



An
Coimisiún
Pleanála

Inspector's Report

PL500095-SD

Development	Retention of a single storey flat roofed garden room to the rear of the dwelling, with ancillary use and existing connections to water and electricity, all for the purposes of the enjoyment of the main dwelling.
Location	20A, Pinelawn, Oldbawn, Tallaght, Dublin 24 D24 H2RY
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD25B/0475W
Applicant(s)	Declan Loye
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	First Party vs Conditions
Appellant(s)	Declan Loye
Observer(s)	None
Date of Site Inspection	10 th February 2025
Inspector	Andrew Hersey

1.0 Site Location and Description

- 1.1 The site is located at 20A, Pinelawn, Oldbawn, Tallaght, Dublin 24 D24 H2RY. The site is a corner site in a suburban area and comprises of a detached two storey pitched roof house with front and rear gardens with vehicular and parking to the front. There is a passage to the rear garden to the side of the house.
- 1.2 There is a flat roofed building in the rear of the dwelling which is the subject of this retention application.
- 1.3 There is a large area of open space located to the west of the site.

2.0 Proposed Development

- 2.1 The proposed development is for the retention of
- A flat roofed garden room
 - For purposes incidental to the enjoyment of the main dwelling

3.0 Planning Authority Decision

- 3.1 **Decision** – permission was granted subject to 4 conditions. The following conditions are considered relevant;

- Condition 2 which states:

Amendments.

Within 3 months of the grant of retention permission, the applicant shall remove both the W/C and the sink/sanitary facilities within the main office area of the garden room and shall submit revised plans and photographs for the written agreement of the Planning Authority confirming the removal of same.

Reason: To protect the amenities of the area and in the interests of the proper planning and sustainable development of the area.

- Condition 3 (b) which states:

The detached garden structure hereby granted retention permission shall solely be for use ancillary to the enjoyment of the main dwelling house on site and

shall not be sub- divided or used for any commercial purposes, and the outbuilding 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 single dwelling unit. There shall be no toilet/sanitary facilities installed in the detached garden structure hereby permitted for retention.

Reason: To prevent unauthorised development and in the interests of orderly development and residential amenities

- Condition 4 relates to the requirement for a Section 48 Development Contribution

3.2 Planning Authority Reports

3.2.1 Planners Report

3.2.1.1 The case planners report raises the following issues;

- That, BFP6 of the South Dublin Extension Design Guide 2025 states that, with respect to detached garden sheds and rooms;
 - Should provide for uses wholly ancillary to the main house and should not include toilet and/or sanitary facilities
- That for this reason, a condition is imposed to any grant of retention permission issued requiring that within 3 months of the grant being issued, both the sink in the main office area and the separate W/C be removed from the garden room structure.
- That there is 75sq.m of open space remaining in the rear garden and there is a 5.5 metres distance from the rear wall of the house and the said garden room.
- That there is an active enforcement file (S9056) in respect of the subject structure, relating to potential unauthorised use of the structure as a habitable unit.
- That the current application seeks permission for retention of the garden room and the existing associated services/internal facilities only and has been assessed solely on that basis. This application does not assess the appropriateness or otherwise of the use of the garden room as a separate

habitable unit or regularise any such habitable use of the structure. Any unauthorised use remains a matter for enforcement.

- No residential amenity issues arise

3.2.2 Other Technical Reports

None on file

3.3. Prescribed Bodies

None on file

3.4. Third Party Observations

3.4.1 Two third party submissions were received by the Planning Authority which have raised the following issues:

- That the garden room subject of this retention application is being used for habitable purposes
- That the house is being lived in by multiple occupants
- Residential Amenity Impacts
- Contrary to the residential zoning objective for the site
- That the use of the house by multiple occupants generates significant parking requirements above that of a family home.

