



An
Bord
Pleanála

Inspector's Report

ABP-321714-25

Development	Demolition of shed roofs and construction of house, together with all associated site works.
Location	Sandy Road, Rush, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/0768E
Applicant(s)	Daniel Mc Guinness
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party
Appellant(s)	Daniel Mc Guinness
Observer(s)	David and Karen O'Brien
Date of Site Inspection	28 th March 2025
Inspector	Emma Gosnell

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1.0 Site Location and Description

- 1.1. The subject site with an area of 0.042 hectares (ha) is located at Sandy Road in Rush, Co. Dublin.
- 1.2. The site is bounded by the Rush Progressive Credit Union to the west - which is a 2-storey building with a tall double apex pitched roof profile, by a single storey detached bungalow with side garage to the east and, by the rear garden of a 2-storey detached residential property to the south. There are a number of single-storey flat roofed structures (commercial and residential) on the opposite side of Sandy Road. The immediate built context of the site is predominantly residential in character and typically 1-2 storeys in height with varying roof profiles and architectural styles evident.
- 1.3. The site has a rectangular form and its frontage onto Sandy Lane comprises of a disused single storey vernacular style building with stone walls and a pitched slate/corrugated steel roof with an open grassed area between it and the public footpath. The structure directly abuts the garage of the neighbouring property to the east and is separated from the credit union building to the west by a gated side passage. The backland portion of the site features a stone shed with pitched roof along the western boundary together with an overgrown yard area featuring 2 no. vacant caravans.
- 1.4. The site's structures are not Protected nor is it in an Architectural Conservation Area (ACA).

2.0 Proposed Development

- 2.1. The proposed development comprises of the demolition of 2 no. existing shed roofs and partial demolition of their walls, and the construction of one new detached dwelling (271.6sq.m), a new vehicular access, new boundary walls, a soakaway, utility connections and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission granted on subject to 14 no. conditions including the following:

“3. Prior to the commencement of development, the applicant/developer shall submit revised plans and particulars for the written agreement of the Planning Authority which demonstrate/provide for the following: 3(a) The omission of the en-suite bathroom window at the second floor (attic) / roof level on the rear elevation. 3(b) The omission of the two (2 no.) large skylights at the second floor (attic) / roof level on the rear elevation. Revised plans and particulars demonstrating the provision of a maximum of three (3 no.) skylights at the second floor (attic) / roof level on the rear elevation shall be acceptable. The skylights shall be of a similar style to the skylights on the front elevation. 3(c) The provision of a flat roof to the rear single-storey element of the dwelling. The height of the single-storey rear element of the dwelling shall be no more than 3.78m i.e. as per as per the initial plans submitted with the application on 28th August 2024. REASON: In the interests of the visual and residential amenities of the area and to ensure proper planning and sustainable development.

14. Prior to Commencement of development the developer shall pay the sum of €34,894.84 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the planning authority prior to the commencement of development. REASON: It is considered reasonable that the payment of a contribution be required in respect of the public infrastructure and facilities benefiting development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

2 no. planning reports formed the basis of the planning authority's (PA) assessment:

Planner's Report (16/10/2024) – Initial Application Stage

The report sets out the planning history, location and policy context, summary of issues raised in the submissions and in internal departmental reports, EIA Preliminary Examination, AA Screening and the planning assessment.

Points of note raised include:

- Principle of demolition accepted – on basis that sheds are vacant, in poor condition and of little architectural value.
- Vernacular buildings – whilst retention/ re-use is encouraged, structures are not protected or located in an ACA and there is an established local pattern of such buildings being replaced with contemporary dwellings.
- Accommodation – complies with Objective DMSO19 and 2007 & 2024 Guidelines.
- Separation from properties to east/ west – new dwelling would continue to adjoin the side garage of neighbouring bungalow and would be setback c. 0.7m from credit union building. Relationship acceptable on basis of laneway to west being maintained and relaxations allowed for under Objective DMSO26 and SPPR1.
- Relationship with house to rear – neighbouring garden is c. 9.6m in length and proposal provides for 22m separation between opposing first floor and attic windows which is compliant with SPPR1.
- Height – proposed 3-storey height deviates from that of neighbouring 2-storey residential properties on Sandy Road but is acceptable as designed to visually harmonise with the overall height/ roof profile of the adjoining commercial building.
- Visual amenity – dwelling would be highly visible but not out of character with adjoining properties (east/ west/ north) and has a positive relationship with same.
- Dormers – concerns raised that 2 no. rear attic-level windows could give rise to perception of overbearance and impact privacy of property to rear - to be omitted.
- Materials – proposal to use dark grey aluminium cladding on front, side (east) and rear elevations and at roof level is unacceptable on basis that it would be visually dominant and disharmonious relative to the materiality of adjoining properties.
- Front boundary – no details provided on materials/ finishes – to be conditioned.
- Car and bike parking – meets required standards incl. SPPR3 and SPPR4

