



An
Bord
Pleanála

Inspector's Report

ABP-319451-24

Development	Retention of garden shed/home gym measuring 26 sq. m. located to the rear of the property.
Location	9 Ashcroft Grove, Blakestown Road, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW24A/0025
Applicant(s)	Babatunde and Abiola Taiwo
Type of Application	Retention Permission
Planning Authority Decision	Refuse Retention Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Babatunde and Abiola Taiwo
Observer(s)	None
Date of Site Inspection	11 th July 2024
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.08 ha and is located at No. 9 Ashcroft Grove, Blakestown Road, Dublin 15. The existing property on the site is a mid-terrace, 2-storey dwelling with off-street parking to the front and private amenity space to the rear. The property forms part of a terrace of 6 no. dwellings. The building line of Nos. 7, 8 and 9 Ashcroft Grove are set forward of the remaining properties within the terrace (Nos. 10, 11 and 12).
- 1.2. The rear garden of the subject property is characterised by hard surfacing. The development to be retained is located on the central and rear portions of the site. A second smaller shed structure is also located in the rear garden and abuts the gable wall of the adjoining property at No. 10 Ashcroft Grove.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of a garden shed / home gym of 26 m² located to the rear of the property.
- 2.2. The structure has a pitched roof, with an overall height of 3.16 m, an overall length of 7.15 m and a width of 4.16 m. It is finished in white cladding with black detailing around the windows and door. The structure is subdivided internally into a shed space, a toilet, and a gym. The structure is located 7.1 m from the rear elevation of the existing dwelling and is set back from the shared boundaries with Nos. 8 and 10 Ashcroft Grove by 0.8 m and 0.5 m respectively.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Fingal County Council issued Notification of the Decision to Refuse Retention Permission for the proposed development on 11th March 2024 for 1 no. reason as follows:

“The development by reason of its scale, massing, location and site layout has an overbearing effect on neighbouring residential amenities and results in poor quality residential amenity for the subject dwelling. The development if permitted would set

an undesirable precedent for similar developments within small rear garden areas, would be contrary to the 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

3.2.2. In recommending that retention permission be refused for the development, Fingal County Council’s Planning Officer was not satisfied that the existing dwelling has sufficient rear amenity space remaining for the use of its residents and noted that this space would receive minimal daylight and sunlight. It was also noted that the structure would rise above the rear garden boundary walls (1.4 m in height) and have an overbearing impact on the small rear garden of the adjoining dwelling to the south, No. 10 Ashcroft Grove.

3.2.3. Other Technical Reports

3.2.4. **Water Services:** No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. **Planning Authority Reg. Ref. FW23A/0283:** Planning permission refused for a self-contained granny flat of 26 m² located to the rear of the property.

4.2. Enforcement History

4.3. **File Ref. 22/10B:** Active enforcement investigation on the subject site regarding the subject development.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

5.2. Land Use Zoning

- 5.2.1. The site is subject to land use zoning 'RS – Residential' which has the objective to "provide for residential development and protect and improve residential amenity".

5.3. Development Management Standards

- 5.3.1. The development management standards in relation to garden rooms are set out in Section 14.10.4 of the plan. 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 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. Such structures shall not be let or sold independently from the main dwelling.

5.4. Natural Heritage Designations

- 5.4.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal has been lodged against the Planning Authority's decision, the grounds of which can be summarised as follows:
- The development is of good quality construction.
 - The development is vital to the applicants' quality of life and home usage.
 - The development slightly exceeds the exempted development provisions for this type of structure, with 35 m² of private amenity space remaining in the rear garden.

- The building is currently connected to mains services but will be disconnected and used as a non-habitable outbuilding/shed/home office/gym structure for recreational purposes.
- The development does not have an overbearing impact on neighbouring dwellings compared with other out-buildings of similar dimensions.
- The building will not be used as a granny flat.

