

## **Inspector's Report**

## ABP-322206-25

**Development** Retention Permission

consists of the

construction of a twostorey workshop/studio

to the rear of the

existing main house and

all associated site

works.

**Location**Fintra House, Harold's

Grange Road,

Rathfarnham, Dublin 16

D16 T8X9

Planning Authority

Dún Laoghaire

Rathdown County

Council

Planning Authority Reg. Ref. D25B/0010/WEB

Applicant(s) Randal Logue.

Type of Application Retention Permission.

Planning Authority Decision Refuse Retention

Permission.

Type of Appeal First Party

Appellant(s) Randall Logue.

**Observer(s)** Morgan Taylor.

Geraldine Connolly.

**Date of Site Inspection** 30<sup>th</sup> May, 2025.

**Inspector** Aiden O'Neill.

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## 1.0 Site Location and Description

- 1.1 The proposed development site, c. 0.004ha in area, is located to the rear (south-west) of the curtilage of a large north-facing two-storey detached gated walled residence identified as Fintra House accessed via a private road from Harold's Grange Road, Rathfarnham, Dublin 16.
- 1.2 The proposed development site comprises a narrow two-storey part hipped roof detached structure, stated to be a workshop/studio, with south-facing front door, 2no. ground and first floor windows and 2no. velux windows that forms the south-western boundary of Fintra House. The windows on the first floor elevation are opaque. There are no windows on the north, west or east elevations, and 2no. velux windows to the north. The structure to be retained is under construction, although it is substantially complete. There is a courtyard space between Fintra House and the proposed structure to be retained. There is a separate access door from the courtyard space out to the workshop/studio to be retained.
- 1.3 To the south of the proposed development site are 4no. semi-detached two-storey dwellings which share the same access from the R113 Harold's Grange Road as Fintra House. Approximately 7.6m to the west is two-storey detached dwelling known as Kilcarrig, with a single-storey shed/garage structure located to the immediate west of the proposed development site. There is a large block wall between the proposed development site and Kilcarrig to the west. The first floor of the structure to be retained extends over the block wall.

## 2.0 **Proposed Development**

- 2.1 The proposed development consists of the retention of the two-storey workshop/studio and all associated site works.
- 2.2 The structure to be retained is stated to be 48m2 (24m2 per floor) and is 6.2m in height to ridge level. It is stated in the application form that the structure to be retained is connected to public services. Materials are to match the existing house. The application fee paid was a Class 2 fee.
- 2.3 The cover letter that accompanies the application states that the applicant, who owns Fintra House, requires a workshop/studio space separate to Fintra House for producing artwork

and other similar activities, and that miscellaneous office space with a shower are also required to facilitate the primary activity. It is also stated that there was previously a garage at the proposed development site of less than 25m2, but this was too small to meet the applicant's needs. It is further stated that the structure to be retained has been designed to complement the existing main house and neighbouring properties through matching materials and profile; that the structure's height is subsidiary to the main house; and that it is sufficiently offset from both the main house and the neighbouring house. The windows have also been designed to avoid any overlooking.

## 3.0 Planning Authority Decision

#### 3.1. Decision

Dún Laoghaire Rathdown County Council refused permission for the retention of a single-storey garage/playroom/home office on 10<sup>th</sup> March, 2025 for 1no. reason as follows:

1. The workshop for retention is in excess of 6 metres in height, and extends over two floors internally, and therefore is not considered to be of a modest scale. It is therefore considered that retention of the subject structure would contravene Section 12.3.7.4 Detached Habitable Room of Dún Laoghaire-Rathdown County Development Plan 2022-2028, that requires habitable rooms to be modest in scale and would therefore set an undesirable precedent for similar developments in the area. The development would be contrary to the proper planning and sustainable development of the area.

