



An
Coimisiún
Pleanála

Inspector's Report

ACP 323394-25

Development	Retention of removal of flat roof over rear single storey annex and construction of first floor extension with apex roof and all associated site works.
Location	The Rath, Sandyhill, Rolestown, County Dublin, K67 FW31.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F25A/0193E
Applicant(s)	Bellevue Properties Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First party (against condition No.2)
Appellant(s)	Bellevue Properties Limited
Observer(s)	None
Date of Site Inspection	9/10/2025
Inspector	Rosemarie McLaughlin

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1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Rath, on the south side of the R125 at the south-western part of Rolestown village (also known as Rowlestown) in north County Dublin. Rolestown is c. 7 km to the east of Swords and c. 6.5 km to the west of Ashbourne.
- 1.2. The red line of the site is irregular and is part of a larger landholding outlined in blue which consists of a former petrol station (now demolished), former shop and a dwelling. The building fronting the regional road presents as two separate houses (one semi-detached and one terraced), joined to a residential building outside of the control of the applicant to the east. The application site area is 0.11 ha.
- 1.3. On inspection, the newly extended building is unoccupied, with new kitchens, white goods and beds. Each side of the building has a services box. The area to the front of the structure is hard surfaced. A small, landscaped garden is available to the rear of the building and a large section of the rear is hard surfaced.

2.0 Proposed Development

- 2.1 This is an application for retention of 55 sqm of development including, two bedrooms at first floor, two front porches and a rear lobby area. The submitted application drawings indicate at ground floor, the building consists of two distinct parts, each with a kitchen and connected by a corridor to the rear (south) which is sought to be retained. Each side of the building has a staircase to the upper floor and there is no connection between the upper floor rooms on the east and west side. The connection between the buildings at ground floor results in a structure that can be occupied as one or two residential units with a shared rear access and a connecting rear lobby. The submitted floor plan illustrates a building capable of being one or two residential units, connected by a single storey rear lobby to be retained.
- 2.2 The planning application form asked the applicant, in the case of residential development, to provide a breakdown of residential mix, i.e. how many residential units/bedrooms are provided (section 14), and the application form states zero

across all lines. Four car parking spaces are indicated as being provided. The application form and cover letter submitted did not state how many residential units were provided on the site.

2.3 A request for further information, provided a floor plan of the building prior to the works being carried out which included a shop at ground floor level of c 118 sqm and a two storey attached house with additional residential accommodation over part of the shop.

2.4 The main elements of the application include:

- Retention of removal of flat roof over rear single storey annex and construction of first floor extension with apex roof comprising two en suite bedrooms.
- Two front entrance porches (north), single storey lobby at rear (south), minor amendments to elevations and minor internal layout amendments with associated site works.

2.5 Further Information

2.6 Further information provided floor plans of the structure prior to the development to be retained occurred and historical planning decisions.

3.0 Planning Authority Decision

3.1 Permission was granted subject to 5 no. conditions.

3.1.1. Conditions

Condition 1: Standard condition

Condition 2: *"The houses and the extensions shall be jointly used as single dwelling units for residential purposes and shall not be sub-divided or used for any commercial purposes, and the extensions shall not be sold, let (including short-term letting), leased or otherwise transferred or conveyed, by way of sale, letting or otherwise save as part of the dwelling units. REASON: To prevent unauthorised development."* It may be noted that condition No.2 is the subject of this appeal.

Condition 3: Surface water

Condition 4: Landscape to be agreed

Condition 5: Financial contribution

3.1.2. Planning Authority Reports

Planner's Report 25/4/25

The report states "The subject site are two existing residential houses located at the edge of Rolestown village..." The visual impact of the structures to be retained were considered visually acceptable. Further information (FI) was sought in relation to the following (summary).

- Applicant to submit information "on planning status of existing dwellings on site as there is no planning record to show that permission for the original dwellings on site".
- Applicant to submit revised plans of the original buildings prior to the unauthorised works carried out and any other development that has occurred on the subject site.

