



An
Bord
Pleanála

Inspector's Report

ABP-321296-24

Development	Retention permission for office/storage structure and associated site works.
Location	Florence Villa, Commons Road, Dublin 18, D18 HH1F.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D24B/0399/WEB
Applicant(s)	Florin Strimbu.
Type of Application	Retention
Planning Authority Decision	Dun Laoghaire Rathdown County Council
Type of Appeal	First Party
Appellant(s)	Florin Strimbu
Observer(s)	None.
Date of Site Inspection	02 nd of February 2025.
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The subject site is located along the southern side of the Commons Road, a main road that radiates off the N11, Dublin 18. The site comprises a detached two-storey dwelling, Florence Villa, which fronts onto the Commons Road and to the rear a single storey building. A private laneway runs along the west of the site providing access to a number of infill dwellings.
- 1.2. The single storey building, proposed for retention, is separated from the main dwelling by an anti-climb fence and hedging type boundary treatment. The building is in the corner of a larger hard cored site and access into the site is via an entrance at the side of the main dwelling.

2.0 Proposed Development

- 2.1. The proposed development comprises of the retention of a single storey office/ storage structure (c.34.65m²) ancillary to a dwelling.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for the following reason:

The subject site is located in an area identified as within Flood Zone A and, to a lesser extent, Flood Zone B in Appendix 15, Strategic Flood Risk Assessment of the Dún Laoghaire Rathdown County Development Plan 2022-2028. The development proposed to be retained, which includes development comprising retention of a single-storey detached structure, is located in Flood Zone A. Under Section 6.2.10 'Shanganagh River' of Appendix 15, Strategic Flood Risk Assessment of the Dún Laoghaire Rathdown County Development Plan, 2022-2028, it is stated that '.....Until a Flood Relief Scheme to the 1.0% AEP event standard is complete, any development in Flood Zone A is not permitted and development in Flood Zone B should be limited to Minor development, as defined in Section 5.2.1....' The development proposed to be retained would not therefore be in accordance with the provisions of the Dún

Laoghaire Rathdown County Development Plan, 2022-2028 regarding flood risk management, specifically Policy Objective EI22, Section 12.10.1 Flood Risk Management and Appendix 15: Strategic Flood Risk Assessment, specifically Section 6.2.10. The development proposed to be retained would, therefore, be contrary to the provisions of the Dún Laoghaire Rathdown County Development Plan, 2022-2028, and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision to refuse permission as summarised below:

- Principle of development is acceptable.
- The structure for retention is considered a detached habitable room, is not easily accessible from the main house and there are boundaries on site not shown on the main plans (tall fence and hedge).
- The design and use of the building is acceptable subject to the inclusion of a flat roof.
- The applicant should clarify the use of two gates onto Commons Road, one of which appears to serve the single storey structure.
- The drawings fail to annotate the rear of the dwelling and the gravel areas.
- Drainage section have recommended a refusal as the proposal is not in compliance with Policy Objective EI22, Section 12.10.1 Flood Risk Management and Appendix 15 of the current development plan.

3.2.2. Other Technical Reports

Drainage Report: Recommendation for a refusal of permission based on the location of the site within Flood Zone A and having regard to the policies and objectives of the development plan and the information in the Catchment Flood Risk Assessment Management (CFRAM) study.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One submission received from the resident's association in the vicinity of the site. The issues raised are summarised below:

- This is a repeat application and does not justify the previous refusal of permission on a flood zone.
- The site is still located within Flood Zone A and Zone B.
- This is not retention and is a new build.
- The building is not in use as an office/storage and contains a kitchen/living room.
- The yard is used as a building yard. This is a flood risk.
- The flood prevention works have not been designed or planning permission applied for.
- The proposal does not comply with Condition No 2 of D24A/0214.
- Google maps indicate no building on site in 2018.
- There has been no unauthorised action for the building since the grant of permission.
- The garden area to the main house has been fenced off.
- The planning history on the site is included.

4.0 Planning History

D24A/0214

Permission granted for the retention of a vehicular entrance gate (3.5m width) which fronts onto the Commons Road, at the northwest of the site and a pedestrian gate (0.9m width) fronting the northeast corner of the site.