4.0 Planning History

4.1 Subject Site - Planning Reg. Ref. SD04A/0790 at 20, Pine lawn, Old Bawn, Tallaght, Dublin 24 granted for Two storey detached dwelling house, with new

shed building to rear, and associated new vehicular access from public road to dwelling on corner site.

5.0 Policy Context

5.1 Development Plan

5.1.1 The South Dublin County Development Plan 2022-2028 is the statutory development plan in force in the area at present.

5.1.2 Under that Plan, the site is zoned as 'RES' the objective been to 'Protect and Improve Residential Amenities'

5.1.3 Policy H14 of the Plan seeks to '*Support the extension of existing dwellings subject to the protection of residential and visual amenities*'

Policy H14 Objective 1: To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 13 Implementation and Monitoring and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines)

H14 Objective 2: To review and update the South Dublin County Council House Extension Design Guide, 2010 during the lifetime of this Development Plan, to include a review of design options for mid terrace type extensions with a view to facilitating these extensions in Local Authority housing where appropriate

5.1.4 South Dublin County Council House Extension Design Guide 2025 applies and in particular the following:

- BPF1 - All Extensions and Alterations to Houses, proposed extensions to existing dwellings should ensure that the proposal/s:
 - *Respects the appearance and character of the house and subject streetscape/local area.*
 - *Does not read as overly dominate relative to existing structure by reason of scale or position.*
 - *Provide comfortable internal space and useful outside space.*

- *Incorporate energy efficient measures where possible.*
 - *Does not adversely impact on adjacent properties by way of significant overbearing visual appearance.*
 - *Does not result in significantly increased levels of overshadowing of adjacent properties.*
 - *Does not directly overlook/result in increased levels of overlooking of adjacent properties. Where a new window could result in overlooking or loss of privacy to neighbouring properties, consider alternative design solutions such as repositioning the window or use of a high-level window (sill level 1.7 metres or high above internal floor level), angled window or obscure glazing.*
 - *Consideration of external finishes, such as use of light-coloured materials on elevations adjacent to neighbouring properties.*
 - *Consideration of remaining private amenity space.*
- BFP6 – Detached garden rooms and sheds of SDCC House Extension Design Guide, it is stated that such development:
 - Should ensure adequate rear amenity space is retained.
 - Should be of a scale that is subordinate to the main house.
 - Should be sited and designed so as not to adversely impact on the amenities of adjacent properties.
 - Should provide for uses wholly ancillary to the main house.
 - Should not include toilet and/or sanitary facilities.

5.3. Natural Heritage Designations

- The Dodder Valley pNHA (Site Code 000991) is located 800m to the north east of the site
- The Wicklow Mountains SAC (Site Code 004024) is located 5km to the south of the site

- Glenasmole Valley SAC (Site Code 002122) is located 1.9km to the south of the site
- The Wicklow Mountains SPA (Site Code 004040) is located 7km to the south of the site

6.0 EIA Screening

6.1 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 & 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

7.1.1 A first party appeal with respect to condition 2 and Condition 4 was lodged on the 20th October 2025. The appeal in summary raises the following issues;

- That the imposition of condition 2 is disproportionate, inconsistent and legally unsound and is contrary to the proper planning and sustainable development of the area.
- That the parent permission for the house granted under Planning Reg. Ref. SD04A/0790 explicitly included a rear garden structure and that the current garden room occupies the same position and footprint and has existed since well before 2008
- That when the appellant purchased the property the structure already contained water and drainage services and a small kitchenette.
- The structure functions as a shomera/home office/storage/amenity space incidental to the enjoyment of the dwelling house and not an independent residential unit.

