



An
Bord
Pleanála

Inspector's Report

ABP 322095-25

Development	Retention of amendments to a previously permitted single storey shed (Reg Ref 4624/22) comprising of an increase in the overall floor area by approximately 7.3 sq. m with elevational changes including the relocation of window and doors all in the rear garden
Location	10 St. Alphonsus Road Lower, Drumcondra, Dublin 9
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4461/24
Applicant	Laurence Keegan
Type of Application	Retention
Planning Authority Decision	To refuse retention permission
Type of Appeal	First Party
Appellant	Laurence Keegan
Observer	Iona and District Residents' Association
Date of Site Inspection	9 th May 2025
Inspector	Trevor Rue

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1.0 Site Location and Description

- 1.1. The application site is on the southern side of St. Alphonsus Road in Drumcondra, a residential street which lies about 2 kilometres to the north of Dublin City Centre. The site has a stated area of 280 square metres and comprises a two-storey mid-terrace redbrick dwelling with a back garden and a freestanding structure which abuts the rear (southern) site boundary. On the outer side of that boundary is a lane about 1.3 metres in width which is accessible only on foot via a lockable gate on St. Alphonsus Avenue. The properties on St. Alphonsus Avenue which abut the lane on its southern side have small back yards but no back gardens.
- 1.2. The freestanding structure, described as a shed in the application, has a stated floor area of 39.5 square metres. As depicted in the submitted drawings, its roof is 3.28 metres above the level of the back garden and 3.61 metres above the level of the lane. It has a depth of 6.408 to 7.105 metres. Its side walls are built on the eastern and western boundaries with the adjoining properties, 8 and 12 St Alphonsus Road Lower respectively. A door and window in the front elevation of the structure face the garden and two doors with small window panes in the rear elevation face the lane.

2.0 Proposed Development

- 2.1. Planning permission is sought for the retention of the building in place of a previously approved shed which was to have had a floor area of 32.2 square metres.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 20th February 2025, Dublin City Council decided to refuse retention permission for the following reason:

The proposed retention of the existing single storey shed would result in an unacceptable form of development by virtue of overbearing impact and loss of privacy, adversely affecting the residential amenity of neighbouring properties. The proposed retention of the development would therefore set a harmful and undesirable precedent contrary to the Z1 zoning objective "To protect and improve residential amenities" and

would therefore be contrary to the proper planning and sustainable development of the area.

Note: The Planning Authority acknowledge the current proceedings under E0049/23 and the evident intention of the Applicant to use the structure as a habitable dwelling. The Applicant shall observe Condition No. 2 of 4962/22 (sic) which states “The proposed detached shed shall not be used for human habitation ...”

3.2. Planning Authority Reports

Planning Reports

3.2.1. A planning officer’s report dated 18th February 2025 provided the reasoning for the authority’s decision. The main points were as follows:

- A complaint alleged that the shed was built larger than permitted with a possible unauthorised habitable use. The Council’s Enforcement Section reported that the party boundaries on either side of the property and the rear party boundary were demolished and that the structure was constructed to encompass said walls. The report also noted that two roof lights were positioned on the flat roof which are not shown in the submitted drawings.
- The submitted floor plans of the structure indicate a clear space, in use as a shed. The Enforcement Section’s inspection confirmed that the structure comprised a kitchen-cum-living area, two bedrooms with individual *en suites* and a utility/boiler room. It was evident that the structure was in a habitable use or that it was the intention of the owner to use it as a habitable dwelling.
- There is a limited separation distance of about 5.1 metres between the rear elevation of the structure as constructed and the rear elevation of 8 St. Alphonsus Avenue. The application site appears to sit higher than that property and with two doorways overlooking it there has been an adverse visual impact.
- The submitted plans do not address the unauthorised works that have taken place and the alleged change of use. Retention of the development should therefore be refused permission.

Other Technical Reports

- 3.2.2. The Council's Engineering Department – Drainage Division reported that due to inadequate information it was not possible to state that satisfactory management of surface water could be provided for this development. It recommended that the developer be asked to submit a surface water management plan for written approval.

3.3. Prescribed Bodies

- 3.3.1. No report was received from Uisce Éireann or Irish Rail.