- New vehicular access from Sandy Road – sightlines acceptable but width of entrance is undersized at 3.8m, should be 4m. Entrance & dishing will require the repositioning of 1 no. on-street parking bay west – can be addressed by condition.
- New connections to public water and wastewater networks - applicant has not submitted evidence of engagement with Uisce Eireann (UE). Applicant required to submit a pre-connection enquiry to UE and provide response received as FI.
- Soakaway/ surface-water management - proposal's feasibility needs consideration - to be addressed by detailed drainage proposal pre-commencement condition.

A request for Further Information (FI) comprising 4 no. items was issued 16/10/2024:

- Item 1 – nature of external finishes to front/ side/ rear elevations/ roof to be revised.
- Item 2 – rear roof-level dormer windows at attic level to be omitted due to visual intrusion/ privacy impacts on private amenity space of adjoining property to rear.
- Item 3 – revised drainage design proposals required which comply with policy.
- Item 4 – submission of UE confirmation of feasibility required.

The applicant's response to the FI request was submitted on the 26/11/2024 and included revised proposals in respect to the elevational and roof materials to be used, revised stormwater proposals and a revised rear roof design which omitted the 2 no. dormer windows, providing large skylights in their place. Amendments were also proposed to the height and massing of the rear single-storey extension element of the proposal. The response also clarified that a new connection to the public watermains was no longer being sought as an existing water connection had been identified on site.

The FI response was not deemed to be significant by the PA.

Planner's Report (16/12/2024) - Further Information Stage

The planner's report includes an assessment of FI received. Points of notes include:

- Item 1 – omission of dark grey aluminium cladding is welcomed and replacement with smooth chalk render with elements of silk grey smooth render on the elevations and light grey zinc on the roof is deemed acceptable. However, concerns are raised about ambiguities in respect to the revised rear elevation

drawing - a pre-commencement condition to provide clarity on the dwelling's external finishes is recommended.

Item 2 – omission of dormers is welcomed but proposed skylights deemed to be excessive, of an inappropriate of a poor/ disjointed visual quality rendering the roof level overly visually dominant. PA seek to address these issues by a pre-commencement condition requiring the removal of the en-suite rear bathroom window at attic level window and the 2 no. proposed rear skylights at attic level and their replacement with max. 3 no. skylights at attic level on rear elevation.

Item 3 – revised drainage proposal is acceptable to PA.

Item 4 – response noted and pre-commencement condition to be attached requiring that no development works take place on site prior to the applicant signing a connection agreement with UE and evidence of same submitted to PA.

Other – the PA deem unsolicited changes to the massing of the dwelling's rear single-storey extension are unacceptable on account of the overbearing impact on properties to the east and south. Matter to be addressed by condition requiring the submission to the PA of revised final plans and particulars and the provision of a flat roof on this element of the dwelling (max. height 3.78m). The PA notes that the applicant also made a number of unsolicited changes to the windows on the front (north) elevation and found these changes acceptable.

The planner's report concluded by recommending permission be granted subject to 14 no. conditions (as per Section 3.1 of this report).

3.2.2. Other Technical Reports

Initial Application Stage

- Water Services Department (10/10/2024) – no objection subject to conditions.
- Transportation Planning Section (28/08/2024) – no objection subject to conditions.

Further Information Stage

- Water Services Department (16/12/2024) – no objection subject to conditions.

3.3. Prescribed Bodies

None on file.

3.4. Third Party Observations

Initial Application Stage

1 no. third party submission (10/09/2025) was received from David and Karen O'Brien (the Observers). The submission raised concerns in respect to the relative height and proximity of the proposed 3-storey dwelling and the potential for it to give rise to undue overbearance, overlooking and overshadowing of their property, to a diminution in their residential amenity and, to devaluation of their property. Issues in respect the design character of the property and to the structural stability of the party boundary wall (i.e. the back wall of the shed) and the potential safety risk/ damage to their property (south) which could arise from the demolition works were also brought to the PA's attention.

