



An
Bord
Pleanála

Inspector's Report ABP322087-25

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| Development | Retention permission for a stand-alone 1.5 storey high annex office. |
| Location | 6 Seaview Park, Portrane, Co. Dublin, K36 NN63. |
| Planning Authority | Fingal County Council. |
| Planning Authority Reg. Ref. | F24A/1170E |
| Applicants | David Hendrick & Aisling Curley. |
| Type of Application | Retention of permission. |
| Planning Authority Decision | Refusal of retention permission. |
| Type of Appeal | First Party |
| Appellant | David Hendrick & Aisling Curley. |
| Observers | None |
| Date of Site Inspection | 7th May 2025. |
| Inspector | Derek Daly |

1.0 Site Location and Description

- 1.1. The site is in the town of Portrane in North County Dublin in a residential area. On the site is a two storied dwelling which is part of a terrace of four similar properties. The site is mid terraced with similar type properties to the north and south. The public estate road defines the site's eastern boundary and there is open recreational area to the rear (west) of the appeal site with a laneway between the open space and rear boundaries of the dwellings which provides for rear access to the residential properties including the appeal site. The site has private open space to the front and rear with the front area use for on-site parking. Within the rear area of the site is the stand alone structure which adjoins the rear boundary and which is the subject of this appeal, a flat roof timber clad shed type structure and a rear extension to the dwelling. The open space area is overlain by an open air timber canopy.
- 1.2. There is a discernible rise in level on the site from the front (east) elevation of the structure to the rear boundary of the site.

2.0 Proposed Development

- 2.1. The development as received by the planning authority on the 31st October 2024 is for retention permission for a stand-alone 1.5 storey annex office. The structure is located in the rear garden in the south western corner of the site adjoining the western and southern boundaries of the site.
- 2.2. The structure as stated on the submitted drawings on the ground floor has an existing living room with a floor area of 20.48 m², a WC with a stated area of 4.23m² and a stairway leading up to the upper floor. The first floor has as stated on the submitted drawings two existing store room areas with stated floor areas of 11.56m² and 11.19m². The structure has a pitched roof with a maximum height to the ridge of 4725mm. Due to the change of level the structure to the eaves on the front elevation has a stated height of 3650mm and an eaves height of 2810mm at the rear. The sloping nature of the site results in the structure being single storey to the rear and 1.5 storey to the front of the unit. The structure does not extend over the entire width of the site with a rear access to the public laneway behind maintained.

- 2.3. The structure has an external render finish. The stated floor area of the structure is 56m².
- 2.4. At the time of inspection, it was noted that the ground floor area has primarily a living area with a desk and the first floor area there were beds in each of the two rooms.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The decision of the Planning Authority was to refuse planning permission. On reason was stated;

Having regard to the scale and design of the development to be retained, including its height, mass, overbearing nature, proximity to site boundaries, and visual obtrusiveness within a housing development with small rear garden areas, it is considered that the development comprises a visually incongruous and dominant feature in this residential location which has a significantly negative impact on the existing residential amenity of surrounding properties. The proposed development would set an undesirable precedent for other similar developments. The development by reason of visual prominence seriously injures the amenities of the area and of property in the vicinity, would be contrary to the residential zoning objective of the site, and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The planning report dated the 18th February 2025 refers to the provisions of the current County Development Plan (CDP); an assessment of the proposal referring to particular provisions of the CDP and that the proposed development is acceptable in principle subject to an assessment of the proposed development in the context of the provisions of the CDP. It was considered that the development is inconsistent with section 14.10.4 of the plan, comprises a visually incongruous and dominant feature and would set an undesirable precedent for other similar developments. Refusal of permission was recommended.

4.0 Planning History

4.1. No relevant history.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The statutory development plan is the Fingal County Development Plan 2023-2029.