Planner's Report 18/07/2025

In response to the FI, the report states that a planning history has been submitted. The applicant also included a form to avail of Art 6(a) of the Planning and Development Regulations. The Planner considered the information satisfactory. The applicant also submitted floor plans as requested, and this was considered satisfactory. Permission was recommended to be granted.

3.1.3 Other Technical Reports

Water Services Department 17/04/2025 - No objection subject to conditions.

Transportation Planning Section 04/07/2025 - No objection.

Parks and Green Infrastructure Division 04/07/2025 - No objection subject to conditions.

Air & Noise Unit, Environment Section 04/07/2025- No objection.

3.3. Prescribed Bodies

None on file. Planner's report states Uisce Eireann has no objection.

3.4. Third Party Observations

None.

4.0 Planning History

The relevant available planning history may be summarised as follows. The historical files are not available.

ABP 317941-23 / F23A/0340 Permission refused for demolition of disused garage canopy and construction of 6 No., 2 storey detached houses for one reason that the development was premature pending an approved land use plan.

F04A/0276: On the 23rd April 2004, the planning authority made a decision to refuse planning permission for a change of use from existing **two storey shop and games room** to two-storey dwelling with new shared vehicular access and construct new single storey shop at existing service station with new car wash to rear, for 4 reasons.

Enforcement Ref 24/183: This relates to works taking place on the site, part of which is the subject of the current application.

5.0 Policy Context

5.1 Development Plan

The Fingal County Development Plan 2023 – 2029 applies. The zoning designation is RV – Rural Village, where it is the objective of the plan to: ‘Protect and promote the character of the rural village and promote a vibrant community in accordance with an approved land use plan, and the availability of physical and community infrastructure’.

Policy SPQHP51 “Support and protect Fingal’s Rural Villages by ensuring their appropriate sustainable development to preserve the character and viability of villages and support local services”.

Policy CSP7 Masterplans/**CSP8** Implementation of Masterplans. Table 2.18 includes Rowlestown in scheduled under (MP 3.C) in the schedule of Masterplans to be completed over the plan period. Chapter 14, **Section 14.12.1** states, village

development shall be guided by adopted Local Area Plans and Village Development Framework Plans, where in place and by future Framework Plans where identified.

Extension Design guidance: Section 3.5.13.1 provides residential extensions will be considered favourably where they do not have a negative impact.

5.2. Relevant National or Regional Policy / Ministerial Guidelines

Project Ireland 2040- National Planning framework (2025).

Climate Action Plans (2024 and 2025).

Eastern and Midland regional assembly Regional Spatial and Economic Strategy 2019-2031.

Development Management Guidelines for Planning Authorities 2007.

5.3. Natural Heritage Designations

The Malahide Estuary SPA (Site Code 004025) (also known as Broadmeadow/Swords SPA) is situated c. 6.5 km southeast of the site. The Malahide Estuary SAC (Site Code 000205) is situated c. 6.5 km southeast of the site.

The subject site is located c 140 m south of a waterbody EPA Name Broadmeadow-030, River Waterbody Code: IE_EA_08B020700 which has moderate ecological status and c 30 m north of a smaller waterbody with the same name and code which is a tributary of Broadmeadow River. The Broadmeadow River is a tributary to the Malahide Estuary SPA (Site Code 004025) and Malahide Estuary SAC (Site Code 000205).

6.0 EIA Screening

The proposed development to be retained 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 grounds of appeal may be summarised as follows.

- The building has been unoccupied since 2016. The building was previously a residence on the left hand side with a newer addition on the right, connected at ground floor. The ground floor was in use as corridor with retail while the first floor was in use as a games room and part of the residential use. The petrol station at the side has been demolished and decommissioned on foot of an order. It was proposed in 2022 to use the building for displaced Ukrainians exempted from planning under SI No. 306-2022. This purpose is reflected in the layout including 2 kitchens for shared self-catering. The proposals included a first floor extension which in the applicant's opinion fell under the scope of SI 306. The applicants were also of the opinion the change of use from shop to residential was exempted development. It was envisioned that when the use expired, the 9/10 bedroom house would change to a guest house subject to planning permission.
- The application was made in response to an enforcement letter.
- An application under Article 6 of the Planning and Development Regulations was submitted to the planning authority which exempts change of use from commercial to residential for the ground floor shop unit.
- There is a concern that Condition No. 2 could negatively impact an application for change of use from residential to guest house. The condition should be removed or amended.
- Fingal County Council made an error in the interpretation and assessment of the application. Condition no. 2 refers to houses. The entire building is a single entity. The games room above the shop was in use as part of the main residence in compliance with the grant of permission reference 888/40 where the final grant issued in 1988.