Further Information Stage

None received.

4.0 Planning History

4.1. Site

None found.

4.2. Neighbouring Sites

P.A. Ref. F19A/0247 and ABP-306365-20 (site to east on junction of Sandy Road and Sandy Lane) – Permission and retention permission granted on appeal in March 2020 for demolition of existing substandard bungalow; retention of unauthorised foundations and related works; and, the construction of a detached 2-storey dwelling (127sq.m) with flat roof profile and all ancillary works, subject to 10. no conditions.

5.0 Policy Context

5.1. National Policy

Project Ireland 2040 – National Planning Framework (2018), National Development Plan 2021-2030 and Housing For All (2021)

Climate Action Plan (2024)

The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (DoHLGH, 2024), SPPR 1 - Separation Distances, SPPR 3 – Car Parking, SPPR4 – Cycle Parking & Storage

Design Manual for Urban Roads and Streets (DoHLGH, 2019)

Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes and Sustaining Communities (2007)

5.2. **Regional Policy**

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES).

- Fingal Development Plan 2023-2029 designates Rush as self-sustaining town.

5.3. **Development Plan**

The Fingal Development Plan (FDP) 2023 – 2029 applies.

5.3.1. Rush

Section 2.7.2 (Role of Each Settlement) – Self-Sustaining Towns incl. Rush

Policies CSP34 – Consolidate Growth of Self-Sustaining Towns, CSP36 - Focus Growth Within and Contiguous to Core in Self-Sustaining Towns, CSP38 - Malahide, Balbriggan, Lusk, Portmarnock, Rush and Skerries & HCAP26 – Historic Townscapes

5.3.2. Zoning

The site comes within the development boundary of Rush town and is located on lands covered by the Rush Urban Framework Plan (FP 6.B).

The site is zoned ‘TC – Town and District Centre’ with the objective to ‘Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities’. Residential is a use class which is Permitted in Principle under the TC zoning.

The stated vision for this zoning objective is, inter alia, to develop and consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development.

Site is located within an area designated as a 'highly sensitive coastal landscape' and it is not located in either Flood Zone A or B.

One of the routes of the Greater Dublin Area (GDA) Cycle Network Plan runs along Sandy Road to the immediate north of the site.

5.3.3. Residential Development Management

Sections 14.5 (Consolidation of the Built Form: Design Parameters), 14.6 (Design Criteria for Residential Development in Fingal), 14.6.6.3 (Separation Distances), 14.6.6.4 (Overlooking and Overbearance), 14.8 (Housing Development/Standards), 14.8.3 (Private Open Space), 14.9 (Residential Developments – General Requirements), 14.10 (Additional Accommodation in Existing Built-up Areas), 14.10.1 (Corner/Infill Development), 14.10.2.4 (Roof Alterations including Attic Conversions and Dormer Extensions)

Tables 14.3 (Brownfield Opportunities and Regeneration) & 14.4 (Infill Development)

Objectives SPQHO37 – Residential Consolidation and Sustainable Intensification, SPQHO38 – Residential Development at Sustainable Densities, SPQHO39 – New Infill Development, SPQHO42 – Development of Underutilised Infill, Corner and Backland Sites, SPQHO43 – Contemporary and Innovative Design Solutions, SPQO44 - Retention, Retrofitting and Retention of Existing Dwellings, SPQHO54 – Vehicular entrances, HCAO38 – Infill Development, DMSO23 – Separation Distance, DMSO26 – Separation Distance between Side Walls of Units, DMSO31 – Infill Development, DMSO72 – Boundary Treatment to Private Open Space, GINHO59 – Development and Sensitive Areas.

5.4. **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:

- Rogerstown Estuary SAC (Site Code 000208) – approx. 620m
- Rogerstown Estuary SPA (Site Code 004015) – approx. 560m
- North-West Irish Sea SPA (Site Code 004236 - approx. 1.1km
- Rockabill to Dalkey Island SAC (Site Code 0030000) – approx. 2km

- Skerries Islands NHA (Site Code 001218) – approx. 5km
- Rogerstown Estuary pNHA (Site Code 000208) – approx. 580m

6.0 EIA Screening

Having regard to the criteria set out in Schedule 7 of the Planning and Development Regulations (2001) as amended, there is no real likelihood of significant effects on the environment based on the characteristics and location of the proposed development and types and characteristics of potential impacts. No EIAR is required. Refer to Form 1 (EIA Pre-Screening) and Form 2 (EIA Preliminary Examination) in the Appendices.