Condition No 3 is summarised below and relates to the use of and works at the entrance and the wall to the front and side of the site:

- a) The east vehicular entrance from the Commons Road shall be permanently closed up along the front boundary of the site with the Commons Road.
- b) The railing along the front boundary of the site with the Commons Road shall be maintained free of panelling, vegetation entrance to be retained etc...
- c) The low wall and railing along the west boundary shall be maintained free so as to ensure adequate visibility
- d) No conflict between works and traffic/ pedestrian use around the site
- e) Ensure no mud, dirt etc...onto the public road.

ABP 315270-22 (Reg Ref D22A/0687)

Permission refused by the Planning Authority (PA) and the Board for amendments to previously granted permission for a 2-storey dwelling on the site.

The amendments include the construction of a single storey flat roof and all ancillary works and alterations to previously approved entrance to include a new entrance from Commons Road.

The proposed development was refused permission for the same reason as the PA refused the proposal, the subject of this appeal (ABP 321296-24) due to the location of the site within a flood zone, the policies and objectives of the development plan with regard to development in the flood zone and the absence of any flood relief scheme for the Shanganagh River.

D19A/0433

Permission refused for the retention of a single storey flat roof structure for storage and utility to the rear of a previously approached development. The reason for refusal related to the location of the site within the catchment of the Loughlinstown/Shanganagh River Stream, the location in Flood Zone A, the information in the national flood risk guidance and the Dun Laoghaire Rathdown County Development Plan 2016-2022.

D19A/0082

Permission granted for the retention of works to the permitted 2 storey dwelling at the front of the site to include alterations to the façade, brick finish to bay window, omission of canopy and works to the entrance to include two vehicular entrances.

Condition No. 2 required the omission of the vehicular entrance to the west of the front boundary to the site and the front boundary wall reinstated at this position.

ABP 247145-15 (Reg Ref D15A/0502)

Permission refused by the PA and the Board for amendments to D09A/0800 to include revisions to the house type/ design consisting of a 7m high, 2 storey modern flat roof dwelling in a revised location on a revised site layout and revisions to the site boundaries.

The reason for refusal related to the location of the site in Flood Zone B, the draft CFRAM and the policies of the development plan relating to flooding in particular Appendix 13 (SFRA).

D09A/0800

Permission granted for a two-storey dwelling including a single storey part to the rear.

5.0 Policy Context

5.1. National Guidance

The Planning System and Flood Risk Management: Guidelines for Planning Authorities DEHLG (2009)

DECLG Circular PL2/2014

5.2. Dún Laoghaire Rathdown County Development Plan 2022-2028

Zoning

The site is located on lands zoned as A, Residential, where it is an objective “to provide residential development and improve residential amenity while protecting the existing of residential amenities”

Flood Risk

Policy Objective EI21: Catchment Flood Risk Assessment and Management (CFRAM)

- Support the OPW in the design and construction of flood risk scheme.

Policy Objective EI22: Flood Risk Management

- Cooperate with the OPW in the implementation of the national flood guidance and the policies and objectives in Appendix 15 of the Plan

Section 12.10.1 Flood Risk Management

All application shall adhere to the policies and objective set out in Appendix 15 Strategic Flood Risk Assessment (SFRA) and Section 10/7 Flood Risk while having regard to the national flood risk guidelines and DECLG Circular PL2/2014

Appendix 15: SFRA includes the flood zone maps.

- Section 6.2.10 & Figure A.10: Shanganagh River
- Flood Zone Maps 7 & 10

5.3. **Natural Heritage Designations**

None designated in the immediate vicinity.