- A subdivision of the property is not included in the current planning application. The original spine wall was retained for structural and economic reasons. Two fire escape stairs with final exits are required to satisfy fire safety regulations. The building is and always has been one unit, demonstrated by the plans of the original building and the current layout plans. The current planning application related to retention of extensions to a single dwelling, which should incur an application fee of €660. As the decision to grant refers to houses a submission a fee of €4500 accompanied the appeal and the applicant expects a refund.

7.3. Planning Authority Response

- The PA responded to the appeal, *“The Planning Authority notes from the applicant’s appeal documents that Condition 2 of Plan.Ref F25A/0193E states “The houses and the extension shall be jointly used as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial purposes, and the extension shall not be sold, let (including short-term letting), leased or otherwise transferred or conveyed, by way of sale, letting or otherwise save as part of the dwelling unit.””*
- The PA stated they *“would like to clarify that there were no errors made in the assessment of the above application and that the inclusion of the word “Houses” instead of “House” in condition 2 was simply a clerical error and the omission of condition 2 would be against planning and sustainable development”* of the area it is *“requested to uphold the decision and conditions attached to said permission”* of the PA.
- Provision should be made if the decision upheld, for applying a financial contribution in accordance with the section 48 development contribution scheme.

7.4. Observations

None on file.

8.0 Assessment

The development to be retained includes two new small porches over the existing two front doors into the building, a rear single storey lobby providing access from the east and west sides of the building into a common rear amenity open space and a first floor extension consisting of two additional ensuite bedrooms.

The applicant has appealed Condition No. 2 attached to the grant of permission by the PA. Under Section 139 of the Planning and Development Act, 2000, as amended, where only a condition is appealed. The Commission has discretion to determine such appeals without undertaking a de novo assessment of the entire proposal. In this case, Condition No. 2 pertains to restricting the use of the structure and extensions to be retained. Having considered the contents of the file and the nature of the retention development, I consider that the Board should exercise its discretion to determine the appeal against this Condition under Section 139.

This appeal does not have a role in enforcement or a role in the interpretation of the exempted development regulations that were availed of, which can be clarified by the applicant and PA by different planning processes.

Issues

The only issue in the appeal is the wording and appropriateness of condition No.2 which is interrelated with the status of the building as one or two dwelling units.

Wording of condition

There has been a lack of clarity about the nature of the building the subject of the application, which appears to have contributed to the issue around the wording of Condition No.2. The building fronting the regional road presents to a passerby as two houses.

The public notices described the works to be retained but did not say to what sort of building the works were applied to, such as a house. The application form did not include the number of dwellings or bedrooms. The application drawings annotate a distinct west and east side of the building, each with a kitchen, living room and bathroom and each with bedrooms annotated as bedrooms 1,2 and 3 on

the east side and bedrooms 1-5 on the west side, rather than bedrooms 1 to 8, which on an initial view, presents as two residential units. I noted on inspection that there are also rooms with beds at the ground floor that are not indicated as bedrooms in the application drawings. While the building has most of the attributes of two dwellings, the rear open space is used by the entire building and is accessed via a small common rear lobby which is sought to be retained.

I note the application form included a planning fee for €2.50 per sqm which relates to retention development relating to the provision of a house and in my opinion, this indicates that the property was considered as a single house by the applicant and this was accepted by the PA. Further, An Coimisiún refunded the appeal fee for commercial development to the appellant and allowed an appeal fee for non-commercial development.