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal submission was received on 20/01/2025 and raises an objection to conditions No's 3 and 14 attached to the PA's grant of permission.

7.1.1. Design (re: condition No. 3)

- Dwelling design as proposed at application stage/ as submitted as part of the grounds of appeal is of a high quality, appropriately responds to its built context, is policy compliant (Section 14.5, Table 14.3, Objectives SPQHO37, SPHO43, HCAO38) and will enhance the visual amenity of the streetscape.
- Design changes required under condition No. 3 (i.e. omission of en-suite window, redesign of rear skylights and rear flat roof element) negatively impact on the overall design, functionality of the attic space as habitable accommodation and viability of the project, will damage the aesthetic of the property's south elevation, are unreasonable, biased and do not accord with planning regulations.
- Re-design via compliance undermines professional design process.

7.1.2. Overlooking/ Overbearance (re: condition No. 3)

- FI changes to rear glazing at attic level (i.e. replacing 2 no. dormer windows with 2 no. large skylights) adequately addressed perception of overlooking – but

notwithstanding, appellant maintains PAs concerns in this regard are unsubstantiated.

- Proposed retention of c. 2.65m high gable wall will mitigate impacts on property to south. Intermediate location of observer's detached garage also acts as mitigation.
- Rear elevation is 22m from observer's property – fully compliant with SPPR1.
- Proposed dormer windows would not be visible from Sandy Road to north.
- Appellant seeks to reinstate rear dormer window design (which it is stated are part of the vernacular architecture of the locality) and revert to design of rear single storey element as per initial application stage.
- Credit union building gives rise to greater level of overlooking on houses to south and its design and massing is not in-keeping with the character of the area.
- Observer's property is built inappropriately close to shared boundary.

The grounds of appeal are accompanied by photographs which seek to illustrate the nature of the relationship between the appeal site and adjoining properties and by a further set of photos which show examples of dormer windows in the local area and contemporary local estates where separation distances of less than 22m are provided for.

7.1.3. Revised Design Proposals

Whilst seeking that the Board remove condition no. 3 attached to the decision of the PA on the application scheme in the first instance (hereafter referred to as the 'scheme permitted by PA'), the grounds of appeal also include revised architectural plans and other documentation prepared in response to Condition No. 3 and submitted with the appeal submission for the Board's consideration. This revised proposal (hereafter referred to as the 'appeal scheme') received by the Board on 20th January 2025 is very similar to the design originally proposed at planning application stage (i.e. prior to the FI stage design changes) and provides for the following design revisions:

	Scheme Permitted by PA	Appeal Scheme
Ground floor - Rear single-storey extension	Single storey with flat roof max. height 3.78m as per item (c) of Condition No. 3.	Single storey with mono-pitch roof sloping from c. 2.7m - c. 4.25m east to west proposed. (Note height of mono-pitch roof was max. c. 3.78m at planning stage - with less of pitch gradient provided for - increasing to max. c. 4.36m at FI stage).
Attic Level – Rear Glazing Arrangements	Omission of bedroom 05 ensuite toilet window on west side of rear roof plane as per item (a) of Condition No. 3	Reinstatement of bedroom 05 ensuite toilet window on west side of rear roof plane as per application stage & FI drawings.
	Omission of 2 no. large skylights and replacement with a maximum of 3 no. skylights of a similar style to those on the front elevation as per item (b) of Condition No. 3.	Reinstatement of 2 no. dormer windows (serving bedroom 05 & games room) as per application stage drawings.

7.1.4. Development Levies (re: condition No. 14)

Appellant notes that there are potential forthcoming changes to the legislation around development levy requirements which may remove the requirement for the payment of levies in respect of the commencement of residential development projects. It is requested that wording of the development levy condition is amended to reflect same.

7.2. **Planning Authority (PA) Response**

The PA, in their response dated 10th February 2025, state that they have no further comments to make and seek that the Board uphold their decision. They also request that provision is made to attach conditions relating to development contributions and tree bond/ cash security in the event of a grant of permission.