3.4. Third Party Submissions

- 3.4.1. The residents of 8 St. Alphonsus Road Lower made a submission to the planning authority which may be summarised as follows. The original permission did not allow for building on boundary walls but the applicant built on the boundary wall to the rear of their property without permission. This was drawn to the Council's attention. It is understood that the applicant was requested to stop building in March 2023 but this request was ignored. The shed is being used as two apartments. Photos were enclosed of tenants routinely entering and leaving. When the structure was inspected by a Council official, bins and beds were being stored, giving the impression that it was a shed. The bins were removed within one hour of the official's departure and the tenants moved back in. This is a breach of Conditions 2 and 3 of the permission. The two doors to the rear of the construction are evidence of a separate entrance to the residential units through the back lane. It is requested that the applicant reinstates the original boundary wall to the rear of their property.
- 3.4.2. The planning authority received a separate submission on behalf of the owners or residents of 8, 12 and 14 St. Alphonsus Road Lower and 8 St. Alphonsus Avenue. The arguments were copiously illustrated by photographs, plans and diagrams. The material points may be summarised as follows:
- The applicant told neighbours he was proceeding to build the garden shed for which permission had been obtained. The owner of 12 St. Alphonsus Road Lower provided access via that property to facilitate the approved development. Almost immediately, it became obvious that the applicant was proceeding with a residential project and not a garden shed. The structure was being built using boundary walls as external walls. Extensive pipe work was laid underfloor to

facilitate bathrooms. A radon barrier was fitted complete with a retention well. The entire floor area was reinforced with steel.

- The description of the structure and its use in the application for retention is inaccurate and the application is invalid. The roof lights (concealed by parapet walls) and the drainage works undertaken in the rear lane (evidenced by manholes) to serve the residential unit should have been included in the description of development. The applicant has not submitted letters of consent from the neighbours whose boundary walls he knocked down. The application should be refused and the applicant should be required to demolish the structure and replace the sections of party wall that were removed.
- Additional information should have been provided to allow the residents and the Council to assess the scheme properly. No model or photomontages, no shadow diagrams, no photographs showing the likely extent of views into surrounding properties and no internal layout plan have been submitted.
- No mitigation proposals are included in the application. There are no proposals to upgrade or widen the laneway. There are no proposals for servicing the structure or for associated parking. No details of the construction phase, covering matters such as excavation, noise and vibration, dust and light overspill, are provided.
- The residential use of the building is contrary to national guidelines, the zoning objective for the area and numerous other provisions of the Development Plan.
- A glass door and a large window are included in the front elevation of the structure with angled views of 8 and 12 St. Alphonsus Road Lower. Two doors with glass panels have been installed in the laneway elevation. When these doors are open, it is possible to enjoy direct views into the ground-floor living areas of 8 St. Alphonsus Avenue through a trellis fence put up to offer screening of the structure. These door and window openings cause direct and indirect overlooking and the perception of constant overlooking.
- The residents of these three properties are experiencing visual overbearing and dominance impacts arising from the scale of the structure. The structure appears visually incongruous and its approval would set a poor precedent. The

re-siting and additional scale of the structure has caused 8 St. Alphonsus Avenue to feel claustrophobic. It is now too close, too big and in constant use.

- The existing modest shed is located to the north of 8 St. Alphonsus Avenue. However, the occupant of that property has noted how the structure has reduced very early morning and very late sunshine – from sunrise to approximately 7am from September to March and from sunrise to 8am and after 8pm in June. Given the orientation of 8, 10 and 12 Saint Alphonsus Road Lower, some adverse overshadowing will arise when the sun is rising in the east and descending in the west in any given day.
- The doors on the rear elevation are a hazard as they open directly on to the laneway, along which people may be walking or cycling.
- This development, if permitted to be retained, would reduce the value of adjacent properties due to the residential use by tenants, the expanded size of the structure and the encroachment over party boundaries. The replacement of the party walls by higher walls \has impacted on the development potential of 8 and 12 St. Alphonsus Road Lower. The objectors cannot envisage any re-design which could address their concerns. A grant of permission for the development as submitted would set a poor precedent.

3.4.3. The planning authority also received a submission from Iona and District Residents' Association, the substance of which was repeated in its observations at appeal stage.

