



An
Bord
Pleanála

Inspector's Report ABP316244-23

Development	Retain utility shed.
Location	36 Whitethorn Crescent, Dublin 24.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD23B/0017.
Applicant(s)	Laurence O'Reilly
Type of Application	Retention Permission
Planning Authority Decision	Grant permission with conditions.
Type of Appeal	First Party V Condition 1(b)
Appellant(s)	Laurence O'Reilly
Observer(s)	None
Date of Site Inspection	26 th June 2023
Inspector	Hugh Mannion.

1.0 Site Location and Description

1.1. The application site – 36 Whitethorn Crescent, Dublin 22 – is one of a pair of semi-detached two storey houses in Ballyfermot, County Dublin. The area is residential in character, the houses have front and rear gardens and several houses have front garden car - parking.

2.0 Proposed Development

2.1. The proposed development comprises the retention of a shed in the rear garden of 36 Whitethorn Crescent, Dublin 22.

3.0 Planning Authority Decision

3.1. Decision

Grant permission with conditions.

Condition 1. (b) required that –

No later than 6 months from the final grant date of permission the w.c./bathroom shall be removed.

Reason: To ensure that the development is in accordance with the permission and that effective control is maintained and to ensure that the building is not used as a habitable dwelling.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended a grant of permission as set out in the Chief Executives order.

3.2.2. Other Technical Reports

Roads Section reported no objection.

Public Realm section reported no objection.

4.0 **Planning History**

None

5.0 **Policy and Context**

5.1. **Development Plan**

The application site is zoned 'RES' To protect and /or improve residential amenity in the South Dublin County Development Plan 2022- 2028.

5.2. **Natural Heritage Designations**

Not relevant.

5.3. **EIA Screening**

5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The utility shed was constructed to provide a utility space and workout/gym space. Incidental to this use is a WC/Bathroom which is required for the use.
- The condition negates the proposed use of the space as a gym.

6.2. **Planning Authority Response**

- The planner's report on file covers the issues raised in the appeal.

6.3. Observations

- None

6.4. Further Responses

- None

7.0 Assessment

- 7.1. The proposed development seeks to retain a rear garden shed on a residential plot in a built-up urban area where the zoning objective in the Development Plan is to protect and/or improve residential amenity. There were no objections from the public at application stage and no objections in the internal reports of the planning authority. Having regard to these factors I am satisfied that the only planning matter arising in this case is the appealed condition number 1 (b) and that the appeal may be determined under section 139 of the Planning and Development Act 2000, as amended.
- 7.2. The applicant makes a straightforward case for the utility shed – it is to be used as ancillary to the permitted house on site as a recreational space/gym. In support of that proposed use the structure includes a w.c./bathroom with a floor area 2.4 m². The planning authority is concerned that the shed would be used as habitable accommodation and has required the removal of the w.c. /bathroom within 6 months of the date of the Chief Executive's order. The planning authority included an additional condition (condition 2) that requires that the utility shed be used solely for purposes incidental to the use of the associated dwelling house and not to be used for any business or alienated from the house on site and I note that the applicant has not appealed this condition.
- 7.3. The Development Plan sets out criteria in relation to houses in side/rear gardens and the application makes no case that the application is for such a structure. While it is understandable that the planning authority seeks to avoid a secondary/substandard residential use on a single suburban site it is equally reasonable that the applicant has a w.c. in a gym associated with a domestic use. Given the very limited floor area it is unlikely that a shower/bath could be accommodated. Additionally, the planning

authority has enforcement powers under the Planning and Development Act should unauthorised development be carried out.

7.4. The w.c. is not an unreasonable feature of the proposed use and I recommend that condition 1(b) be removed. Furthermore, I recommend the attachment of a further condition requiring compliance with Irish Water's standards in relation to water supply and foul drainage.

7.5. **Appropriate Assessment Screening**

7.6. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of the receiving environment as a built-up urban area and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 **Recommendation**

8.1. I recommend that the appeal be determined under section 139 of the Planning and Development Act, 2000, as amended and that Condition 1 (B) be removed, and a further condition be attached as set out below.

9.0 **Reasons and Considerations**

The proposed development is located in an area zoned to protect and/or improve residential amenity in the South Dublin County Development Plan 2022 to 2028. Having regard to the proposed use of the utility shed as a gym/workout space which is incidental to the permitted use of the dwelling house on site it is considered reasonable that it includes sanitary facilities as set out in the plans and particulars submitted with the application. Accordingly, condition 1(b) shall be removed from the grant of planning permission and a further condition number 5 shall be attached for the reason set out below.

5	The developer shall enter into water and wastewater connection agreements with Irish Water. Reason: In the interest of public health.
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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.

Hugh Mannion
Senior Planning Inspector

26th June 2023