7.3. Observations

1 no. observation was received from David and Karen O'Brien of Ladysmith, Sandy Lane, Rush, Co. Dublin (the property located to the immediate rear (south) of the application site). They raise concerns about the proposal's impact on their privacy and specifically, how the height, proximity and glazing arrangements (i.e. 3rd floor windows) give rise to overlooking of their rear living spaces and private amenity space. The observation is accompanied by a series of photographs which seek to highlight how the view of/ from the observer's living room, kitchen and bedroom would be adversely affected by the proposal.

7.4. Further Responses

None.

8.0 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, 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
- Design and Residential Amenity
- Development Levy
- Other

8.1. Principle of Development

8.1.1. The proposed development is located in an area zoned 'TC – Town and District Centre' where residential uses are permitted in principle. The principle of residential development on the site is therefore acceptable subject to the proposed development being satisfactory in terms of its impact on the visual amenities of the area and the established residential amenities of properties in its vicinity. These matters are considered in subsequent sections of this report.

8.2. Design and Residential Amenity

- 8.2.1. The nature and extent of design modifications proposed under the appeal scheme are set out in Section 7.1.3 of this report. I do not consider these to be material on the basis that no new elements or issues which may be of concern to third parties are introduced e.g. over and above those previously dealt with at PA stage.
- 8.2.2. Condition No. 3 attached to the PA's grant of permission sought to address issues with the aesthetic/ visual character of the proposed dwelling design and to mitigate perceived overlooking of/ overbearance on the neighbouring property to the immediate south. These matters were dealt with via the omission and redesign (reduction in scale/ extent) of the proposed glazing on the rear elevation of the property at attic level (Conditions No's 3(a) and 3(b)) and also by requiring the redesign of the rear single-storey extension to provide for a flat roof with a max. height of 3.78m (Condition 3(c)).
- 8.2.3. I am going to address each element of Condition No. 3 in turn below in order to determine whether or not the scheme as permitted by the PA is preferable to the appeal scheme.
- Condition No. 3 (a): Omission of Rear Ensuite Window at Attic Level*
- 8.2.4. Condition No. 3(a) requires omission of the ensuite bathroom window at attic level.
- 8.2.5. The PA cited various concerns with the visual aesthetic/ dominance of the property's rear roofscape and, on this basis, sought that the window be omitted by condition.
- 8.2.6. The appellant contends that the omission of the ensuite window is unwarranted and undermines the property's ability to utilise its southerly aspect in order to naturally daylight its habitable/ circulatory spaces.
- 8.2.7. I note that the ensuite window was located close to the edge of the roof, to the side of the westernmost skylight. Whilst I appreciate that the ensuite window gave rise to minor visual asymmetry on the roofscape on its account of its positioning, given its small size and location on the rear roof which is not highly visible/ or visible from the public realm on Sandy Road, I consider its omission by condition No. 3(a) as per the scheme permitted by the PA to be unnecessary.
- 8.2.8. On this basis, I consider that the appeal scheme – which provides for the same ensuite window in the same location as proposed at FI stage – to be acceptable.

Condition 3(b): Omission of Rear Skylights at Attic Level

- 8.2.9. Condition 3(b) requires the omission of 2 no. large skylights to the rear of the property at attic level and their replacement with max. 3 no. skylights similar in style/ scale to those on the front elevation.
- 8.2.10. In considering the applicant's FI proposal to replace the originally proposed 2 no. attic-level rear dormer windows with 2 no. large skylights, the PA found the revised glazing arrangements to be excessive - providing for a poor/ disjointed visual aesthetic. Notwithstanding, the PA did consider that the provision of skylights in place of dormers addressed earlier concerns in respect to the overlooking of and overbearance on the neighbouring property to the south and the massing and visual dominance of the roof.
- 8.2.11. The appellant considers that both the omission of the dormers and the requirement to redesign/ reduce the scale of the proposed skylights are unreasonable design changes that damage the aesthetic of the south elevation and negatively impact on the functionality of the habitable space proposed at attic level. They reiterate that the extent of design changes required to be made to the attic level by condition is unwarranted given the proposal's compliance with SPPR1, local precedent and the fact that the rear roof of the house is not visible from the adjoining streetscape (north). The grounds of appeal seek that the dormers are reinstated as per the appeal scheme.
- 8.2.12. Section 14.6.6.4 (Overlooking and Overbearance) of the FDP states that issues in relation to excessive overlooking and overbearance may be addressed through relocation or reduction in building bulk and height and/ or the sensitive placement of fenestration. Section 14.8.2 (Separation Distances) of the FDP requires that a separation of 22m is provided between the rear of properties whilst SPPR1 of the Compact Settlement Guidelines (2024) states that a separation of 16m should be observed in order to prevent undue overlooking of habitable rooms and private amenity spaces. Furthermore, whilst this is a proposal for a new dwelling, given the issues raised I consider it to be relevant to consider the FDP's guidance in respect to roof glazing alterations/ dormer windows as per Section 14.10.2.4 of the plan. This guidance requires that dormers are set back from the eaves and gables and set down below the ridge level of the roof – all so as not to overly dominate the property's roofscape. The level/ type of glazing in the dormer windows should also have regard