4.0 Planning History

4.1. **4624/22:** On 11th November 2022, planning permission was granted to the present appellant to construct a new single storey detached shed in the rear garden of the application site, subject to eight conditions including the following:

1. Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made thereunder are concerned, the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto. For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans,

particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices.

Reason: To comply with permission regulations.

2. The proposed detached shed shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses or for any use other than as a use incidental to the enjoyment of the dwelling house as such, unless authorised by a prior grant of Planning Permission.

Reason: In the interests of residential amenity.

3. The proposed detached shed shall not be put to commercial use, and its use shall be only incidental to the enjoyment of the principal dwelling on site. It shall not be separated from the principal dwelling by lease or sale.

Reason: In the interests of the proper planning and sustainable development of the area and of residential amenity.

4(ii). The development shall incorporate Sustainable Drainage Systems in the management of surface water. Full details of these shall be agreed in writing with Drainage Division prior to commencement of construction.

Reason: To ensure an adequate standard of development

- 4.2. **4624/22Sub01:** On 27th February 2023, consulting engineers acting for the present appellant made a compliance submission to the planning authority in respect of Condition 4(ii). They stated that upon inspection of this mid-terraced property, it was clear that installation of a working soakaway was not possible given the physical boundary constraints. It was proposed as an alternative solution to install a rainwater butt to the roof downpipe. Overflow from the butt would pass through a filter drain within a perforated pipe fronting the shed. A silt trap would be installed on an outfall pipe running under the shed prior to remaining runoff discharging via a connection in the lane. A figure was attached to illustrate these proposals schematically.

The Council's Engineering Department – Drainage Division confirmed that the submission was in compliance with Condition 4(ii). On 28th March 2023, the planning authority informed the applicant's architects that the details were satisfactory.

- 4.3. **E0049/23:** On 23rd September 2023, the Council served an enforcement notice on the present appellant pursuant to Section 154 of the Planning and Development Act 2000. The notice referred to non-compliance with Condition 1 of planning permission

4624/22 and to the erection of a single-storey structure in the rear garden of 10 St. Alphonsus Road Lower which is larger than the approved structure. It required the removal of the unauthorised structure within the period commencing 1st October 2024 and 3rd January 2025.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Map E of the Dublin City Development Plan 2022-2028 shows the application site within Primary Land Use Zoning Category Z1, Sustainable Residential Neighbourhoods. The Z1 zoning objective, set out in Section 14.7.1 of the Plan, is to protect, provide and improve residential amenities. Permissible uses include residential.
- 5.1.2. Chapter 5 of the Development Plan is titled “Quality Housing and Sustainable Neighbourhoods”. It contains policies on neighbourhood development (QHSN12), high-quality living environment (QHSN14), accessible built environment (QHSN16), sustainable neighbourhoods (QHSN17) and houses and apartments (QHSN37).
- 5.1.3. Chapter 9 of the Plan is titled “Sustainable Environmental Infrastructure and Flood Risk”. Policy S13 is to require all new development to provide separate foul and surface water drainage systems. Policy S14 is to require new private development sewers which are intended to connect to the public drainage system to comply with the requirements of the Greater Dublin Regional Code of Practice for Drainage Works and/or Irish Water foul sewer specification (where applicable).
- 5.1.4. Chapter 15 of the Plan sets out development standards, including standards for infill development (Section 15.5.2), alterations, extensions and retrofitting of existing non-domestic buildings (Section 15.5.3), apartments (Section 15.9) and other residential typologies such as backland housing (Section 15.13.4) and mews development (Section 15.13.5).
- 5.1.5. Appendix 3 to the Development Plan is titled “Achieving Sustainable Compact Growth, Policy for Density and Building Height in the City”, while Appendix 18 deals with ancillary residential accommodation. It is stated in Section 1.1 of Appendix 18 that applications for extensions to existing residential units should not have an adverse

impact on the scale and character of the existing dwelling; not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight and sunlight; and achieve a high quality of design.