5.1.2. Chapter 3 refers to Sustainable Placemaking and Quality Homes. Section 3.5.13.1 refers to Residential Extensions and that the need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Policy SPQHP41 in relation to Residential Extensions supports the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities. Objective SPQHO45 Domestic Extensions encourages sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

Section 3.5.13.2 refers to Family Flats and that family flats are a means of providing additional accommodation with a level of independence for an undefined temporary period of time. Family flats allow for semi-independent accommodation for an immediate family member (dependent on the main occupants of the dwelling).

Applications for family flats will be considered favourably subject to criteria set out in Chapter 14 Development Management Standards. Policy SPQHP42 Family Flats supports the provision of family flats on suitable sites within established residential areas subject to specific design criteria and objective SPQHO46 in relation to family flats is to insure family flats: are for a member of the family with a demonstrated need; when no longer required for the identified family member, are incorporated as part of the main unit on site; do not exceed 75 sq.m in floor area and comply with the design criteria for extensions.

5.1.3. Chapter 7 refers to Employment and Economy. Relevant provisions include;

Objective EEO22 – Home Based Economic Activity Support the provision of home-based economic activity that is subordinate to the main residential use of a dwelling and that does not cause injury to the amenities of the area.

Objective EEO23 – Remote Working Support the Making Remote Work – National Remote Work Strategy and the provision of appropriate IT infrastructure and facilities that enable a better life-work balance enabling people to live near their place of work.

- 5.1.4. chapter 13 refers to land use zoning. The appeal site is zoned RS Residential with the Objective Provide for residential development and protect and improve residential amenity. The Vision in relation to the zoning objective is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity. Office ancillary to permitted use is permitted in principle in the RS zoning.

Section 13.4 refers to Ancillary Uses and that planning permission sought for developments which are ancillary to the parent use, i.e. they rely on the permitted parent use for their existence and rationale, should be considered on their merits irrespective of what category the ancillary development is listed in the zoning objectives, vision and use classes section of this chapter.

Objective ZO4 in relation to Ancillary Uses is to ensure that developments ancillary to the parent use of a site are considered on their merits.

- 5.1.5. Chapter 14 refers to Development Management Standards and outlines a range of standards and requirements for the assessment of development.

- 5.1.6. Section 14.10 refers to Additional Accommodation in Existing Built-up Areas

Section 14.10.4 refers to Garden Rooms and that garden Rooms can provide useful ancillary accommodation such as a playroom, gym, or study/home office for use by occupants of the dwelling house. Such structures should be modest in floor area and scale, relative to the main house and remaining rear garden area. Applicants will be required to demonstrate that neither the design nor the use of the structure would detract from the residential amenities of either the main residence or of adjoining property. External finishes shall be complementary to the main house and any such structure shall not provide residential accommodation and shall not be fitted out in such a manner including by the insertion of a kitchen or toilet facilities. Such structures shall not be let or sold independently from the main dwelling.

14.10.5 refers to Home Based Economic Activity and that development proposals for small scale home-based economic activity, defined as small scale economic activity carried out by residents of the dwelling house and being subordinate to the use of the house as dwelling unit will be considered where the applicant is the resident of the house and can demonstrate that the proposed activity would not adversely impact the existing residential amenity of the area. This includes impacts such as increased traffic, noise, fumes, vibration, smoke, dust or odour. The Planning Authority will assess the suitability of the residential site to accommodate the proposed home-based economic activity having regard to the:

- Nature and scale of the activity proposed including hours of operation.
- Requirement for the activity.
- Location and size of the site.
- Impacts on the amenity of the residential unit and on neighbouring properties in terms of noise and disturbance.
- The prevailing density of the area.
- the availability of adequate safe car-parking and expected levels of traffic generation (including deliveries where relevant).
- The general compatibility of the nature of the use with the site context.
- Waste generation.

Home-based economic activity will generally be permitted on a short-term or temporary basis to enable an ongoing assessment of any impact of the activity on residential amenity. Relevant other provisions include;

Objective DMSO33 – Home Based Economic Activity Permit home-based economic activities where the proposed activity is subordinate to the main residential use of the dwelling and does not adversely impact the existing residential amenities of the area by way of noise or disturbance.