to existing window treatments and fenestration of the dwelling and to the extent of fenestration proposed relative to adjoining residential units in order to ensure the preservation of amenities and the avoidance of excessive overlooking.

8.2.13. I note that a c. 22m separation distance is provided for between the proposed attic level and the rear elevation of the neighbouring property to the south. I also note that the visual relationship between these properties is interrupted by the existing shared boundary and by the apex gable wall (of the existing shed) and the neighbour's single-story shed/ home office with pitched roof, all of which are being retained. Having regard to this built context, which was observed on my visit to the site and the property to the south, and to the policy guidance set out under SPPR1 of the Compact Settlement Guidelines (2024) and Sections 14.6.6.4 (Overlooking and Overbearance) and 14.10.2.4 (Roof Alterations including Attic Conversions and Dormer Extensions) of the FDP, I am satisfied that the design and positioning of the 2 no. attic-level dormer windows proposed under the appeal scheme would not result in an overbearing impact on or in overlooking/ an unacceptable loss of privacy to the neighbouring property.

8.2.14. On this basis of the aforementioned considerations, I find the requirements of condition No. 3(b), as per the scheme permitted by the PA, to be unnecessary and I consider the appeal scheme – which provides for 2 no. rear dormer windows at attic level – to be an acceptable proposal.

Condition No. 3(c): Height/ Design of Rear Single Storey Element

8.2.15. Condition 3(c) requires the provision of a flat roof of max. 3.78m height on the dwelling's rear single-storey extension.

8.2.16. I note that condition 3(c) arose from the PA's concerns that unsolicited and unsanctioned changes had been made to the roof design and height of the single storey element to the rear of the property at FI stage - changes which they considered gave rise to unacceptable overbearance on neighbouring properties to the south and east.

8.2.17. As per the grounds of appeal detailed in section 7.1 of the report, the appellant contends that there is no evidence that the design of the proposed rear single-storey extension would give rise to negative impacts on the residential amenities of the adjoining properties and they point toward the retention of the gable wall along the shared boundary as being a mitigation. It is argued that the extent of redesign required

to comply with condition No. 3(c) is unwarranted, unreasonable and would render their dwelling dysfunctional and the project unviable. They seek that the Board remove the condition.

8.2.18. Having inspected the site and its surrounds, and having considered the information on file – particularly the scheme as permitted by the PA, I am satisfied that the appeal scheme provides for an appropriate built and visual relationship with the property to the east on the basis of its height adjoining the shared boundary between these properties being c. 2.7m (as per both the application and FI schemes) with the increase in roof height sloping away from this boundary and thereby lessening the overall massing adjoining same. Similarly, in respect to the rear extension's relationship with the observer's property to the south, I consider the roof design/ profile, positioning and height provided for under the appeal scheme (which ranges from c. 2.7m – c. 4.25m) to be acceptable on the basis of the retention of the shared boundaries between the properties and also on account of the height and positioning of the detached single-storey garage/ home office structure to the rear of the property to the south. I am of the view that the placement of this existing structure would mitigate any potential for undue visual intrusion or overbearance on the observer's property that may otherwise arise from the proposed single-storey rear extension.

8.2.19. On the basis of the above considerations, I am of the opinion that the attachment of condition 3(c) to the scheme permitted by the PA is unwarranted and I consider the appeal scheme (submitted as part of the grounds of appeal as detailed in Section 7.1.3 of this report), which provides for a mono-pitch roof sloping from c. 2.7m - c. 4.25m east to west on the single storey rear element, to be acceptable.

Conclusion

8.2.20. In light of the above assessment, in which I considered both schemes, I have determined that Condition No. 3 attached to the scheme as permitted by the PA is unwarranted and I am satisfied as to the acceptability of the revised drawings submitted as part of the grounds of appeal (e.g. the appeal scheme).