5.2. Ministerial Guidelines

- 5.2.1. Section 5.13 of the **Development Management Guidelines for Planning Authorities**, published in 2007, states that a planning applicant who is not the legal owner of the land or structure in question must submit a letter of consent from the owner in order to make the planning application. Where an applicant is not the owner and does not submit such a letter of consent, the application must be invalidated.
- 5.2.2. Section 5.13 of the Development Management Guidelines goes on to say that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the courts. Where in making an application, a person asserts that he/she is the owner of the land or structure in question, and there is nothing to cast doubt on the *bona fides* of that assertion, the planning authority is not required to inquire further into the matter. If, however, the terms of the application itself, or a submission made by a third party, or information which may otherwise reach the authority, raise doubts as to the sufficiency of the legal interest, further information may have to be sought under Article 33 of the Planning and Development Regulations 2001.
- 5.2.3. Section 5.13 of the Development Management Guidelines continues that only where it is clear that the applicant does not have sufficient legal interest should permission be refused on that basis. If some doubt still remains, the planning authority may decide to grant permission. However such a grant is subject to the provisions of Section 34(13) of the Planning and Development Act 2000, which states that a person is not entitled solely by reason of a permission to carry out any development. In other words the developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission.
- 5.2.4. The **Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities**, published in 2024, set out policy and guidance in relation to the planning and development of urban and rural settlements. Chapter 3 “Settlement, Place and Density” considers the key growth priorities for settlements at

each tier in the national settlement hierarchy. Chapter 5 “Development Standards for Housing” considers the design of housing and standards to be applied in support of greater innovation within the housing sector and to facilitate more compact forms of residential development.

5.3. Natural Heritage Designations

5.3.1. The application site is not in any Natura 2000 site of European nature conservation importance. The nearest Natura 2000 sites are:

- South Dublin Bay and River Tolka Estuary Special Protection Area (SPA), about 2.1 kilometres to the east, designated for various bird species; and
- North Bull Island SPA, about 5.1 kilometres to the east, also designated for various bird species;
- South Dublin Bay Special Area of Conservation (SAC), about 4.8 kilometres to the south east, designated for mudflats and sandflats, annual vegetation of drift lines, annuals colonising sand and mud and embryonic shifting dunes; and
- North Dublin Bay SAC, about 5.1 kilometres to the east, designated for tidal mudflats and sandflats, annual vegetation of drift lines, annuals colonising sand and mud, salt meadows, shifting and fixed dunes, dune slacks and petalwort.

5.3.2. Table 10-2 of the Development Plan lists two other sites of international nature conservation importance in Dublin Bay, namely North Bull Island Ramsar Wetland Site; and Sandymount Strand / Tolka Estuary Ramsar Wetland Site. It also lists North Bull Island National Special Amenity Area and North Bull Island National Nature Reserve.

5.3.3. The application site is not in or near any Natural Heritage Area (NHA). The nearest proposed NHA is the Royal Canal, about 340 metres to the south, which supports hedgerow, tall herbs, calcareous grassland, reed fringe, open water, scrub and woodland. There are four other proposed NHAs in the area served by Dublin City Council – North Dublin Bay; South Dublin Bay; Dolphins, Dublin Docks near Pigeon House Harbour; and Grand Canal.

6.0 Environmental Impact Assessment Screening

- 6.1. Please see Appendix 1, pre-screening. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations 2001 applies and therefore the submission of an EIA report and the carrying out of an EIA are not required.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The grounds of appeal may be summarised as follows:

- The current planning application is solely to regularise the planning status with regard to the retention of the structure as built and as referred to in the enforcement notice E0049/23. The notice refers to the erection of a single-storey structure larger than that which was approved. Although the footprint has been increased, the overall height above the rear access lane has been reduced from 3.65 to 3.61 metres. This reduction in height has alleviated the impact on adjoining properties.
- A shadow-casting study was enclosed, showing the impact of the proposed and permitted sheds for comparison purposes. The visual impact and overshadowing created by the shed to be retained is negligible relative to the shed that already has planning permission and does not adversely affect the adjoining properties to any greater degree.

7.2. Planning Authority Response

- 7.2.1. None

7.3. Observations

- 7.3.1. The observations of Iona and District Residents' Association may be summarised as follows:

- The grounds of appeal avoid any mention of the use of the "shed". A third-party submission to the planning authority includes photos of what is clearly residential use. It shows the layout of the "shed" with two *en-suite* bedrooms with no windows, only skylights, each with a door opening on to an unlit laneway, which narrows to 1.5 metres in parts. A livingroom/kitchen and utility

space face the garden. As a residential unit, it would not meet minimum standards required by the Dublin City Development Plan.

