



An
Bord
Pleanála

Inspector's Report

ABP 319101-24

Development	Retention of single storey rear garden room
Location	47 Boulevard, Bealing Village, Tyrellstown, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW23A/0366
Applicant(s)	Joseph Olufemi
Type of Application	Retention permission
Planning Authority Decision	To refuse permission
Type of Appeal	First Party v Decision
Appellant(s)	Joseph Olufemi
Observer(s)	None
Date of Site Inspection	15 th . May 2024
Inspector	Brendan McGrath

1.0 Site Location and Description

- 1.1. The property is a 3-storey end-of-terrace house in a medium-density suburban area of Dublin 15. The property fronts directly onto Boulevard Road and has a circa 12m long, 6m wide, rear garden space enclosed by a 2.2 m high block wall. The rear garden has a stated area of 34m² excluding the building which is the subject of the application. There are two other rear garden buildings of similar scale in nearby rear gardens.

2.0 Proposed Development

The proposal is to retain a well-constructed, 2-roomed building, with a sand-cement plaster finish. with a stated floor area of 24m² and roof ridge height of 3.7m. The building has a slated, hipped roof. The building is sited at the bottom of the rear garden. In the appeal letter the building is described as a 'self-contained granny flat' and in the planning application drawings as 'rear garden shed/home gym'.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reason:-

Having regard to the precedence of the decision made under An Bord Pleanála ABP Ref No, 316193-23 and having regard to the scale and design of the development to be retained, including its height, mass, overbearing nature, proximity to site boundaries and location within a housing development with small rear garden areas, it is considered that the development to be retained comprises a visually incongruous and dominant feature in this residential location which has a significant impact on the existing residential amenity of surrounding properties. The development by reason of visual prominence seriously injures the amenities of the area and of property in the vicinity, would be contrary to residential zoning objective

of the site, and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report is the basis of the planning authority decision. The report draws attention to a condition (no 30) of the parent planning permission for 2119 dwellings, which states that:-

Having regard to the provision of small rear garden sizes and narrow frontage houses, notwithstanding the exempted development provisions of the Local Government (Planning and Development) Regulations 1994, no additional development whatsoever shall take place within the curtilage of each house save with a prior grant of planning permission. **Reason:** to prevent overshadowing and overlooking of neighbouring private space and buildings by exempted development

The planning report also makes reference to a recent Board decision to refuse planning permission for a garden room on a nearby site. The planner recommended refusal incorporating the wording of the Board decision.

3.2.2. Other Technical Reports

Water Services

No objection

3.3. Third Party Observations

There are three letters of objection from neighbours citing adverse visual impact, loss of privacy, property depreciation, undesirable precedent, contrary to development plan

4.0 Planning History

23/221B There is an active enforcement file in relation to the proposed development

FW23A/0012 (ABP 316193-23) Retention planning permission refused by the council and on appeal for a garden room of similar size on a nearby site

5.0 Policy Context

5.1. Development Plan

Fingal Development Plan 2023-2029

- The site is zoned RS Residential, 'to provide for residential development and protect and improve residential amenity.
- Section 14.10.4 sets out guidance for garden rooms. They are open for consideration but should be modest in scale and not impact adversely on neighbouring properties.

5.2. Natural Heritage Designations

None relevant

5.3. EIA Screening

This is not a class of development requiring screening.

6.0 The Appeal

6.1. Grounds of Appeal

The garden room is intended only for family recreational purposes and as accommodation for occasional visits by family members

6.2. Planning Authority Response

The council has reiterated its reasons for refusing permission but requesting the attachment of a financial contribution condition in the event of a grant.

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined the application and appeal documentation on file, and also the Board file in respect of a nearby site, and visited the site, and, having regard to relevant policy and guidance, I consider that the main issues are those raised in the ground of appeal and the planning authority's reason for refusal. There is a material difference between the description of the development for retention in the planning application and the planning appeal. AA also needs to be taken into account. The main issues are:-

- The use of the building
- Residential amenity
- Visual amenity
- The precedent set by ABP 316193-23, and
- Appropriate Assessment

7.2. The use of the building

The stated use of the building in the appeal letter is substantially different to the use stated in the planning application. In my opinion the actual use is probably the one stated in the letter of appeal, i.e. 'a granny flat' equivalent.

7.3. Residential amenity

There is a potentially serious adverse impact on residential amenity as a result of an additional dwelling structure, even if the use is subordinate in character, in a relatively dense suburban setting

7.4. Visual amenity

The building is relatively prominent but is not an eyesore, does not stand out to the extent of the nearby garden building for which retention permission was refused on appeal (ABP 316193-23) and is not as likely to cause serious overlooking.

7.5. The precedent set by ABP 316193-23

In my opinion the 2023 decision of the Board sets a clear precedent in respect of garden rooms in the locality which are of a comparable scale. This proposal is of a comparable scale.

7.6. Appropriate Assessment

Having regard to the nature and scale of the proposed development and distance from European sites, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the scale and design of the structure as constructed, including its height and proximity to site boundaries and also having regard to the recent decision of An Bord Pleanála to refuse permission for a similar development of comparable scale nearby (ABP 316193-23), it is considered that the structure for which retention is now sought has a significant negative impact on the residential amenity of surrounding properties. The retention of the structure would therefore seriously injure the amenities and depreciate the value of surrounding property, would be contrary to the residential zoning objective of the site and contrary to the proper planning and sustainable development of the area
2. The descriptions of use of building in the planning application and the planning appeal are materially and significantly different.

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

24th May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319101-24		
Proposed Development Summary	Retention of single storey rear garden room		
Development Address	47 Boulevard, Bealing Village, Tyrellstown, Dublin 15		
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	<input checked="" type="checkbox"/>
		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	<input checked="" type="checkbox"/>		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	<input checked="" type="checkbox"/>	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** _____