#### 3.1.1. Conditions

N/A.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

☐ The Planner's Report dated 10<sup>th</sup> March, 2025 states that:

The proposed development site is zoned A, which seeks to provide residential
development and improve residential amenity while protecting the existing
residential amenities. As such, residential development and infill may be
permitted where the Planning Authority is satisfied that the development would
be compatible with the overall policies and objectives for the zone, would not

- produce undesirable effects and would otherwise be consistent with the proper planning and sustainable development of the area.
- The Planning Authority notes the concerns on the scale of the building and significant height of c. 6.207m. It is noted that the overall area, internal layout comprising 3 rooms plus shower room over two levels which could be capable of supporting residential use.
- The building is considered a detached habitable room in accordance with section 12.3.7.4 of the Plan, and the Planning Authority has significant concerns regarding compliance with this section.
- The two-storey pitched roof workshop is not considered to comprise a modest scale relative to the parent dwelling. The design, by virtue of the excessive height and insufficient separation from surrounding property would detract from the residential amenity of adjoining dwellings. The retention of the structure would set an undesirable precedent for similar development and would be contrary to the proper planning and sustainable development of the area.
- The planner concludes that the retention of the structure would not be compatible with Section 12.3.7.4 of the Plan, nor the overall policies and objectives for the zone, and would result in an undesirable precedent for such development.

#### 3.2.2. Other Technical Reports

 The Drainage Report dated 13<sup>th</sup> February, 2025 stated no objection subject to a condition requiring the implementation of a SuDS measure.

## 3.3. Prescribed Bodies

None on file.

## 3.4. Third Party Observations

2no. observations were received by the Planning Authority, one from Morgan Taylor, the other from Geraldine Connolly.

## Morgan Taylor:

- The structure is built directly right at the boundary wall contrary to planning regulations.
- It is too close, too high and the windows overlook the observer's property.
- The workshop may well be used for residential purposes. This may affect housing density
  of future residential applications.
- The previous applications did not include any garage and no planting of a visual barrier was ever undertaken along the observer's front garden as per the planning drawings.

### Geraldine Connolly:

 This has been built too close to an adjoining neighbour's house without any notice. The walls are too high. The roof windows will affect surrounding neighbours.

## 4.0 Planning History

- The applicant refers to an Enforcement File: ENF39724, however, the Planner's Report dated 10<sup>th</sup> March, 2025 states that there are no enforcement files pertaining to the site.
- D09A/0912: Permission granted on 22<sup>nd</sup> July, 20 to erect 2 pairs of 2 storey demidetached houses with habitable attic space and associated site works. To subdivide overall site to provide new boundary line.
- D09A/0090: Permission granted on 30<sup>th</sup> July, 2009 to demolish existing single-storey house and erect 2-storey house with associated site works and new vehicular entrance. In the application, the proposed 2-storey dwelling is stated to be c. 363m2 in area and c. 8.12m in height.

## 5.0 Policy Context

### **Development Plan**

- The applicable Plan is the Dún Laoghaire-Rathdown County Development Plan 2022-2028
- The proposed development site is zoned A, which seeks to provide residential development and improve residential amenity while protecting the existing residential amenities.
- Harold's Grange Road is subject to a 6 Year Road Objectives/Traffic
   Management/Active Travel Upgrades in the Plan.
- Section 12.3.7.4 of the Plan sets out the policies applicable to a Detached Habitable Room. This can provide useful ancillary accommodation such as a playroom, gym, or study/home office for the main residence. It should be modest in floor area and scale, relative to the main house and remaining rear garden area. The applicant will be required to demonstrate that neither the design nor the use of the proposed structure will detract from the residential amenity of adjoining property or the main house. Any such structure shall not be to provide residential accommodation for a family member/granny flat nor shall the structure be let or sold independently from the main dwelling.

# 5.1. Relevant National or Regional Policy / Ministerial Guidelines (where relevant) N/A

### 5.2. Natural Heritage Designations

The proposed development site is located c. 7.09km to the south-west of the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024).

It is also located c. 1.65km to the west of the Fitzsimon's Wood pNHA (Site Code:001753).

## 6.0 EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as

amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

## 7.0 **The Appeal**

## 7.1. **Grounds of Appeal**

The First Party Appeal submitted by FHA Architecture and Design on behalf of the appellant states as follows:

- ☐ The Planning Authority has refused permission as the structure is deemed to not be of a modest scale.
  - It is stated that 'modest scale' is a relative term. The Planning Authority has failed
    to outline what specific criteria is used to determine what is modest or not
    modest, the assessment is subjective and doesn't acknowledge the site-specific
    characteristics which clearly illustrate that the development is, in fact, modest in
    scale.
  - An sketch and an image are provided to demonstrate the height of the structure relative to the main house (higher in height) and the neighbouring shed (slightly lower in height).
  - The appellant owns the main house but requires a workshop/studio space for producing artwork, which is inherently too messy for the main house, and other similar activities; a miscellaneous office space with a shower is also required to facilitate the primary activity. An image of an example of artwork is included.
  - Notwithstanding the proposal's modest scale, it is proposed to reduce the height to a more modest scale by converting the existing pitched roof to a part flat roof, thus reducing its height by c. 850mm. Drawings 25202-AP-1.02, 25202-AP-3.01 & 25202-AP-3.02.