Objective DMSO34 – Home Based Economic Activity (Temporary) Permit home-based economic activity on a short-term or temporary basis to enable an ongoing assessment of any impact of the activity on residential amenity, where required.

5.2. Natural Heritage Designations

5.3. The subject site is within and not proximate to any European site.

5.4. EIA Screening

5.5. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first party appeal in summary refers to;

- The appeal is in relation to the planning authority decision to refuse planning permission.
- Reference is made to the use of the structure as vital for their business.
- Reference is made to section 14.10.4 of the CDP and in this regard, it is indicated that there is no dwellings to the rear.
- The alteration in ground level is referred to and that the height at the rear boundary is 2.81 metres to soffit level and 3.88 metres and 3.65 metres to soffit level and 4.72 metres at the front of the structure and that overshadowing of the structure to surrounding dwellings is not a significant issue.
- Reference is made to another structure in the area which is higher.
- Overlooking does not arise as there is no windows on the upper floor.
- It is contended that the development complies with all requirements of the development plan, the structure is not being let or sold independently and if the decision of the planning authority is overturned removal by way of condition of the bathroom is acceptable.

6.2. Planning Authority Response

The planning authority in a response dated the 7th April 2025 requests the Board to confirm its decision and if permission is granted conditions to be considered in a grant of permission.

7.0 Assessment

- 7.1. The main issues in this appeal are principle of the development and the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- The principle of the development
- Grounds of appeal.

7.2. The principle of the development.

- 7.2.1. The proposal as submitted is a retention permission for a stand-alone 1.5 storey high annex office. In relation to the use of the structure for an office. The appeal site is located within the zoning objective RS Residential with the Objective Provide for residential development and protect and improve residential amenity and the vision in relation to the zoning objective is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity. The zoning objective provides for office ancillary to permitted use as a use permitted in principle. Section 13.4 of the CDP refers to Ancillary Uses and that planning permission sought for developments which are ancillary to the parent use, i.e. they rely on the permitted parent use for their existence and rationale, should be considered on their merits irrespective of what category the ancillary development is listed in the zoning objectives, vision and use classes section and objective ZO4 in relation to Ancillary Uses refers to developments ancillary to the parent use of a site are considered on their merits.
- 7.2.2. The development is therefore acceptable in principle subject to consideration of development management criteria and an assessment of the development in the context of the provisions stated in chapter 14 of the CDP and that it does not adversely impact on existing residential amenity.

7.3. Grounds of appeal

- 7.3.1. The primary issues raised in the appeal relates to the planning authority decision to refuse planning permission and the stated reason for refusal.
- 7.3.2. The reason for refusal refers to the scale and design of the development to be retained, including its height, mass, overbearing nature, proximity to site boundaries, and visual obtrusiveness within a housing development with small rear garden areas, it is considered that the development comprises a visually incongruous and dominant feature in this residential location which has a significantly negative impact on the existing residential amenity of surrounding properties. The proposed development would set an undesirable precedent for other similar developments. The development by reason of visual prominence seriously injures the amenities of the area and of property in the vicinity, would be contrary to the residential zoning objective of the site, and would, therefore, be contrary to the proper planning and sustainable development of the area.
- 7.3.3. In the grounds of appeal reference is made to the use of the structure as vital for their business.
- 7.3.4. Reference is made in the grounds of appeal to section 14.10.4 of the CDP and in this regard, it is indicated that there is no dwellings to the rear to the height of the structure; that overshadowing of the structure to surrounding dwellings is not a significant issue; that overlooking does not arise as there is no windows on the upper floor. It is also contended that the development complies with all requirements of the development plan, the structure is not being let or sold independently and if the decision of the planning authority is overturned removal by way of condition of the bathroom is acceptable.
- 7.3.5. The planning authority report refers to the drawings submitted with the planning application, to the presence of a wc in the structure; that the detached structure cannot be considered to be a shed/garden room for office/storage purposes nor can the structure be considered ancillary to the main residence as it appears to provide residential accommodation in the form of a living room area in addition to the wc facilities. There is also reference to a sub standard for of residential accommodation for occupants and that by virtue of its size, scale and visual obtrusiveness it would negatively impact on the residential and visual amenity of the main dwelling and neighbouring properties.