8.3. Development Contribution

8.3.1. The PA applied a standard Development Contribution in respect to public infrastructure and facilities benefitting the development which is provided for in compliance with Section 48 of the Planning and Development Act, 2000, as amended.

- 8.3.2. The appellant notes that there are potential changes forthcoming to development levy legislation which may remove the requirement for the payment of levies in respect to the commencement of residential development projects. It is requested that the Board revise the wording of the development contribution condition to reflect same.
- 8.3.3. I note that on 25th April 2023, the Government approved additional measures under the Housing for All Action Plan to incentivise the activation of increased housing supply and help reduce housing construction costs. These included the introduction of temporary time-limited arrangements for the waiving of local authority 'Section 48' development contributions and the refunding of UE water and wastewater connection charges in respect to permitted residential developments. This scheme was extended on 30th April 2024. Having reviewed the terms of the aforementioned measures, I specifically note that the waiver applied to on-site project commencements between 25th April 2023 and 31st December 2024 and with a completion date of not later than 31st December 2026 and, as such, the appellant's scheme would not qualify for a waiver under this scheme.
- 8.3.4. Notwithstanding the above considerations, I note that the application of a waiver would fall within the remit of the local authority and thus, need not concern the Board for the purposes of this appeal.

8.4. **Other**

Materials and Finishes

Whilst the revised materials and finishes proposed at FI stage were generally acceptable to the PA, some concerns were raised about ambiguities in respect to the revised rear elevation drawing and about the lack of detail provided on the visual character of the proposed front boundary – with these matters being addressed by condition. I am also of the view that a condition to this effect is necessary.

Access

The PA noted that the width of the proposal's vehicular access from Sandy Road was undersized by 0.2m and sought to attach a condition to ensure it complied with standards. If the Board are minded to grant permission, I consider it appropriate that a condition to this effect also be attached.

Drainage/ Servicing

Given that the applicant did not submit a confirmation of feasibility from UE as part of their FI response and given that the PA were not fully satisfied as to the feasibility of the proposed soakaway/ surface-water management strategy, I consider that there is not sufficient information on file to determine the suitability of the drainage arrangements as proposed. However, I consider that this matter can be addressed by the attachment of suitable drainage compliance conditions in the event of a grant of planning permission.

Residential Standards

Having considered the information on file, I am satisfied that both the scheme permitted by the PA and the appeal scheme comply with the applicable quantitative and qualitative residential standards set out under Section 5.0 (Policy Context) of this report.

Overshadowing

Having regard to the information on file, I consider that there is no potential for the proposal to adversely impact on sunlight or daylight to the adjoining residential properties to the south and east on account of the retention of the shared boundaries, the height of the rear single storey element adjoining the eastern property boundary (as per both the scheme permitted by the PA and the appeal scheme) and the and the placement of the property to the south's garage/ home office.

Demolition/ Boundary Wall

The observation from the residents of the property to the immediate south raises concerns about the structural stability of the party boundary following demolition of the adjoining shed and the potential for health and safety issues and property damage to arise.

Having reviewed the PA's reports, I am not satisfied that this issue has been adequately addressed to date. Therefore, I recommend to the Board that a condition be attached requiring the applicant to submit detailed plans and particulars for the proposed south boundary wall together with details of any related retaining elements/ site works required and a method statement for its construction, all to be agreed with the PA prior to commencement of development on site.

Devaluation of Property

I note the concerns raised in the observation in respect of the devaluation of neighbouring properties. However, having regard to the assessment, conclusion and recommendations set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

9.0 AA Screening

- 9.1. I have considered the proposal for permission for the demolition of shed roofs and construction of house, together with all associated site works at Sandy Road, Rush, Co. Dublin in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 9.2. The subject site is located within the centre of Rush town and on serviced lands. It is also located approx. 620m from Rogerstown Estuary SAC (Site Code 000208), approx. 560m from Rogerstown Estuary SPA (Site Code 004015), approx. 1.1km from North-West Irish Sea SPA (Site Code 004236) and approx. 2km from Rockabill to Dalkey Island SAC (Site Code 0030000).
- 9.3. The proposed development comprises the demolition/ partial demolition of shed structures and the construction of 1 no. house and all associated works.
- 9.4. No nature conservation concerns were raised in the planning appeal.
- 9.5. 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/ de minimus nature of the proposed development.
 - The location-distance from the nearest European Site and lack of connections given its setback from the Irish Sea/ the coastline and the intermediate development/ land uses (i.e. housing and horticultural greenhouses) which mean that short-term construction phase impacts arising from demolition/ construction (i.e. such as dust, noise and vibration) and longer term operational impacts (such as increased human activity, noise and lighting disturbance) would be intercepted and not reach the aforementioned sites and would therefore have no potential to

give rise to change to the aforementioned European sites in terms of, for example, a reduction or fragmentation of habitat area or species disturbance.