The appellant sets out the intention to seek permission for a guest house in the future and considers the imposed condition is unhelpful and should be removed as the building is in one unit. Whether the building is one or two units, a future planning application for a guest house will assess the application on the merits and applicable planning policies.

The applicant in the appeal states that the building “has been unoccupied since 2016” and it “was proposed to use the building for displaced Ukrainians in 2022” which the appellant states is exempt under S.I. No. 306/2022 (European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022). The first floor extension was considered by the appellant to come under the exemption. For the information of An Coimisiún, the Regulations referred to by the appellant relate to the non-application of the Planning and Development Act 2000 to certain classes of development by or on behalf of a State authority, which is defined as a Minister of the Government or the Commissioners of Public Works in Ireland.

From the submission on appeal, it appears that the building has not been in use in recent years. On inspection, the site is currently unoccupied, recently extended at first floor level and ground floor and has been refurbished with new kitchens and furnishings.

The applicant has submitted an acknowledgement of a notification of a change of use from commercial to residential use (8th July 2025) pursuant to Article 6 (a) of the Planning and Development Regulations 2001, as amended. Previously, the building was an extended dwelling with a ground floor shop and petrol station. The shop has been incorporated into the overall building as residential use. As above, the Commission has no role in assessing the application of the exemption in the context of the planning status of this building and that is a matter for the PA in the first instance. For information, to avail of the exemption of change of use to residential use from certain commercial classes, the structure must inter alia, be vacant for 2 years immediately prior to the development taking place and the person who proposes to undertake the development shall notify in writing the planning authority not less than 14 days prior to the commencement of the works.

The PA in the response to the appeal has misquoted the agent's appeal submission and his wording of Condition No.2. The actual wording in Condition No.2 refers to houses, single dwelling units for residential purposes, and dwelling units. In three places, the plural is applied in the condition. From reading the planner's report and the imposed condition, it appears that the planner considered that the building was in two residential units. The PA consider only the word "Houses" as a typographical error in Condition No.2 and requests the condition be upheld. If the word "houses" was replaced by the word "house", the remaining condition would also have to be amended to make any sense, and would have to be similar to the misquoted Condition No. 2 in the response to the appeal.

While the PA urge the Commission to retain Condition No.2, they do not suggest an amendment. No explanation or qualification of the content in the planning report has been offered by the PA who considered the building as two houses. On balance, while the submitted drawings illustrate a structure capable of being occupied as two distinct properties and the building reads from the front as two units, the grounds of appeal state that the building is a single entity and this is not disputed in the PA response to the appeal. Further, to accept that the building is two units raises the issue that there is no permission for such, and the entire permission would in my opinion have to be refused and retention sought for subdivision. Access to the rear open space is shared by a common lobby and access is available between the west and east sides of the building. The payment

of the planning fee is persuasive as applied for development to a house not a commercial development and was accepted by the PA. In conclusion, I consider this to be an application for the retention of extensions to a single residential unit.

The stated PA reason for imposing condition No.2 is "To prevent unauthorised development" on the face of the decision. The Development Management Guidelines for PAs, 2007, state conditions must be necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable. The criteria are reiterated by the Office of the Planning Regulator (OPR) in Practice Note PN03. I consider the imposed condition No. 2 as failing the Guidelines assessment, inter alia, as it is not precise and therefore not enforceable. I also consider the reason given is beyond the scope of reasonable reasons, as enforcement is a separate planning process. The PA did not raise an enforcement issue around the "use" of the building, only the "works", and as above, any enforcement issue is matter for the PA. I also note the PA response to the appeal maintains to omit the condition would be against the proper planning and sustainable development of the surrounding area, which is a different reason to the one attached to condition No.2.

Appropriateness of condition

A question arises, is a condition appropriate and necessary to restrict the use of the building and new extensions? I consider the answer is yes, as the building layout is clearly capable of operating as two independent dwellings and permission has not been granted for same. The applicant states in the appeal that this is one dwelling and while the drawings illustrate the two distinct parts, the parts are physically interconnected to each other. The PA have not disagreed with this element of appeal and state they made one error in the wording of houses in the plural. On the basis of the submissions made in the appeal and the absence of planning permission for two dwellings, I am satisfied to consider this is one large dwelling but consider it prudent to reiterate this in a condition owing to the layout and works to be retained that have taken place.