The Board is requested to overturn the Planning Authority's decision and grant permission for the development.

#### 7.2. Applicant Response

N/A

## 7.3. Planning Authority Response

 In its response dated 16<sup>th</sup> April, 2025, the Planning Authority states that the Board is referred to the previous Planner's Report. It is also stated that it is considered that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

#### 7.4. Observations

2no. observations were received by the Board, one from Morgan Taylor, the other from Geraldine Connolly.

Morgan Taylor:

- The development does not meet planning standards.
- The appellant built a garage which was not part of the 2009 permission, and there were 2no.
   apartments built on the garage in November 2024. The apartments are built on top of the boundary wall and are not set back from the wall. The windows overlook the observer's property and do not conform.
- The back of his property is at the front of the observers, which makes for very bad planning.
- It will adversely affect the observer's proposal for 169 apartments.
- The observer includes an image of the proposed structure to be retained from his property, as well
  as a proposed GF plan of the proposed apartment scheme. Block A is adjacent to the proposed
  structure to be retained. Also enclosed is part of a record of a S247 meeting for a proposed LRD.

Geraldine Connolly:

The development of a 'store' is bad planning that is not in keeping with the Regulations.
 The 'store' is more like residential apartments and the building does not meet planning regulations and standards.

#### 7.5. Further Responses

N/A

#### 8.0 Assessment

- 8.1 Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.
- 8.2 The main issues are as follows:
  - Compliance with the Development Plan
  - Construction on the Boundary Wall
- 8.3 Compliance with the Development Plan
- 8.3.1 The Planning Authority refused planning permission on the basis that the structure to be retained is not considered to be of a modest scale, and would contravene Section 12.3.7.4 Detached Habitable Room of Dún Laoghaire-Rathdown County Development Plan 2022-2028, that requires habitable rooms to be modest in scale and would therefore set an undesirable precedent for similar developments in the area. The development would be contrary to the proper planning and sustainable development of the area.
- 8.3.2 I also note the concerns raised in the observations on the appeal that the proposed development does not comply with the provisions of the Planning and Development Regulations, 2001 as amended.
- 8.3.3 I note that the structure to be retained on site, which is substantially complete, is two-storey in height, extends slightly beyond the western boundary wall at first floor level, and does resemble a dwelling in elevation, internal layout, and roof form.
- 8.3.4 However, the structure to be retained is, in my opinion, modest in scale relative to the main dwelling, Fintra House. Fintra House is c. 363m2, whereas the structure to be retained is 48m2. While it is two-storey in height, its 6.2m height is evidently much lower than the c. 8.1m height of Fintra House.
- 8.3.5 The applicant has made the case that the structure is not used as a residential unit, but is used to produce artwork, which is inherently too messy for the main house, and other similar activities, incidental to the enjoyment of the house. The applicant has also made the case that it is reasonable to use the structure as a separate workshop/studio to the main house and that it is reasonable to require an office space and bathroom facilities for the use of the