- The enforcement notice gave until 3rd January 2025 for removal of the residential unit. Neighbours have advised that new tenants were moving in as late as December. Given the disregard for compliance with planning regulations, the Board is urged to refuse permission for the enlarged “shed” and to let enforcement measures proceed.

8.0 Assessment

8.1. Issues

8.1.1. Having inspected the site and considered in detail the documentation on file for this First Party appeal, it seems to me that the main planning issues are:

- the nature of the application;
- the effect of the development on the residential amenity of neighbouring properties; and
- drainage.

8.2. Nature of the Application

8.2.1. Article 17 of the Planning and Development Regulations 2001 requires applicants for planning permission to give notice of the intention to make the application in a newspaper and by means of a site notice. Both notices must contain a brief description of the nature and extent of the development. Where the application relates to the retention of a structure, the nature of the proposed use of the structure must be stated.

8.2.2. The press and site notices given in respect of this application included the phrase *“retention of amendments to a previously permitted single storey shed”*. In a domestic context, a “shed” is generally taken to mean a detached outbuilding used for storage. The applicant paid a fee to the planning authority calculated on the basis that the development is a domestic extension falling into Class 2 in Section 2 of Schedule 9 to the Planning and Development Regulations. There was nothing on the application form or in the statutory notices to indicate that the structure would be used for residential accommodation.

- 8.2.3. Article 22(4) of the Planning and Development Regulations requires a planning application for the retention of works to be accompanied by such plans (including a site or layout plan and drawings of floor plans, elevations and sections), and such other particulars, as are necessary to describe the works to which the application relates. Drawing PL-03 which accompanied this application shows openings in the front and rear elevations and selected render on all walls. The floor plan shows a single space measuring 39.5 square metres marked “shed” with no partitions or areas designated for particular activities. The roof plan indicates a fall from back to front but shows no openings or vents.
- 8.2.4. My internal inspection of the structure established that it is laid out in the manner illustrated in Figure 31 on Page 29 of the third-party submission made on behalf of the owners or residents of 8, 12 and 14 St. Alphonsus Road Lower and 8 St. Alphonsus Avenue. The structure was unoccupied at the time of my visit but it has the appearance of a residential unit. It affords the facilities necessary for day-to-day private domestic existence. The door from the garden opens on to a living/dining area where there are fitted kitchen units, a cooker and a sink. There is a utility room to the left of the door. Beyond the living room, there are two shower rooms with toilets. Next to each of these rooms are larger spaces with skylights and doors opening on to the back lane. Bins were being stored in one of these spaces and bed parts in the other.
- 8.2.5. During my site visit, I confirmed that Drawing PL-03 gives a good representation of the front, rear and western elevations. The skylights over the bedroom areas and the ventilation shafts over the living/kitchen area were not visible from the garden but I was able to see them from the upper floor of 8 St. Alphonsus Road Lower. I also noted that, at variance with the submitted drawing, the eastern elevation of the structure facing the garden of No. 8 has not been rendered. The remaining side boundary wall between Nos. 10 and 8 (untouched by the development) has been raised. Courses of blocks and a coping have been added, covering about half the width of the wall on the site next to the garden of No. 10. The remaining side boundary wall between Nos. 10 and 12 has also been raised by attaching a fence to the wall within the application site.
- 8.2.6. I am in no doubt that the structure is designed and intended to be used as a self-contained residential unit and could be used for that purpose without further development works. The structure is not a domestic extension and the word “shed”

does not accurately convey the nature of the use. Moreover, the submitted floor and roof plans do not properly describe the development which has been carried out.

