



An
Bord
Pleanála

Inspector's Report

ABP 319255-24

Development	Rear, ground-floor domestic extension
Location	5 Dun Emer Green, Lusk, County Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F23A/0782
Applicant(s)	Radu and Diana Sirbu
Type of Application	Permission
Planning Authority Decision	To refuse permission
Type of Appeal	First Party v decision
Appellant(s)	Radu and Diana Sirbu
Observer(s)	None
Date of Site Inspection	15 th May 2024
Inspector	Brendan McGrath

1.0 Site Location and Description

- 1.1. The site lies in a suburban housing estate about 30 years old. The site comprises a 2-storey, end-of-terrace house, facing a communal parking and open space area. There is a private garden to the rear of the house which contains a flat-roof, single storey building, built against a boundary wall.

2.0 Proposed Development

- 2.1. The proposal is to repurpose the rear garden building as living space (study, utility room, lobby, toilet and shower room, and to join it to the house

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for 2 reasons:-

- Contravention of zoning objective 'to provide for residential development and protect and improve residential amenity' due to scale and dominance of the structure, internal layout , means of access, lack of clarity about intended use
- Development would extend and intensify use of an unauthorised structure

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. The report is the basis for the council's decision. The report states that the existing garden room is unauthorised development and that therefore modification and extension of the structure is not acceptable in principle. it states lack of clarity about intended use and expresses suspicion that there is intention to create an independent residential unit.

3.2.3. Other Technical Reports

Water and Drainage

No objection

3.3. Prescribed Bodies

Uisce Éireann

No objection

3.4. Third Party Observations

None

4.0 Planning History

current enforcement case

5.0 Policy Context

5.1. Development Plan

Fingal Development Plan 2023-2029. Site is zoned RS: Residential 'to provide for residential development and protect and improve residential amenity

5.2. Natural Heritage Designations

None relevant

5.3. EIA Screening

The proposal does not belong to a class for which screening is required

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is by the first party. The grounds can be summarised as follows:

- The garden room, a detached, non-inhabitable room in the back garden was built in 2023 and conforms to the exempted development regulations, i.e. floor area of 24.35m² which is less than the max. permissible of 25m². The building

is 2.8m high, which is less than the max. permissible of 3m, and there is a residual rear garden area of 53m², 28m² more than the permitted minimum

- There is no adverse impact on residential amenity of neighbouring properties
- There is no lack of clarity about the proposed use of the development

6.2. Planning Authority Response

The planning authority states 'no comment' but requests the application 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 all the documentation on file I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authority's reasons for refusal. I am satisfied that no other substantive issues arise. The issues therefore are:-

- The planning status of the existing garden building
- Impact on residential amenity
- The intended use of the building
- Appropriate Assessment

7.2. The planning status of the existing garden building

On the basis of the submitted plans it is my opinion that the garden building is substantially in accordance with the exempted development regulations and is therefore permitted in principle

7.3. Impact on residential amenity

I do not believe that a significant adverse impact on residential amenity arises. It is noted that there are no third party objections.

7.4. The intended use of the building

The submitted plans clearly show the intended use of the building. Any concerns about a subdivision of the dwelling can be addressed by condition.

7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, no Appropriate Assessment issues arise and it is not considered that the proposed development 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 granted for the reasons and considerations set out below and subject to the following conditions.

9.0 Reasons and Considerations

9.1. Having regard to the small scale of the development proposed and the residential zoning objective and existing character of the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of adjoining properties and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions.
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	<p>Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The entire premises shall be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations 2001 (as amended)</p> <p>Reason: in the interest of clarity and to ensure proper planning and sustainable development</p>
3.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</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 May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319255-24			
Proposed Development Summary	Rear, ground-floor domestic extension			
Development Address	5 Dun Emer Green, Lusk, County Dublin			
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)	Conclusion
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:** _____