- 7.3.6. In relation to the development and the submitted drawings it is noted that an existing living room and existing wc area are indicated at ground floor and there is no reference to office on the drawings although retention as an office is stated in the retention application. I do, however, note that in the grounds of appeal it is indicated that the ground floor plan should refer to on the ground floor as an open area for an office rather than living area.
- 7.3.7. At first floor level existing store room is indicated for both rooms and at the time of inspection these rooms were not in use for storage and beds were in both rooms and that the upper floor does not have windows and the means of access and escape from the upper floor area is solely through the indicated existing living room on the ground floor. It is also noted that the ceiling height of the first floor level ranges between 1330mm to a maximum of 2060mm which would be below the required minimum height for a habitable room. The development in its current form would appear to provide for primarily residential accommodation rather than an ancillary office and would be deficient in relation to standards required as a standalone residential unit. It would be acceptable for storage use associated with an office.
- 7.3.8. The overall development of the site with the extension to the dwelling, the structure which is the subject of this appeal and the shed has reduced the area of open space available in the rear garden area. Although the area retained would be less than the desired minimum open space provision stated in national and CDP standards which apply for new residential development the area of open space retained is in excess of 30m² and is a useable amenity open space. This area would be in excess of the 25m² which is required to be retained where exempted development provisions permit the construction or erection of any such extension to the rear of a dwellinghouse reserved exclusively for the use of the occupants of the house.
- 7.3.9. Section 14.10.5 of the current CDP refers to Home Based Economic Activity and criteria for assessing such activity in considering the suitability of the residential site to accommodate the proposed home-based economic activity. These criteria include;
- Nature and scale of the activity proposed including hours of operation.
- In this regard it is noted that no details in relation to this were submitted but could be conditioned in a grant of permission.
- Requirement for the activity.

It is noted that the appellants refer to the structure is vital to their business but the nature of the business is not specified.

- Location and size of the site. In regard the site can be considered on its merits as indicated in the CDP.

The scale of the development is not excessively large which is important given the limited area of the site and the area of private amenity open space available.

- Impacts on the amenity of the residential unit and on neighbouring properties in terms of noise and disturbance.

In this regard, the site adjoins neighbouring dwellings on two sides, the structure immediately abuts the shared boundary of the site to the south (no.7) and does not extend to the shared boundary of the site to the north (no.5). The structure has a pitched roof with a maximum height to the ridge of 4725mm. Due to the change of level the structure to the eaves on the front elevation has a stated height of 3650mm and an eaves height of 2810mm at the rear. The structure extends approximately 7 metres along the common boundary. There is a structure on the adjoining site to the south at the rear boundary adjoining the appeal site which in height is approximate to the height of the eaves of the structure under appeal.

There is no information submitted in relation to precise office use but an office use of this scale would not generally give rise to concern in relation to noise.

In relation to disturbance given the scale of the development I do not consider that the structure gives rise to overshadowing owing to the orientation of the site or gives rise to an adverse impact in relation to overbearance given the development on the adjoining site.

- In relation to the availability of adequate safe car-parking and expected levels of traffic generation.

The development is a home based activity, The site has parking in the front garden and there is street parking available. The site and area could have sufficient capacity to accommodate likely anticipated levels of traffic without impacting on the area or road network.