- Taking into account the findings of the AA screening assessment by the PA.

9.6. I conclude that on the basis of objective information, the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

9.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

I recommend a GRANT of permission subject to the following conditions.

11.0 Reasons and Considerations

Having regard to the 'TC – Town and District Centre' zoning objective of the site, the objective for which is to 'Protect and enhance the special physical and social character of town and district centres and provide and/ or improve urban facilities', and the planning policies, objectives and development standards of the Fingal Development Plan 2023-2029 and to the nature, scale and design of the development received by An Bord Pleanála on the 20th January 2025 relative to the existing pattern of development in the wider area, it is considered that subject to compliance with the conditions set out below, the proposed development 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.

12.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 20 th January 2025, except as may otherwise be required in order to comply with the following
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	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The glazing to the dwellings following windows shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.</p> <p>(a) Ground floor bathroom window, eastern (side) elevation.</p> <p>(b) First floor bathroom window, eastern (side) elevation.</p> <p>(c) First floor bathroom window, western (side) elevation.</p> <p>(d) Attic level bathroom window, southern (rear) elevation.</p> <p>Reason: To prevent overlooking of adjoining residential properties.</p>
3.	<p>Prior to the commencement of development, the applicant/ developer shall submit detailed plans and particulars for the southern (party) boundary to Ladysmith, Sandy Lane, Rush and any related retaining elements/ site works required together with a method statement for same, all for the agreement of the planning authority.</p> <p>Reason: To safeguard the integrity of the boundary and the residential amenity of neighbouring properties.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling and to the low boundary wall to the front of the dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.</p>
5.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>

6.	<p>The following works and requirements relating to the proposed entrance shall be adhered to:</p> <p>(a) The footpath and kerb to the front of the dwelling shall be dishd.</p> <p>(b) The lining of the existing on-street parking space(s) to the front of the dwelling shall be removed and the parking signpost to the front of the dwelling relocated westwards to the new starting point of the on-street parking spaces.</p> <p>(c) All the above works shall be carried out at the developer's expense according to the specification and conditions of the Fingal County Council.</p> <p>(d) The vehicular entrance shall measure 4m in width.</p> <p>(e) No objects, structures, landscaping or planting shall be placed or installed within the visibility splays (in accordance with DMURS) exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility splays. (f) No gate shall open across a public footpath/roadway.</p> <p>Reason: In the interests of traffic and pedestrian safety.</p>
7.	<p>Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/ wastewater facilities.</p>
8.	<p>The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400</p>

	<p>hours on Saturdays and not at all on Sundays and public holidays Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: To safeguard the amenity of property in the vicinity.</p>
10.	<p>Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of reducing waste and encouraging recycling.</p>
11.	<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 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>Reason: 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>
12.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other</p>

	<p>security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</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.

Emma Gosnell
Planning Inspector

14th April 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321714-25		
Proposed Development Summary	Demolition of shed roofs and construction of house, together with all associated site works.		
Development Address	Sandy Road, Rush, 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	✓
		No	
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	✓	Part 2, Class 10(b)(i) Infrastructure – dwelling units Class 10(b)(iv) Urban development	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			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	✓	500 units / 2-10 ha – proposal is for 1 no. unit on a site of 0.042 ha	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321714-25
Proposed Development Summary	Demolition of shed roofs and construction of house, together with all associated site works.
Development Address	Sandy Road, Rush, Co. Dublin
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development requires the demolition of 2 no. disused shed-type structures in order to facilitate the construction of 1 no. new house together with all ancillary site works.</p> <p>The standalone development does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance.</p> <p>The development, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European</p>	<p>The development is situated on brownfield land in the town centre of Rush. It is located at a remove from sensitive natural habitats and designated sites identified in the FDP. However, it is located in an area of Rush designated as a highly sensitive landscape' due to its 'coastal character type'.</p>

sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).		
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		Notwithstanding the sensitive landscape designation, having regard to the modest nature of the proposed development, its location relative to sensitive habitats/ features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	✓
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)