Planning permission is required to sub divide a single dwelling into more than one residential unit and the planning assessment would consider the residential

amenity of the units and all material planning considerations. Protection of residential amenity of both properties would be a key planning consideration. As the property is capable of being converted into two dwellings, I consider that a condition that the existing dwelling and the extension proposed to be retained should be jointly occupied as a single residential unit for the reason of protection of residential amenity and for clarity.

Any change from residential use to commercial use requires permission and I consider it is not necessary to state this in a condition. Having regard to the works to be retained that have taken place in the building and the consequent layout, I consider the inclusion of a restriction that no part of the dwelling shall sold, let (including short term letting), leased or otherwise transferred or conveyed, by way of sale, letting or otherwise is reasonable. I consider the working needs to be clarified as relating to the entire dwelling in the interest in clarity.

In conclusion, I consider that the condition is imprecise and should be amended for the reasons outlined above. I consider that condition No.1 as imposed by the PA relates to the application for retention of extensions only and does not confer any status on development not included in the application.

9.0 AA Screening

- 9.1.** I have considered the proposed residential extension to be retained in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The Malahide Estuary SPA (Site Code 004025 and The Malahide Estuary SAC (Site Code 000205) are situated c. 6.5 km southeast of the subject site.

The Broadmeadow River is c.140 metres north of the site boundary and is a tributary to the said SPA and SAC. To the south c 30 m is a smaller waterbody which is a tributary of the Broadmeadow River.

The proposed development comprises of residential extensions to be retained.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and nature of the development.
- The Location-distance from nearest European site and lack of connections.

I conclude, 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.

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

10.0 Water Frame Directive

10.1. The subject site is located c 140 m south of a waterbody EPA Name Broadmeadow-030, River Waterbody Code: IE_EA_08B020700 which has moderate ecological status and c 30 m north of a smaller waterbody with the same name and code which is a tributary of Broadmeadow River.

The proposed development comprises retention of residential extensions.

No water deterioration concerns were raised in the planning appeal.

I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows :

- Small scale and nature of the development to be retained.

- The Location-distance from nearest Waterbodies

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

- 11.1 Having regard to the nature of condition no. 2, the subject of the appeal, the Commission is satisfied that the determination by the Commission of the relevant application as had been made to it in the first instance would not be warranted and based on the reasons and consideration set out below directs the said Council under subsection (1) of section 139 of the Planning and Development Act 2000 **AMEND** condition No. 2.

12.0 Reasons and Considerations

Having regard to the current layout of the building, the application and other documentation, the grounds of appeal, the planning history, the response to the appeal by the Planning Authority, and the absence of a planning permission to subdivide the building into two residential units, it is considered that the extensions to be retained are attached to a building that is a single dwelling unit. It is considered that that the wording of **Condition No.2**, the subject of the appeal, refers in error to two dwellings units and should be amended as below, in order to protect residential amenity and in the interest of clarity.

13.0 Condition

2. The existing dwelling and the extensions proposed to be retained shall be jointly occupied as a single residential unit. No part of the dwelling shall be used, sold, let (including short term letting), or otherwise transferred or conveyed, save as part of the single dwelling.

Reason: In the interest of residential amenity and in the interest of clarity having regard to the layout of the building.

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.

Rosemarie McLaughlin

Inspector

18th October 2025

Appendix A: Form 1 EIA Pre-Screening

Case Reference	ACP-323394-24
Proposed Development Summary	Retention of removal of flat roof over rear single storey annex and construction of first floor extension with apex roof and all associated site works
Development Address	The Rath, Sandyhill, Rolestown, County Dublin, K67 FW31
IN ALL CASES CHECK BOX /OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA? <hr/> (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1 . EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in <u>Part 2</u>, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	State the Class and state the relevant threshold
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: Rosemarie McLaughlin

Date: 18/10/25