.2. Drainage**

- 7.6.3. The appellant raises concerns about the disposal of surface water and the lack of illustration on the plans to surface and waste water. The drainage section in the Council sought clarification that the development complies with the surface water policy of the PA and the planner's assessment considered the matter could be dealt with by way of condition. A gutter runs along the western elevation of the garden room with an offset bend and downpipe adjacent to the boundary wall with the neighbouring properties. I consider the issue can be dealt with by way of condition to be agreed in writing with the PA.

## **7.7. Other**

- 7.7.1. The appellant points to details not included in the Planner's report relating to surrounding properties and the relevant planning history. These details are included in the relevant sections of this report.

## **8.0 AA Screening**

- 8.1. I have considered the retention application for a garden room in light of the requirements S177U of the planning and Development Act 2000 as amended.
- 8.2. The nearest sites are the South Dublin Bay and River Tolka Estuary SPA, [Site code 004024], located c. 2.3 km north east, South Dublin Bay SAC [Site Code 000210] and South Dublin Bay pNHA [Site Code 000210] located c 2.4 km north east.
- 8.3. The proposed development comprises retention of a single storey garden room c 47 sqm in a suburban garden. Nature and conservation concerns raised in the planning appeal have been addressed in the assessment.
- 8.4. 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:
- Small scale and nature of the development
  - Location-distance from nearest European site and lack of connections
- 8.5. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.6. 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**

- 9.1. I recommend that permission be granted for the reasons and considerations outlined below.

## 10.0 Reasons and Considerations

10.1. Having regard to the provisions of the Dun Laoghaire-Rathdown Development Plan 2022-2028, and the design, layout and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the residential or visual amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out 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>Water supply and drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. The developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p><b>Reason:</b> In the interest of public health, to prevent flooding and in the interests of sustainable drainage.</p>
3.	<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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable</p>

	<p>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 An Bord Pleanála 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, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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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Rosemarie McLaughlin  
Planning Inspector

31<sup>st</sup> January 2025

## Appendix 1 - Form 1

### EIA Pre-Screening [EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	<b>ABP 321167-24</b>		
<b>Proposed Development Summary</b>	Retention of a detached single-storey garden room and all associated site works		
<b>Development Address</b>	72 Roebuck Road, Roebuck, Dublin 14, D14 H7X8		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b> √	Tick if relevant and proceed to Q2.
		<b>No</b>	Tick if relevant. No further action required
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>		State the Class here	Proceed to Q3.
<b>No</b>	√		Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
<b>No</b>			Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	√	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)
<b>5. Has Schedule 7A information been submitted?</b>			
<b>No</b>	√	Screening determination remains as above (Q1 to Q4)	
<b>Yes</b>		Screening Determination required	

Inspector: \_\_\_\_\_

Date: 31/01/2025