



An
Coimisiún
Pleanála

Inspector's Report

PL-501420-DR-26

Development	Retention permission for canopy and garden shed to rear of house
Location	2 Eaton Wood Avenue, Shankill, Dublin 16, D18PC42
Planning Authority	Dún Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D26B/0126/WEB
Applicant(s)	Jon Garaba & Diane McCabe
Type of Application	Retention Permission
Planning Authority Decision	Grant Retention Permission
Type of Appeal	Third Party
Appellant(s)	Ms. Fiona Flavin
Observer(s)	None
Date of Site Inspection	14 th July 2026
Inspector	Conor Hughes

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1.0 Site Location and Description

- 1.1. The site is comprised of the buildings and curtilage of a two-storey semi-detached dwelling at Eaton Wood Avenue approximately 75 metres south of the junction with Corbawn Lane.
- 1.2. The building within is of masonry construction with a tiled roof, aluminium windows, composite doors and uPVC fascia and gutters.
- 1.3. At the front of the dwelling is a private driveway with in-curtilage parking for two cars and a small landscaped area.
- 1.4. The rear garden is enclosed on three sides by block walls and along the boundary with 4 Eaton Wood Avenue is a covered patio area and shed extending into the rear garden by approximately two-metres. The balance of the space is made up of raised planters, paving and lawns.

2.0 Proposed Development

- 2.1. The development comprises a canopy and garden shed to rear of the dwelling.

3.0 Planning Authority Decision

3.1. Decision

- On 29th April 2026 the Planning Authority issued notification of their decision to grant retention planning permission for the abovementioned development as it would not detract from the amenities of the area consistent with the provisions of the current Development Plan, and was considered to be in accordance with the proper planning and sustainable development of the area.
- The decision to grant planning permission was subject to four conditions:
 - Condition 1 related to the retention of the works described in the application form and drawings.
 - Conditions 2 and 3 excluded a pedestrian exit door with canopy, window opening or any other works on the northern boundary or any other works not adequately stated in the statutory public notices.

- Condition 4 required any surface water associated with the proposed development to be retained within the curtilage of the site and disposed of within an existing soakpit.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planning report noted that the proposed development is within an Objective A zoning where an extension to an existing dwelling will be acceptable in principle. This is subject to meeting the relevant policies and objectives of the Development Plan.
- It is stated that the canopy is erected over approximately 26 square metres of the rear garden and not part of internal living area. The shed has a floor area of approximately 5 square metres and is used for miscellaneous/garden storage. The remaining 28 square metres of the rear garden is comprised of grassed area, footpaths and planted borders.
- The height of the canopy was observed to be well below the cill height of the first-floor window of the subject and adjoining property at 4 Eaton Wood Avenue. The shed was also slightly lower than the one at the neighbouring property and lower than others to the rear of the site at Dorney Court.
- Having regard to the height of the structures and their relationship to neighbouring properties the Planning Authority accepted that the proposed structures were modest in scale, height and layout and adequate amenity space was remaining.
- Consequently, it was concluded that the canopy and shed would not have a serious negative impact on visual amenity or the amenities and privacy of the subject property or neighbouring properties in accordance with Section 12.3.7.1 (ii) of the Development Plan.
- It was highlighted that other development not specified in the application or the written notices was not authorised by the grant of a retention permission and that a condition would be added in this respect.
- The third-party submission was noted and that the boundary issues/disputes are private party matters and civil issues. It was specified that a note would be added

to the end of the list of conditions referring to Section 34(13) of the Planning and Development Act 2000 (as amended) in respect of the alleged encroachment.

3.2.2. Other Technical Reports

- Municipal Services Department - Drainage Planning: No objection subject to any surface water being retained within the curtilage of the site and disposed of within the existing soak pit as described on the application form.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- Part of the development was built on a party wall without permission contrary to the Land and Conveyancing Law Reform Act 2009.
- The submitted plans were inaccurate as they included land owned by the third party.
- The development if retained as built would impinge on the ability of the third party to sell the neighbouring property at 4 Eaton Wood Avenue in the future.
- Other development carried out without a grant of planning permission on the northern boundary of 2 Eaton Wood Avenue is shown on the plans but not included in the application.

4.0 Planning History

- 4.1. D20B/0053 - Permission granted for new two-storey extension to side of a semi-detached two-storey house to create four bedrooms, and enlarged kitchen/dining, utility room, for roof lights to rear roof, sliding doors to front porch and internal alterations.