- That the appellant is a plumber and that having basic sanitary services in the garden room has proven hugely beneficial for hygiene allowing him to wash up after work without bringing dirt into the house.
- The appellant references Planning Reg. Ref. SD19B/0242 (5 Oatfield Drive, Clondalkin) where a WC was proposed in a detached gym in the rear garden. No condition was imposed omitting the said WC.
- That the South Dublin House Extension Design Guide 2025 is non-statutory guidance document
- That the application concerns the retention of structures and fittings which pre-date the design guide.
- The South Dublin County Development Plan 2022-2028 does not prohibit sanitary services in domestic outbuildings.
- The garden room contained a WC, shower and sink for approximately 27 years dating back to the 1990's and that these facilities have been present without objection or enforcement action.
- The appellant refers to a supreme court ruling, Meadows vs Minister for Justice 2010 which proports that lawful and established uses are to be respected and are not arbitrarily extinguished by condition.
- That the WC and sink have been present far longer than the seven year limitation period set out in Section 160 (6) of the Planning & Development Act 2000 and that as such are not subject to enforcement. The imposition of Condition No. 2 therefore is unlawful.
- That with respect to Condition 4 - development contributions, the appellant notes that the shed was part of the parent permission on the site as granted under Planning Reg. Ref. SD04/0790. The imposition of this condition therefore results in double charging
- Section 10 of the Development Contribution Scheme 2021-2015 permits discretionary waivers where 'the payment of a contribution would be unjust or unreasonable having regard to the particular circumstances' The present structure for which retention is being sought and which has long existed clearly satisfies this criterion.
- That the garden room is not been let for accommodation purposes.

7.3. Planning Authority Response

7.3.1 There is a report on file dated 17th November 2025 from South Dublin County Council which states that the Planning Authority confirms its decision and that the issues raised in the appeal have been covered in the Chief Executives Order.

8.0 Assessment

8.1. Introduction

8.1.1 A first party appeal vs condition 2 was lodged by on the 25th November 2025. The appeal relates to Condition 2 which stipulates the requirement for the omission of the WC and sink in the garden room and that photographic evidence showing the same is submitted to the council within 3 months of the date of the decision.

8.1.2 Section 139 (1) of the Planning and Development Act 2000, as amended, provides that an appeal may be brought against the decision of the Planning Authority to grant permission where the appeal relates only to a condition or conditions that the decision provides subject to the Commission being satisfied, having regard to the nature of the condition or conditions, that the determination by the Commission of the relevant application as if it had been made to it in the first instance would not be warranted

8.1.3 With respect of the above, I consider, in this context that it is possible to make a determination on this condition without having to consider the proposed development de novo in the first instance.

8.1.4 With respect to Condition 4, the S48 Development Contribution, the appellant has set out a case that the Development Contribution Scheme has been incorrectly applied.

8.1.5 On the basis of the above, I am satisfied the substantive issues arising from the grounds of this third party appeal relate to the following matters;

- Development Plan Policy/Condition 2
- Section 48 Contribution/Condition 4

8.2 Development Plan Policy/Condition 2

- 8.2.1 The proposed development site is located within an area zoned in the South Dublin County Development Plan 2022-2028 (hereunder referred to as the plan) as 'RES' the objective been to 'Protect and Improve Residential Amenities'
- 8.2.2 The proposed development is for *'Retention of a single storey flat roofed garden room to the rear of the dwelling, with ancillary use and existing connections to water and electricity, all for the purposes of the enjoyment of the main dwelling.'*
- 8.2.3 The case planner in his report concurs that the proposed single storey flat roofed garden room to the rear of the dwelling is an appropriate form of development in this zoning context and will not impact upon the visual or residential amenities of the area
- 8.2.4 The case planner has made it clear in the report that the application is been assessed as a garden room ancillary to the use of the main dwelling on site and in this respect the case planner has assessed the proposal against BFP6 – Detached garden rooms and sheds as per the South Dublin County Council House Extension Design Guide which explicitly states that such developments *'Should not include toilet and/or sanitary facilities.'*
- 8.2.5 The case planner therefore recommended the imposition of a condition (Condition 2) to remove both the W/C and the sink/sanitary facilities within 3 months of the date of the decision of the planning authority and that photographic evidence is submitted to the Planning Authority with respect to the same.
- 8.2.6 The appellant has stated in his appeal that this is unreasonable and that the said sink and WC has been present for almost 27 years. He also refers to Section 160 (6) of the Planning & Development Act 2000 and that because the same has been present for more than 7 years then the council is statute barred from enforcement proceedings.
- 8.2.7 While this may be the case it does not mean that the Planning Authority have to authorise it. The development is subject to the plan in force at present i.e. the South Dublin County Development Plan 2022-2028.
- 8.2.8 The South Dublin County Council House Extension Design Guide clearly states that a toilet and/or sanitary services are not considered acceptable in detached garden rooms and therefore the proposed WC and sink in the office which is part of the

