



An
Bord
Pleanála

Inspector's Report

ABP 318360-23

Development	Retention and completion of 2 single-storey garden room structures
Location	6 St. Margarets Park Malahide, Co Dublin
Planning Authority	Fingal
Planning Authority Reg. Ref.	F23A/0355
Applicant(s)	Stephen and Fiona Donaldson
Type of Application	Retention Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party v Decision
Appellant(s)	Matthew Ward and Mary Doyle
Observer(s)	None
Date of Site Inspection	12 th January 2024
Inspector	Brendan McGrath

1. Site Location and Description

- 1.1. The site is the rear garden of a house in a mature residential estate on the east side of Malahide. The appellants live in a house to the rear of the site.

2.0 Proposed Development

- 2.1. There are two buildings and a connecting wall for retention and completion. The buildings are sited in the back corners of the rear garden separated and overshadowed by a large pine tree at the middle of the rear boundary. The main structure is a flat-roof, 'garden room' measuring 19m² (including external decking) in the north-west corner). There is a smaller, matching building in the north-east corner. Neither building has been completed. The large building is intended as a home gym with en-suite shower, the smaller building as a storeroom. The residual open rear garden space is 330m².

The application was the subject of a further information request requiring the application to be re-advertised to include 'completion' as well as 'retention' in the description and to submit more accurate drawings of rear boundary treatment.

3.0 Planning Authority Decision

3.1. Decision

Grant retention permission subject to 7 conditions of a standard nature save for a requirement (condition 4) to lower the connecting wall to 2m (as proposed in further information response received on 16th August 2023)

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The two planning reports (initial report and report following receipt of further information) are the basis of the decision.
- Proposal in accordance with development plan zoning and guidance

- Proposal less visually obtrusive than previous permission for a single larger structure.

3.2.2. Other Technical Reports

Water Services had no objection

3.3. **Third Party Observations**

Two observations to the council from neighbours to the rear

4.0 **Planning History**

F22B/0232 permission granted for a similar development but it was discovered during construction that the development as permitted would damage the adjacent mature pine tree, changes to the proposal, followed by enforcement action, followed by an application for retention and completion of a revised proposal.

5.0 **Policy Context**

5.1. **Development Plan**

The development plan is the Fingal Development Plan 2023-2029 in which the site is zoned RS-residential and which contains a policy on garden rooms:-

Garden rooms can provide useful ancillary accommodation such as a playroom, gym or study/home office for use by occupants of the dwelling house. Such structures should be modest in floor area and scale, relative to the main house and remaining rear garden area. Applicants will be required to demonstrate that neither the design nor the use of the structure would detract from the residential amenities of either the main residence or adjoining property. External finishes shall be complementary to the main house and any such structure shall not provide residential accommodation and shall not be fitted out in such a manner including by the insertion of a kitchen or toilet facilities and shall not be let or sold independently from the main dwelling (14.10.4 of the development plan)

5.2. Natural Heritage Designations

None in the vicinity

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

The appeal is by Matthew Ward and Mary Doyle whose house backs onto the subject site

6.1. Grounds of Appeal

- The structures are 30cm higher than the building previously granted permission (reg. ref. F22B/0232) in 2023
- One structure includes a toilet which is not permitted according to council guidance
- Large scale and bulk of the proposal
- Unsuitable external finishes
- Risk to protected tree
- Potential noise and nuisance

6.2. Applicant Response

- The response is by Nicola Da Ponte, architect, on behalf of Shomera and the applicants.
- The response in part refers back to Further Information response to Fingal CC.
- The response includes a drawing showing the separation of and re-siting of the storage area to where there had previously been a garden shed.
- The linking wall will be reduced in height to 2m.

- It is suggested that boundary planting of trees and bushes can fully screen the proposal from the rear. External finishes (cement board cladding) was chosen to be durable and maintenance free
- Changes made to building design were to protect the tree

6.3. **Planning Authority Response**

The planning authority restates its view that the proposal would not give rise to undue negative impact upon the visual or residential amenities of the surrounding area

6.4. **Observations**

None

7.0 **Assessment**

- 7.1. The proposal relates to construction of a garden room and storage unit by an established company that designs and builds rear garden-rooms and house extensions, many of which are exempted development. This is not the case in this instance and the proposal has been complicated by the need to protect an attractive pine tree in the rear garden. The proposal is very similar to the development previously granted permission (F22B/0232) other than the structure being divided into two parts and slightly higher, in order to protect the existing pine tree. The presence of a bath room/ shower room has raised concern but is reasonably explained by the proposed use as a home gym. The house to the rear (the appellants' house) is c11m from the gym. Condition 2 of the grant of permission (or similar) restricting use of the structures to uses ancillary to the enjoyment of the dwelling addresses concerns about the function of the spaces. I consider the protection of a fine tree to be an important consideration which has largely dictated the design changes to the previously granted development. This tree is an important aspect of the amenity that is currently enjoyed by both the applicants and the appellants. I do not therefore consider that the development would be seriously injurious to the residential amenity of houses to the rear and I consider that the proposal is in accordance with the development plan policy

8.0 Recommendation

- 8.1. I recommend that planning permission be granted for the reasons and considerations set out below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the residential zoning of the site and policy 4.10.4 on garden rooms, set out in the Fingal Development Plan 2023-2029, the existing permission, (reg. ref. F22B/0232) for a similar development, and the need to protect an existing attractive tree, it is considered that the proposed development will not seriously injure the visual and residential amenities of properties in the vicinity. The proposed development would, therefore, be in accordance with proper planning and development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 16th day of August 2023 except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to home gym and store as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.</p> <p>Reason: To protect the amenities of property in the vicinity</p>

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.

Brendan McGrath
Planning Inspector

21st January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 318360-23		
Proposed Development Summary			
Development Address			
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	X
		No	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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector:

Date: 21/01/24