5.0 Policy Context

5.1. Development Plan

- The Dún Laoghaire-Rathdown County Development Plan 2022-2028 (the Development Plan) is the relevant plan for the area and the site is zoned as Zoning Objective A to provide residential development and improve residential amenity while protecting the existing residential amenities.
- The site has a boundary with and an access onto an area of existing open space. Zoning Objective F is to preserve and provide for open space with ancillary active recreational amenities.
- It states at Section 4.3.1.2 PHP19 Existing Housing Stock - Adaptation that it is a policy objective to conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with the National Planning Framework.
- Section 12.3.7.1 provides guidance for extensions to dwellings in Existing Built-up Areas and at (ii) Extensions to the Rear it states:

Ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. The extension should match or complement the main house. External finishes and design, which shall generally be in harmony with existing.

- Section 12.8.3.3 (i) sets out at table 12.10 the private open space requirement for new houses. For a four-bedroom house the guidance states that 75 square metres of good quality usable private open space shall be provided behind the front of the building. It further states that the requirements of this section should be read in conjunction with the development management requirements of Section 12.3.7.1.

5.2. Relevant National or Regional Policy / Ministerial Guidelines

- It is stated in the second paragraph of Section 5.13 of the Development Management Guidelines for Planning Authorities 2007 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. In this regard, it should be noted that, as section 34(13) of

the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development. Where appropriate, an advisory note to this effect should be added at the end of the planning decision. Accordingly, 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 Regulations. Only where it is clear from the response that the applicant does not have sufficient legal interest should permission be refused on that basis. If notwithstanding the further information, some doubt still remains, the planning authority may decide to grant permission. However, such a grant of permission is subject to the provisions of section 34(13) of the Act, referred to above. 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.

5.3. Natural Heritage Designations

- The site is approximately 4.8 kilometres southwest of the Rockabill to Dalkey Island Special Area of Conservation (SAC:03000) and Dalkey Special Protection Area (SPA: 004172).
- The site is approximately 4.8 kilometres northwest of the Bray Head Special Area of Conservation (SAC: 000714).

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 and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). 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 appellant acknowledges the structures proposed for retention are single-storey, modest in scale and understands that this is a scale of development that would be acceptable based on the Development Plan criteria and guidelines.
- That said, the appellant strongly objects to the development 'as-built' on the grounds set out in their original observations in that it illegally trespasses on the adjacent property, is overbearing onto the shared party wall and overhanging without consent.
- The appellant further states in the grounds of appeal that the planning applicants ignored her objections during the construction phase and is seeking to validate illegal structures with a planning permission.
- As the application encompasses land owned by the appellant the application should not have been validated on submission.
- The term 'canopy' is misleading as this is a timber colonnade structure dependant on the shared party wall for structural support. There is no inner wall adjoining the appellant's property that could have been built on.
- The appellant highlights that the planning authority acknowledged in the planning report that the planning applicants have built on the party wall but no account was taken of this in the decision.
- The appellant further notes that part of the structure (adjacent to the rear elevation of the house) has a rooflight and that there is underfloor heating throughout and alleges this will be enclosed as a habitable space as it is illogical to heat an outdoor space.
- An estate agent has visited the site and advised the appellant cannot sell the property at 4 Eaton Wood Avenue with the structure on the party wall in place. A solicitor has further advised that the works constitute trespass.
- The appellant sets out in the grounds of appeal a remedy which requires the planning permission to be subject to a planning condition requiring the 'canopy' roof

and shed to be modified to ensure it is not bearing on the party wall, that all structures are removed and the wall reinstated to its original state.

- The appellant notes the decision notice was only issued three weeks after the decision date and that this only left a week to prepare the appeal rather than the normal four weeks.

7.2. Planning Authority Response

- No new matters are raised in the grounds of appeal that would alter the attitude of the Planning Authority to the proposed development.

7.3. Observations

- None

8.0 Assessment

8.1. Having examined the application details and all the other documentation on file, including the submission received to appeal, the reports of the local authority, and having inspected the site, and having regards to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered as follows:

- The principle of development
- The layout and design of the canopy and shed in the rear garden
- The encroachment into the neighbouring property
- Other matters

The principle of development

8.2. The site is subject to zoning Objective A in the Development Plan which has the purpose of improving residential amenity while protecting existing residential amenities.