5.4. **EIA Screening**

The proposed single storey structure is indicated as an office/ storage area, ancillary to the main dwelling. The PA report has not indicated any other use, even considering the party submissions referring to a habitable structure. The proposed development is not of a class of development and does not require an EIA preliminary screening. See Form 1 attached to the report.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from the applicant in relation to the refusal. The issues raised are summarised below:

Flooding

- The Carrickmines Shanganagh River Flood Relief Scheme will come into effect in 2025 will mitigate the flood risks associated with the site and remove the area from areas affected by the 1% AEP flood events.
- The scheme includes new flood defence walls at Commons Road and Brookdene estate.
- Planned works by the OPW for the site will ensure the site is removed from the 1%AEP extent and a refusal can be overcome having regard to the mitigation measures.
- The Dun Laoghaire web page details the flood alleviation program and notes that a planning application should be ready to be submitted to ABP in Q1 2024.
- The lodgement of an application for flood works is imminent.
- Having regard to Section 5.28 of the national planning guidelines the proposal should be retained as an office/ storage area. The proposal has not raised any significant flooding issues and has not introduced additional persons.
- The proposal is classified as a minor development and at 34.65m² it is not significantly larger than the exempted development threshold of 25m².
- The key difference in this proposal and the previous refusal ABP 315270 is that the flood alleviation works are imminent.

Use and Design of the building

- There is currently enforcement action by the PA on the subject site.
- A background on the planning history is included in the submission.
- The Board's inspector accepted the principle of development on the site.

- The detached habitable room complies with the guidance in Section 12.3.7.4 of the development plan, is intended to be ancillary to the main residential unit and will enhance the residential amenity.
- No impacts on the residential amenity of the surrounding area were raised in the planner's report.
- The purpose of the second gate at the rear of the main dwelling is to provide a high-quality separation between the main dwelling and the office area.

6.2. **Applicant Response**

The applicant is the appellant.

6.3. **Planning Authority Response**

A response from the Planning Authority notes no new information in the grounds of appeal which would justify a change of attitude to the proposed development.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

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

- Planning History
- Impact on Flooding

7.2. Planning History

- 7.2.1. The main two storey dwelling on the site was granted permission under D09A/0800. Since this permission there has been several planning applications submitted to the PA for alterations to the main dwelling, changes to the vehicular entrances and relating to the single storey structure, the subject of this appeal. This planning history is detailed above in Section 4.0.
- 7.2.2. The Board will note that several of these permissions have been refused for reasons of flood risk. A refusal by both the PA and the Board in 2015 (ABP 247145-15 Reg Ref D15A/0502) for alterations to parent permission D09A/0800 for revised location and modifications to the entrance referred to the location of the site in Flood Zone B, the information in the Draft CFRAM which indicate possible flooding in the area and the policies and objectives of the development plan (2016-2022) which restrict development in this area.
- 7.2.3. Permission was granted separately for elevational changes and works to the vehicular access (D19A/0082). The PA issued a refusal for the retention of the single storey flat roof structure (D19A/0433) and alterations to the vehicular entrance for reasons of flood risk, similar to the first refusal reason and again under D22A/0687. This refusal was appealed to the Board (ABP 315270-22) and the Board upheld the PA reason for refusal relating to flooding issues.
- 7.2.4. A standalone application for the vehicular entrance was permitted by the PA (D24A/0214).
- 7.2.5. The proposal now before the Board is similar to that previously refused under ABP 315270-22 although the works to the front boundary and vehicular entrance have been dealt with separately by the PA under D21A/0214. The single storey office/storage utility building currently on appeal, is the same structure refused permission under ABP 315270-22. The applicant considers the proposal before the Board is acceptable due to the current timescale involved with the proposed flood alleviation works for the area, further discussed below.