- workshop/studio. On the day of the site visit, one of the 2no. first floor rooms was in use as a studio, with an easel and artwork on display.
- 8.3.6 In this context, and having regard to Section 12.3.7.4 of the Plan in relation to a Detached Habitable Room, it is clear that the use of the structure to be retained is as a workshop/studio that is an ancillary use to the principal dwelling on site. It is my opinion that the structure is modest in floor area and scale, relative to the main house and remaining courtyard area. It is also noted that the first floor windows are opaque, in which case there will be overlooking of the neighbouring property to the west. The use of the structure as a workshop/studio is unlikely to detract from the residential amenity of adjoining property or the main house.
- 8.3.7 Therefore, it is my opinion that the structure to be retained does not contravene Section 12.3.7.4 of the Plan in relation to a Detached Habitable Room. In fact, in my opinion, the structure to be retained fully complies with Section 12.3.7.4 of the Plan, and the A zoning objective that applies to the proposed development site.
- 8.3.8 As regards the suitability of the structure to provide residential accommodation, it is my opinion that it would not comply with the required standards to be used as a dwelling. It is of narrow width with windows only to the front elevation as well as rooflights. In this context, the concerns raised in the observation regarding impact on future residential density in the area is unwarranted. In the event that the Board is minded to grant planning permission, I recommend the attachment of conditions restricting the use to that applied for and to restrict any future sale independent from the main dwelling.
- 8.3.9 Notwithstanding my opinion that the structure would be considered to be modest in scale, and would not give rise to impacts on amenities, the applicant has offered to modify the structure further by reducing the height of the hipped roof. However the proposed modification, which I do not consider to be warranted in any event, would render the design of the workshop/studio to be visually discordant and I would not recommended the modification is accepted.
- 8.3.10 In relation to the observation made about a garage being erected without planning permission, the Planning and Development Regulations 2001, as amended, exempt a garage from the requirement for planning permission subject to certain limitations. Those limitations would not apply in this instance.

- 8.4 Construction on the Boundary Wall
- 8.4.1 I note the reference in both the observations to the Planning Authority and on the appeal that the first floor of the proposed structure to be retained is stated to have been constructed on the boundary wall between the proposed development site and the neighbouring property to the west. However, given the nature and scale of the structure to be retained, it is not considered that this gives rise to any significant negative effects on residential amenity or on visual amenity. This is also consistent with the drawings submitted with the planning application.
- 8.4.2 I also note that, having regard to Section 34(13) of the Planning and Development Act, 2000, as amended, that any matters of title in relation to boundaries are outside the scope of the planning code.

## 9.0 AA Screening

- 9.1 See Appendix 2 attached to this report. I have considered the permission for the retention of the construction of a two-storey workshop/studio to the rear of the existing main house and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 9.2 The proposed development site is located c.7.09km to the south-west of the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024).
- 9.3 The proposed development consists of the retention of the construction of a two-storey workshop/studio to the rear of the existing main house and all associated site works at Fintra House, Harold's Grange Road, Rathfarnham, Dublin 16 D16T8X9.
- 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 modest scale of the development and lack of impact mechanisms that could significantly affect a European Site
- Distance from the nearest European site.
- 9.6 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.

#### 10.0 Recommendation

10.1 I recommend permission be granted for the following reasons.

#### 11.0 Reasons and Considerations

11.1 Having regard to the provisions of the Dún Laoghaire Rathdown County Development Plan 2022-2028, including the objective A zoning and Section 12.3.7.4 in relation to a Detached Habitable Room, it is considered that, subject to compliance with the conditions set out before, the proposed development will not be seriously injurious to existing residential amenities, and will not have an adverse impact upon the character of the area. It is considered that the proposed development is in the interests of 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 on the 15<sup>th</sup> January, 2025, except as may otherwise be required in order to comply with the following 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.

Reason: In the interest of clarity.

2. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to

	workshop/studio for use incidental to the main house, as specified in the
	lodged documentation, unless otherwise authorised by a prior grant of
	planning permission.
	Reason: To protect the amenities of property in the vicinity.
3.	The existing dwelling house and the workshop/studio building the subject of
	this grant of planning permission, shall be occupied as a single residential
	unit, and the workshop/studio building shall not be used, sold, let or other
	transferred or conveyed, save as part of the dwelling house.
	Reason: In the interests of orderly development.
4.	Details of the materials, colours and textures of all the external finishes to
	the proposed development shall be submitted to, and agreed in writing
	with, the planning authority prior to commencement of development.
	Reason: in the interest of visual amenity and to ensure an appropriate high
	standard of development.
5.	Water supply and drainage arrangements, including the attenuation and
	disposal of surface water, shall comply with the requirements of the
	planning authority for such works and services.
	Reason: In the interest of public health.

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.