8.3. I agree with the assessment of the Planning Authority that the retention of extension to the rear of the dwelling is acceptable in principle subject to being in accordance with the requirements of the policies and objectives of the zoning and consistent with the proper planning and sustainable development of the area.

The layout and design of the canopy and shed in the rear garden

- 8.4. Notwithstanding the main thrust of the appellant's objection is that the development has been constructed on a party wall she acknowledges the canopy and shed are single-storey, modest in scale and in general accordance with the requirements of the Development Plan and guidelines.
- 8.5. Having visited the site and observed the development in the context of the host and neighbouring dwelling at 4 Eaton Wood Avenue I agree with the observations of the appellant and assessment of the planning authority that the I-shaped canopy does not harm residential or visual amenity and that the development is in accordance with the requirements of Section 12.3.7.1 of the Development Plan.
- 8.6. The canopy extends above the boundary wall by approximately 300mm and while it is along most of the entire length of the boundary with the neighbouring property it is not dominant or overbearing. Nor does it result in overlooking or overshadowing.
- 8.7. The insertion of a rooflight into the canopy along the rear elevation of the dwelling allows light to penetrate into the depth of the ground floor kitchen/living room which might otherwise be lost as a consequence of the development.
- 8.8. I did not observe any building works during the site visit that would support the assertion in the grounds of appeal that this is a pre-cursor to the canopy being enclosed and used as an indoor habitable room.
- 8.9. The shed at southwestern corner is taller than the canopy by approximately 500mm but is enclosed on two sides by other ancillary outbuildings (in the adjacent properties to the side and rear) and there is no loss of residential or visual amenity for the same reasons set out in the preceding paragraphs.
- 8.10. The finishes of both structures are in harmony with the existing dwelling. The I-shaped canopy is constructed using exposed timber columns and joists with a tiled roof and uPVC rainwater goods. The same timber joists, tiled roof and uPVC rain water goods are used in the construction of the shed and the walls are of masonry construction with a painted smooth render finish to match the dwelling.
- 8.11. Even though part of the rear garden is covered it still provides usable private amenity space. Approximately 70 square metres of private open space is maintained and

although slightly below the 75 square metres set out in Section 12.8.3.3 (i) it is good quality usable space and sufficient to the needs of the residents living in the property in and is also in accordance with Section 12.3.7.1 (ii) of the Development Plan.

The encroachment into the neighbouring property

- 8.12. The appellant provides as part of the grounds of appeal the observation submitted with the planning application. I note the submission of a solicitor who confirms the ‘vendors believed that all the boundary walls and fences were party to party walls’. The solicitor comments that ‘using the entire of the wall to build his extension has trespassed into your property’.
- 8.13. I further note in the submission that the appellant’s architect visited the site in March 2026 and observed the garden wall was on the centreline between the two properties and a party wall.
- 8.14. A survey was undertaken and describes that new blockwork and one or two rows of glass blocks are constructed on top of the existing wall with a timber roof structure with powder coated flashing above this by an additional 535mm. The garden shed and roof also bears on the wall by an additional 900mm.
- 8.15. I note from the ‘section thru canopy’ on the site map and ground floor plan that the canopy is erected on top of the party wall rather than a timber frame independent of the wall.
- 8.16. I also observed at the site visit that structural timbers are fixed to the wall to support the roof timber joists (albeit this is now drywalled and plastered and the method of fixing is obscured). Glass blocks are erected on top of the wall and a drip edge flashing overhangs flush with the edge of the wall bounding 4 Eaton Wood Avenue.
- 8.17. The planning applicants certify in the application form their legal interest in the land as ‘owner’. They do not submit any observations in response to the grounds of appeal which clarifies their ownership and/or demonstrates that the structures proposed for retention are constructed entirely within land or buildings owned by them.
- 8.18. Whilst I understand Section 5.13 of the Development Management Guidelines for Planning Authorities 2007 clarifies that the mechanism for resolving disputes about title to land or premises or rights over land are ultimately matters for resolution in the Courts

the guidelines do confirm where doubt is cast on the sufficiency of the legal interest the planning authority can seek further information.