- 8.2.7. The statutory press and site notices indicated that the amendments to the previously permitted structure had taken place “*all in the rear garden*”. This is not entirely correct. The side walls of the permitted structure were to have been built in the rear garden on the inside of the boundary walls, which were to have been retained. The side walls of the structure actually constructed are built where sections of the boundary walls previously stood. The existing structure is therefore at least partially outside the rear garden. The notices did not accurately convey the full extent of the development.
- 8.2.8. Article 22(2)(g)(i) of the Planning and Development Regulations requires that, where the applicant is not the legal owner of the land or structure concerned, the planning application shall be accompanied by the written consent of the owner to make the application. In answer to Question 7 on the planning application form, it was stated that the applicant’s legal interest or estate in the site was that of owner. That answer must be taken to refer to the entirety of the site.
- 8.2.9. The planning authority received third-party submissions to the effect that the owners of 8 and 12 St. Alphonsus Road Lower had interests in the boundary walls, portions of which were demolished and rebuilt as an integral part of the development. The authority, before proceeding to make a decision on the application, did not seek further information from the applicant to clarify whether the written consent of any other person having an interest in any part of the site was required.
- 8.2.10. In my opinion, in the absence of further investigation there is substantial doubt as to whether Article 22(2)(g)(i) was complied with in this instance. In my experience, party walls usually belong jointly to the owners on both sides. It may be significant that the remaining side boundary wall next to No. 8 is built up on the appellant’s side only. But, without examining the title deeds (which it is not the Board’s function to do), it cannot be concluded definitively that the applicant did not have sufficient legal interest to carry out works to the boundary walls. It would not be safe to withhold permission on that basis. However, as the Development Management Guidelines point out, a person is not entitled solely by reason of a permission to carry out any development. Planning permission does not affect or override property rights.

- 8.2.11. Article 26(4) of the Planning and Development Regulations states that where, on inspection of the land to which the application relates, the planning authority considers that the information submitted in the application is substantially incorrect or substantial information has been omitted, the application shall be invalid, notwithstanding that an acknowledgement has been sent to an applicant.
- 8.2.12. It may be inferred from the grounds of appeal that the application was submitted in order to defeat the enforcement notice. As presented, the application relates to only some of the physical works comprised in the structure and not to its use. It seems to me that in this instance the use and the layout are inextricably linked and changes to elevations cannot reasonably be considered separately from floor and roof plans. The construction of this building in all its parts including its internal layout constituted a single, indivisible act of development. As some of the information submitted in the application is substantially incorrect and as substantial information has been omitted, I have come to the view that the application is not capable of being approved.

8.3. Neighbouring Amenity

- 8.3.1. The submission made on behalf of the owners or residents of 8, 12 and 14 St. Alphonsus Road Lower and 8 St. Alphonsus Avenue sought to rely on national guidelines and various high-level statements of policy in the Dublin City Development Plan 2022-2028. These provisions apply to entire settlements and neighbourhoods and are not readily applicable to this planning application, which concerns a single structure in a domestic garden. The submission also referred to policies which would be applicable if the application were seeking permission for residential use of the structure. The application must however be assessed within its own terms, having regard primarily to the Z1 zoning objective as well as relevant planning history.
- 8.3.2. The same third-party submission raised the issue of overshadowing. Taking account of the position of the structure to the north of 8 St. Alphonsus Avenue and the reduction in height compared with the permitted scheme, I do not accept that there is any net adverse overshadowing effect on that property. I am persuaded by the applicant's shadow-casting study the existing structure has only a marginal additional overshadowing effect on 8 and 12 St. Alphonsus Road Lower and in any case, I do not consider overshadowing to be a serious problem in this instance.

- 8.3.3. The window panels in the rear doors of the structure facing the lane are only about 0.25 square metres in size and are fitted with obscure glass. The lane is a narrow, unpleasant space with restricted access and a broken surface. People are unlikely to linger there. Views from the lane into 8 St. Alphonsus Avenue are limited. I do not accept that the structure has a significant adverse on the privacy of that property.
- 8.3.4. The relative positions of the door and window openings on the garden-facing front elevation of the structure as built are reversed compared to those shown on the previously permitted plans. The front elevation is about 0.75 metres further forward than in the permitted scheme. In my judgement, the impact of the existing structure on the privacy of 8 and 12 St. Alphonsus Road Lower is not significantly different to that of the permitted structure. In any case, the remaining side boundary walls have been increased in height and effectively protect the privacy of those properties.
- 8.3.5. Whereas the eastern and western side elevations of the structure are respectively 0.725 and 0.769 metres longer than previously permitted, the structure has a maximum height above garden level of 3.28 metres compared to 3.65 metres in the permitted scheme. In my judgement, the amendments to the design of the structure have not resulted in its being visually dominant or having an unduly overbearing effect on neighbouring properties. The side wall of the structure facing 8 St. Alphonsus Road Lower is visually incongruous due to its unfinished state. If the co-operation of the neighbours could be secured, the appearance of the wall could be greatly improved by applying a render as proposed in the application.
- 8.3.6. Taking all these matters into account, I am not persuaded that the development (to the extent that it is presented and described in the application) adversely affects the residential amenity of neighbouring properties, that it contravenes the Z1 zoning objective, or that it sets a harmful precedent. I do not concur, therefore, with the planning authority's reason for refusal.