development for which retention is been sought cannot be considered in this instance. The condition to remove these elements of the proposal is therefore considered reasonable.

8.2.9 While the appellant argues that the South Dublin County Council House Extension Design Guide is not a statutory document, I note Policy H14 of the South Dublin County Development Plan 2022-2028 which states under Objective 1 of the policy that;

To favourably consider proposals to extend existing dwellings subject to the protection of residential and visual amenities and compliance with the standards set out in Chapter 13 Implementation and Monitoring and the guidance set out in the South Dublin County Council House Extension Design Guide, 2010 (or any superseding guidelines)

8.2.10 Compliance with the design guide (which has now been superseded by the 2025 version) is therefore clearly required under policy.

8.2.11 By allowing the existing WC and sink in the detached garden room subject of this application for retention, the proposal would be contrary to Policy H14 of the South County Council Development Plan 2022-2028. Again, I consider that imposition of condition 2 omitting these elements is considered reasonable. The other option would be to refuse the development outright which is not considered appropriate in this context.

8.2.12 The appellant refers to precedent under Planning Reg. Ref. SD19B/0242 which was for a detached garden room to be used as a gym and which contained a WC. The said application was granted permission and the WC was not omitted by way of condition. I note that the said development was permitted under the last development plan which served the area and therefore cannot be considered as precedent in this instance.

8.2.13 The appellant also refers to case law, in this case *Meadows vs Minister for Justice* 2010 in which the Supreme Court held that where a decision affects fundamental constitutional rights, the court may examine whether the decision is proportionate. While the same is noted, I do not consider it appropriate to assess this case under

Supreme Court rulings and consider that this is a matter for the courts rather than ACP.

8.2.14 On the basis of the above, I consider that the proposal was assessed by the Planning Authority under the current statutory development plan serving the area, in this case the South Dublin County Development Plan 2022-2028 and it is clear that the WC and sink proposed are contrary to Policy H14 of plan. In this respect the imposition of condition No. 2 is reasonable.

8.3 Section 48 Development Contribution

8.3.1 Condition 4 requires the developer to pay €2832.70 in accordance with section 48 of the Planning and Development Act 2000 (as amended) as per the Councils General Development Contribution Scheme

8.3.2 The appellant has set out a case that the Development Contribution Scheme has been incorrectly applied on the basis that there was always a shed on the same footprint and that a shed formed part of the application for the parent permission on the site under Planning Reg. Ref. SD04A/0790

8.3.3 I have examined the said file and I note that a pitched roof shed was granted in the same place as where the current shed is located. A S48 contribution was imposed on the then applicant/developer. It is not clear if the then shed was constructed as part of the house.

8.3.4 The appellant refers to Section 10 of the Development Contribution Scheme 2021-2015 which allows for discretionary waivers where 'the payment of a contribution would be unjust or unreasonable having regard to the particular circumstances' The appellant argues that the present structure for which retention is being sought has long existed and therefore clearly satisfies this criterion. I do not agree with this argument, the fact that the garden room has been present for a period of time is not a rationale for a discretionary waiver.

8.3.5 The contribution is force at present in South Dublin is the Development Contribution Scheme 2026-2028 (approved October 2025).