- 8.19. The planning authority do not engage with the initial observations submitted by the appellant other than to say that it is 'normally considered that boundary issues/disputes are private party matters and civil matters'. They do not seek further information under Section 33 (1) of the Planning and Development Regulations 2001.
- 8.20. Having visited the site, observed how the development has been constructed in the context of both properties and considered the evidence provided in support of the appeal I am satisfied that both structures are built on a party wall and the roofs rely on this wall for structural support.
- 8.21. However, it was not obvious that new blockwork was added and the height of the wall raised as it was either painted or drywalled and plastered making comparison difficult.
- 8.22. I agree for the reasons set out in the two previous paragraphs that some doubt exists on the sufficiency of the legal interest but note that the guidelines state that planning permission can still be granted subject to the provisions of Section 34(13) of the Planning and Development Act 2000.
- 8.23. The appellant is clear that she does not give permission for the retention of the development but suggests that it could be modified by a planning condition requiring any part of the canopy and shed encroaching onto or oversailing her property to be removed and the party wall reinstated.
- 8.24. I agree with the appellant that a planning condition modifying both structures will ensure the provisions of Sections 34(13) of the Planning and Development Act 2000 are met and that planning permission can still be granted.

Other matters

- 8.25. The appellant highlights that notification of a grant planning permission was not received for three weeks leaving only one week to prepare and lodge an appeal. No evidence is submitted to substantiate any prejudice.
- 8.26. The procedure is clear that the date for lodging an appeal commences from the date of the decision. The decision notice is normally available on the Planning Authority website and there is no procedural requirement for a third party to wait for receipt of written

correspondence. I further note the appeal was received on time and that no prejudice occurs to the appellant.

9.0 AA Screening

- 9.1. I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended.

The subject site is located approximately 4.8 kilometres southwest of the Rockabill to Dalkey Island Special Area of Conservation (SAC:03000) and Dalkey Special Protection Area (SPA: 004172) and a similar distance northwest of the Bray Head Special Area of Conservation (SAC: 000714).

The proposal is for the retention of a canopy and garden shed to rear of house. 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 appreciable effect on a European Site. The reason for this conclusion is as follows:

- The site in an established residential area and the scale of development proposed for retention is comprised of small ancillary structures in a private rear garden.
- The distance to the identified European sites and the lack of connection.
- Taking into account the screening determination by the Planning Authority.

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 (Stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Water Framework Directive

- 10.1. The subject site is approximately one-kilometre south of the River Shanganagh.

The proposed development is for the retention of a canopy and garden shed to rear of house. No nature conservation concerns were raised in the planning appeal.

No water deterioration concerns were raised in the planning appeal.

I have assessed the proposed 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 and 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 wither qualitatively or quantitatively.

The reason for this conclusion is as follows:

- The location of the site in an established residential area, the scale of the proposed development for retention is comprised of small ancillary structures in a private rear garden.
- Sustainable Urban Drainage in the form of a soakpit is described as mitigation on the submitted plans and can reduce the impact of surface/storm water entering the drainage network if properly designed.

I conclude 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. I recommend that retention permission should be granted subject to conditions for the reasons and considerations set out below.

12.0 Reasons and Considerations

- 12.1. Having regard to the requirements of objective A of the Dún Laoghaire-Rathdown Development Plan 2022-28 which has the purpose of improving residential amenity while protecting existing residential amenities the development proposed for retention

does not harm residential or visual amenity and good quality usable space sufficient to the needs of the residents living in the property is retained. This is in accordance with Sections 12.3.7.1 (ii) and 12.8.3.3 (i) of the Development Plan and consistent with the proper planning and sustainable development of the area subject to the following conditions.

13.0 Conditions

1. The development shall be retained in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by the following conditions.

Reason: To clarify the plans and particulars for which permission is granted.

2. The development proposed for retention shall be amended as follows:
 - (a) the structures supporting the canopy and shed roofs are modified to ensure they are not bearing on the party wall with 4 Eaton Wood Avenue.
 - (b) the canopy and shed roofs are modified to be set behind the centre of the party wall to ensure there is no encroachment into or oversailing 4 Eaton Wood Avenue.
 - (c) Any blockwork including glass blocks are removed and the wall reinstated to its original state.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the retained development being altered.

Reason: In the interests of residential amenity.

3. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the Council for such works and services.

Prior to the commencement of development, the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon completion of the development a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

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.

Conor Hughes
Planning Inspector

04th August 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501420-DR-26
Proposed Development Summary	Retention permission for canopy and garden shed to rear of house
Development Address	2 Eaton Wood Avenue, Shankill, Dublin 16, D18PC42
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?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
(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)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ 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
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, 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?	

☒ 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.	
☐ 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
☐ 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 ☐	
No ☐	

Inspector: _____

Date: 04th August 2026