8.4. Drainage

- 8.4.1. Irrespective of what the structure is used for, a suitable means of surface water drainage is needed. It is stated at Question 25 on the Council's planning application form that all items on a "Drainage Requirements for Planning Applications" sheet must be addressed as part of the application. The sheet references manholes and basement drainage, public sewers, flood-risk assessment, surface water and private

drain connections and contains several mentions of the Greater Dublin Regional Code of Practice for Drainage Works. Drainage was not addressed in the planning application and it is unclear how the applicant intends to drain the site.

- 8.4.2. The permitted shed was approved subject to submission of drainage details prior to construction. The condition was complied with. An acceptable solution, involving a rainwater butt, an outfall pipe and a connection in the lane, was identified and depicted on a drawing. These features are not included in the current application.
- 8.4.3. In its comments on the current application, the Council's Drainage Division said it was not possible to state that surface water could be satisfactorily managed. It recommended that the developer be asked to submit a surface water management plan. Unlike its predecessor, the application before the Board is retrospective. While the applicant could be required by condition to submit such a plan within a specified period following a grant of permission, he could not be compelled to submit a solution which the Drainage Division and the planning authority would find acceptable.
- 8.4.4. It would not be feasible, in my judgement, to implement the previously identified solution. The structure to be retained has a larger footprint than the permitted shed. The rainwater butt could not be located in the position previously indicated. It is not certain that the outfall pipe could be routed as previously shown as there is unrebutted third-party evidence of pipes having been laid under the structure and there are manholes in the back lane. In the absence of detailed drainage drawings, there is, in my opinion, unacceptable uncertainty as to whether a satisfactory drainage system can be provided in accordance with the Greater Dublin Regional Code of Practice.

9.0 Appropriate Assessment Screening

- 9.1. Having considered the nature, location and modest scale of the proposed development, the nature of the receiving environment as a built-up urban area and the distance from the nearest European site, I am content on the basis of objective information that the development is not likely to have a significant effect on any European site, either alone or in combination with other plans or projects. I therefore conclude that the carrying out of an appropriate assessment under Section 177V of the Planning and Development Act 2000 is not required.

10.0 Recommendation

10.1. I recommend to the Board that planning permission be refused.

11.0 Reasons and Considerations

11.1. It is considered that the planning application contravenes requirements set out in Part 4 of the Planning and Development Regulations 2001. The information concerning the use of the structure to be retained is substantially incorrect and substantial information about the layout of the ground floor of the structure and its roof is omitted. Accordingly, it would be inappropriate for the Board to consider granting permission for the proposed development in these circumstances.

11.2. In the absence of detailed drainage drawings, it is considered that there is unacceptable uncertainty as to whether a satisfactory drainage system can be provided in accordance with the Greater Dublin Regional Code of Practice. Having regard to Policy S14 of the Dublin City Development Plan 2022-2028, it is considered that there is a real risk that the development would be prejudicial to the proper operation of the city's drainage network. A grant of permission would therefore set an inappropriate precedent for other similar development and be contrary to the proper planning and sustainable development of the area.

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.



TREVOR A RUE

Planning Inspector

20th May 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	322095-25		
Proposed Development Summary	<i>Retention of amendments to a previously permitted single storey shed</i>		
Development Address	<i>10 St. Alphonsus Road Lower, Drumcondra, Dublin 9</i>		
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	✓	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
No	✓		No further action required



TREVOR A RUE

Planning Inspector

20th May 2025