7.3. Impact on Flooding

- 7.3.1. The site is located partially in Flood Zone A and Flood Zone B along the Shanganagh River within the Carrickmines/Shanganagh River Catchment. Appendix 15 (SFRA) of the development plan illustrates the site and includes reference to the flood risk and works permitted. The development plan states that in the absence of any flood relief scheme to a 1.0% AEP event standard is complete, development in Flood Zone A is not permitted and development in Flood Zone B should be limited to Minor Development (defined in Section 5.2.1). Minor developments include small development to existing houses.
- 7.3.2. The PA reason for refusal relates entirely on the proposed development location within a flood zone. The reason for refusal refers to the location of the site, the information in Appendix 15 of the county development plan, specifically section 6.2.10, as supported by the policies and objectives of the plan, and the absence of a flood relief scheme for Carrickmines/Shanganagh River Catchment. The reason for refusal is the same as that included in the Board's decision under ABP 315270-22.
- 7.3.3. The grounds of appeal argues that the Carrickmines Shanganagh River Flood Relief Scheme will come into effect in 2025 and that the public information on the Dún Laoghaire Rathdown County web page indicates that an application for flood alleviation works is proposed in Q1 2024. They consider that this proposal should be permitted as the flood works are imminent and this single storey structure should be considered as a minor development and can comply with works defined as minor development. They note that no issues with design or impact on residential amenity have been raised by the PA.
- 7.3.4. The proposed building to be retained is a stand-alone building located to the rear of an existing two storey dwelling with an independent access. Access into the site was not possible on-site inspection but could be viewed from the rear of the existing main dwelling. The grounds of appeal refer to the structure as both a detached habitable structure and an office/ storage area. The PA reason for refusal did not raise the use of the building. Aside from the proposed use of the building I do not consider it can reasonably be considered as a small extension to an existing building, as required in the Appendix 15. Having regard to the location of the building, detached from the main dwelling I do not consider the proposal is a minor extension to an existing

dwelling and does not pass the justification test in Appendix 15 of the development plan for development in Flood Zone A or B.

- 7.3.5. With regard to the delivery of the flood alleviation works, the grounds of appeal note these are imminent. They consider the key difference between this application and the previous Board refusal is the submission of this retention application alongside a Part 10 proposal for the Carrickmines Shanganagh Rover Flood Relief Scheme. I note the grounds of appeal refer to information on the council's web page (as detailed above) with no further evidence of the Flood Alleviation works. Guidance provided in section 6.2.10, Appendix 15 of the development plan indicates clearly that until a Flood Relief Scheme to the 1.0% AEP event standard is complete, any development in Flood Zone A is not permitted and only minor development in Flood Zone B will be permitted. In the absence of a complete flood relief scheme, I consider the Board's reason for refusal (ABP 315270-22) remains relevant in determining this application and permission should be refused for the same reason.
- 7.3.6. Therefore, having regard to the location of the site within Flood Zone A and partially within Flood Zone B, the information contained within the Dún Laoghaire Rathdown County Development Plan 2022-2028, in particular Appendix 15, and the national flood risk guidance, The Planning System and Flood Risk Management, the proposed development is not acceptable and should be refused permission for retention.

8.0 AA Screening

Having regard to the nature and scale of the proposed development, the distance from any European Site and the absence of a pathway between the subject site and any European site it is possible to screen out the need for an Appropriate Assessment.

9.0 Recommendation

I recommend that permission is REFUSED for the reasons and considerations below.

10.0 Reasons and Considerations

The subject site is located in an area identified as within Flood Zone A and, to a lesser extent, Flood Zone B in Appendix 15, Strategic Flood Risk Assessment of the Dún Laoghaire Rathdown County Development Plan 2022-2028. The development proposed to be retained, which includes development comprising retention of a single-storey detached structure, is located in Flood Zone A. Under Section 6.2.10 'Shanganagh River' of Appendix 15, Strategic Flood Risk Assessment of the Dún Laoghaire Rathdown County Development Plan, 2022-2028, it is stated that '.....Until a Flood Relief Scheme to the 1.0% AEP event standard is complete, any development in Flood Zone A is not permitted and development in Flood Zone B should be limited to Minor development, as defined in Section 5.2.1....' The development proposed to be retained would not therefore be in accordance with the provisions of the Dún Laoghaire Rathdown County Development Plan, 2022-2028 regarding flood risk management, specifically Policy Objective EI22, Section 12.10.1 Flood Risk Management and Appendix 15: Strategic Flood Risk Assessment, specifically Section 6.2.10. The development proposed to be retained would, therefore, be contrary to the provisions of the Dún Laoghaire Rathdown County Development Plan, 2022-2028, and to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Karen Hamilton
Planning Inspector

04th of February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP 321296-24		
Proposed Development Summary	Retention of single storey office/ storage structure ancillary to a residential dwelling		
Development Address	Florence Villa, Commons Road, D18		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	Tick if relevant and proceed to Q2.
		No ✓	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes		State the Class here.	Proceed to Q3.
No	✓		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required

No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No		Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____