Ad onfull

Aiden O'Neill Planning Inspector

7<sup>th</sup> June, 2025

## Appendix 1 - Form 1

## **EIA Pre-Screening**

[EIAR not submitted]

An Bord Pleanála		la	ABP-322206-25			
Case Reference						
O		opment	Retention Permission consists of the construction of a two-storey workshop/studio to the rear of the existing main house and all associated site works.			
Develop	oment Ad	ddress	Fintra House, Harold's Grange Road, Rathfarnham, Dublin 16 D16 T8X9			
1. Does the proposed deve 'project' for the purpose						
`	nvolving surroundi		n works, demolition, or interventions in the			
riatarar c	34.1.0 a.1.a.	90)		No		
		-	oment of a CLASS specified in Part 1 or Pa nent Regulations 2001 (as amended)?			
Yes				Proce	eed to Q3.	
No	Tick if relevant. further action required		er action			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?						
Yes					landatory required	
No				Proce	eed to Q4	
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?					of	
Yes				exam	ninary iination red (Form 2)	

5. Has Schedule 7A information been submitted?				
No				
Yes				
Inspector:	Ad orfull	7.6.2025 Date:		

## Appendix 2 - AA Screening Determination Test for likely significant effects

AA Screening where no screening report was submitted, and no significant AA issues arise.

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics Case file: ABP-322206-25				
Brief description of project  Normal Planning appeal Retention Permission of two-storey workshop/studio to the rear of the existing main house and all associated site works.				
Brief description of development site characteristics and potential impact mechanisms  The proposed development site is located at Fintra House, Harold's Grange Road, Rathfarnham, Dublin 16 D16 T8X9				
There are no watercourses or other ecological features of note on the site that would connect in directly to European Sites in the wider area.				
Screening report  No  Dún Laoghaire-Rathdown County Council screened out the need for AA.				
Natura Impact Statement No				
Relevant submissions None				

## Step 2. Identification of relevant European sites using the Source-pathway-receptor model

European Site	Qualifying interests Link to conservation objectives	Distance from	Ecological connections	Consider further in
(code)	(NPWS, date)	proposed development		screening Y/N
South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024)	14 no. bird species  https://www.npws.ie/protected- sites/spa/004024	c.7.09km to the north-east	No direct connection Possible indirect	Y

The proposed development site is located c.7.09km to the south-west of the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024).

## Further Commentary / discussion

Due to the location of the development site and the distance between the site and the nearest designated site, I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.

Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites

AA Screening matrix

Site name	Possibility of significant effects (alone) in view of the		
	conservation objectives of the site*		
	Impacts	Effects	
Site	Direct: none Indirect:	The contained nature of the site (defined site boundaries,	
South Dublin Bay and	localized, temporary, low	no direct ecological	
River Tolka Estuary SPA (Site Code: 004024)	magnitude impacts from noise, dust and construction related	connections or pathways) and distance from receiving features connected to the	
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	emissions to surface water during operation	SPA make it <b>highly unlikely</b> that the proposed	
Oystercatcher (Haematopus ostralegus) [A130]		development could generate impacts of a magnitude that	
Ringed Plover (Charadrius hiaticula) [A137]		could affect habitat quality within the SPA for the SCI listed.	
Grey Plover (Pluvialis squatarola) [A141]		Conservation objectives would not be undermined.	
Knot (Calidris canutus) [A143]			
Sanderling (Calidris alba) [A144]			
Dunlin (Calidris alpina) [A149]			
Bar-tailed Godwit (Limosa lapponica) [A157]			
Redshank (Tringa totanus) [A162]			
Black-headed Gull (Chroicocephalus ridibundus) [A179]			
Roseate Tern (Sterna dougallii) [A192]			
Common Tern (Sterna hirundo) [A193]			
Arctic Tern (Sterna paradisaea) [A194]			
Wetland and Waterbirds [A999]			

Likelihood of significant effects from proposed development		
(alone): No		
If No, is there likelihood of significant effects occurring in		
combination with other plans or projects? <b>No</b>		
Likelihood of significant effects from proposed development		
(alone): <b>No</b>		
If No, is there likelihood of significant effects occurring in		
combination with other plans or projects? <b>No</b>		

## Step 4 Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone or in combination with other plans and projects) would not result in likely significant effects on a European Site. No mitigation measures are required to come to these conclusions.

### **Screening Determination**

## Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The modest scale of the development and lack of impact mechanisms that could significantly affect a European Site
- · Distance from the nearest European site.

	Ad	orfull		7.6.2025
Inspector:			Date:	,