- 8.3.5 Residential Development is charged at the rate of €126.45 per sq/m. I note that the application form submitted states that the area for which retention permission is sought is 22sq.m.
- 8.3.6 Section 11 of the scheme refers to 'Circumstances where no contribution or no contributions apply' Section 11 refers to residential extensions and subsection (i) states; The first 40 square metres of an extension to a house (i.e. where the footprint is increased) shall be exempt. However, the section also states that
- This exemption will not apply to development for which retention permission is sought.*
- 8.3.7 There are therefore no exemptions for retention of residential development and is therefore charged at the rate of €126.45 per sq/m.
- 8.3.8 The contribution is therefore €126.45 x 22 = €2781.90. The contribution imposed by the council is €2832.70. (This is on the basis that the council took the floorspace of the garden room for retention was measured at 22.4sq.m) It is recommended therefore that the contribution be sought for 22sq.m as stated in the application form and that a contribution of €2781.90 should therefore be imposed.

9.0 AA Screening

- 9.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 9.2 The subject site is located
- 5km to the south of The Wicklow Mountains SAC (Site Code 004024)
 - 1.9km to the north of the Glenasmole Valley SAC (Site Code 002122)
 - 7km to the south of the Wicklow Mountains SPA (Site Code 004040)
- 9.3 The proposed development comprises of a detached garden room in an urban area. No nature conservation concerns were raised in the planning appeal.

- 9.4 Having considered the nature, scale and location of the project, and its location in a suburban area, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site
- 9.5 The reason for this conclusion is as follows:
- The relatively small scale nature of the works proposed
 - The lack thereof of any hydrological connection from the proposed development to the Natura 2000 site.
 - Having regard to the screening report/determination carried out by the Planning Authority
- 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.
- 9.7 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 Framework Directive

- 10.1. The subject site is located approximately 900m from the Dodder Valley pNHA (Site Code 000991)
- 10.2 The proposed development comprises of a detached garden room in an urban area
- 10.3 No water deterioration concerns were raised in the planning appeal.
- 10.4 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.

10.5 The reason for this conclusion is as follows [insert as relevant]:

- The minor scope of the works and nature of the development
- The 900m distance to the nearest water body and the lack of hydrological connections to the same.

10.6 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 the condition the subject of the appeal, the Commission is satisfied that the determination by the Commission of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to attach condition no. 2 and amend Condition No. 4

12 Reasons and Considerations

12.1 Having regard to the residential land use zoning for the site, the pattern of development in the area, it is considered that the proposed garden room for which retention permission is being sought contains a W/C and a sink which is contrary to Policy H14 of the South Dublin County Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area. The planning authority's requirement to remove both the W/C and the sink/sanitary facilities as imposed under Condition 2 is therefore considered reasonable.

Section 48 of the Planning and Development Act 2000, as amended, requires planning authorities to make development contribution schemes which provide for the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority. The South Dublin County Council Development Contribution Scheme 2026 – 2028 sets out, under Section 11, contributions for ‘Residential Development’ and specifically states under the section that This exemption will not apply to development for which retention permission is sought. The proposed development is for the retention of a garden room and is therefore not exempt from development contributions and as such it is recommended that the S48 condition be imposed on the said garden room which is stated as having a floorspace of 22sq.m. as per the application form submitted. It is recommended therefore that Condition 4 be amended as set out below

4. The developer shall pay to the planning authority a financial contribution of €2781.90 in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way

Andrew Hersey
Planning Inspector

26th February 2026

Appendix A: Form 1 EIA Pre-Screening

Case Reference	PL500336-SD-25
Proposed Development Summary	Detached garden room
Development Address	20A, Pinelawn, Oldbawn, Tallaght, Dublin 24 D24 H2RY
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?	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input checked="" type="checkbox"/> No, No further action required.
<p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - 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) 	
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 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 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

Inspector: _____

Date: _____