- 7.3.10. I would note that the issue of the presence of a wc is raised by the planning authority and that section 14.10.4 which refers to Garden Rooms and shall not be fitted out in such a manner including by the insertion of a kitchen or toilet facilities. Such a provision is not stated in relation to Home Based Economic Activity but this activity may occur within the dwelling and not an external detached garden room. The provision in relation to a wc in a garden room is reasonable to regulate additional independent residential units on a single site but I would not have any objection to a wc being used associated with a home based office activity.
- 7.3.11. In overall terms the use as a home based office would be acceptable in relation to the site and the wider context.
- 7.3.12. I note that the provisions of the CDP in relation to home-based economic activity refers to that such development will generally be permitted on a short-term or temporary basis to enable an ongoing assessment of any impact of the activity on residential amenity. In relation to the development under appeal the structure is present on the site and can be assessed and there is no requirement to include such a provision.
- 7.3.13. I consider however that a grant of permission should be conditioned to specifically state the structure is not to be used for living accommodation in any form, shall not provide residential accommodation and shall not be let or sold independently from the main dwelling and any proposed residential use would require to be the subject of a requirement of planning permission.

8.0 Appropriate Assessment Screening

- 8.1. I have considered the development under appeal which is a retention permission for a stand-alone 1.5 storey high annex office in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is an established residential site.
- 8.2. The proposed development comprises in effect the retention of a structure as outlined in section 2 in the Inspectors report. 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 nature of the development, the distance to designated sites and the absence of pathway to these sites.

- 8.3. 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 and 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.

10.0 Reasons and Considerations

Having regard to the nature of the proposed development, the proposed residential use on the site; the design, nature and scale of the proposed development and the pattern and character of development in the vicinity; and to the policies of the Fingal County Development Plan 2023 – 2029, as well as national guidance including the ‘Architectural Heritage Protection Guidelines for Planning Authorities’ (2011); it is considered that, subject to compliance with the conditions set out below, the proposed development would not have a significant adverse effect on the character of the adjoining protected structure, would not detract from the character of the area, and would not seriously injure the amenities of adjacent residential property and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

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| 1. | This grant of planning permission is for the retention of permission for a stand-alone 1.5 storey annex office in accordance with the details as received by the planning authority on the 31 st October 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the |
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| | <p>Planning Authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>(i) The development shall be used solely as home based office use ancillary and subordinate to the use of the house and site as a dwelling unit and shall not be used for any other use.</p> <p>(ii) The structure shall not a to be used for living accommodation in any form and shall not be let or sold independently from the main dwelling.</p> <p>(iii) Any proposed residential use of the structure which is the subject of retention shall be subject of a requirement of planning permission.</p> <p>Reason: In the interest of clarity, orderly development and residential amenity.</p> |
| 3. | <p>The hours of use of the office shall be shall be carried out only between the hours of 0800 to 2000 Mondays to Fridays inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>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: In order to safeguard the [residential] amenities of property in the vicinity.</p> |
| 4. | <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</p> |

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| | <p>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> |
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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.

.Derek Daly
Planning Inspector

22nd May 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

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| An Bord Pleanála Case Reference | 322087-25 | | |
| Proposed Development Summary | Retention permission for a stand-alone 1.5 storey high annex office. | | |
| Development Address | . | | |
| 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 | Tick if relevant and proceed to Q2. |
| | | No X | Tick if relevant. No further action required |
| 2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)? | | | |
| Yes | Tick/or leave blank | State the Class here. | Proceed to Q3. |
| No | Tick or leave | | Tick if relevant. No |

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| X | blank | | further action required |
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3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?

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| Yes | Tick/or leave blank | State the relevant threshold here for the Class of development. | EIA Mandatory EIAR required |
| No X | Tick/or leave blank | | Proceed to Q4 |

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?

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| Yes | Tick/or leave blank | 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) |
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5. Has Schedule 7A information been submitted?

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| No | X | Screening determination remains as above (Q1 to Q4) |
| Yes | Tick/or leave blank | Screening Determination required |

Inspector: Derek Daly Date: 22nd May 2025