6.1.2. Photographs of the development accompany the appeal submission.

6.2. **Planning Authority Response**

- 6.2.1. An appeal response was received from the Planning Authority on 2nd May 2024. The Planning Authority notes that the applicant previously sought retention permission for this development in the context of a self-contained granny flat, which was refused permission. The response reiterates the Planning Officer's assessment of this case and requests that the Board uphold the decision to refuse retention permission.
- 6.2.2. In the event retention permission is granted, it is requested that provision should be made in the determination for applying a financial contribution and / or bond in accordance with Fingal County Council's Development Contribution Scheme.

6.3. **Observations**

- 6.3.1. None.

7.0 **Assessment**

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

- Scale of Development / Impact on Residential Amenities
- Appropriate Assessment

- 7.2. Each of these issues is addressed in turn below.

7.3. Scale of Development / Impact on Residential Amenities

- 7.3.1. Fingal County Council considered that the retained development, by reason of its scale, massing, location and site layout, has an overbearing effect on neighbouring residential amenities and results in poor quality residential amenity for the subject dwelling.
- 7.3.2. In addressing the Planning Authority's decision, the appellant submits that the development only slightly exceeds the exempted development provisions for this type of structure and that 35m² of private amenity space remains in the rear garden. I note that the applicant's Site Plan drawing indicates that 40 m² of open space remains. The higher figure appears to be accurate based on my own measurements of the Site Plan drawing. The applicant also submits that the development does not have an overbearing impact on neighbouring dwellings compared with other out-buildings of similar dimensions and that it is vital to the applicants' quality of life and home usage.
- 7.3.3. In considering the principle of the development, I note that its size exceeds the exempted development provisions for this type of structure within the curtilage of a house as set out under Schedule 2, Part 1, Class 3 of the Planning and Development Regulations, 2001 (as amended). By way of comparison, I note the conditions and limitations which apply to this class include inter alia, that such a structure and any previous structure, shall not exceed 25 m² and shall not reduce the remaining amenity space to less than 25 m². Notwithstanding the presence of the second smaller shed structure in the rear garden of the property, I consider that more than 25 m² of private amenity space would remain in the event the Board granted permission to retain the shed/gym structure. While Fingal County Council's Planning Officer considered that the remaining open space would receive minimal daylight and sunlight, it is likely that this area already receives reduced sunlight due to the eastward orientation of the rear garden and the stepped back building footprint of the adjoining property at No. 10 Ashcroft Grove.
- 7.3.4. The shared boundary walls to the adjoining properties are 1.4 m in height. However, I do not agree that the proposed development would have an overbearing impact on the adjoining properties. The structure is set back from the boundary with No. 10 Ashcroft Grove by 0.5 m and from No. 8 Ashcroft Grove by 0.8 m. I also note that the

height of the structure to eaves leave is c. 2.2 m adjacent to the site boundaries. In my opinion, a development of this scale would not “tower” over the boundary walls and would not have an undue overbearing impact on the neighbouring properties as stated by the Planning Authority in their appeal response of 2nd May 2024 refers. I also note that the structure would not have an overshadowing impact on the neighbouring properties due to the scale of the development and the orientation of the site.

- 7.3.5. In my opinion, the development for which retention permission is sought would be acceptable on the site. In reaching this conclusion, I note that the existing dwelling is somewhat modest in scale and that the development will provide ancillary space for use of the occupants. While I acknowledge the planning and enforcement history which relates to the site, I note that retention permission has not been sought for the use of the structure as habitable accommodation. While the structure includes a w.c. the applicants have set out their intention to disconnect these services. In any event, the use of the space can be clarified by condition should the Board decide to grant retention permission in this instance.

7.4. Appropriate Assessment (AA) Screening

- 7.4.1. I have considered the proposed retention of the garden shed/gym in light of the requirements of S177U of the Planning and Development Act, 2000 (as amended). The subject site is located in an established suburban area, approx. 7km from the nearest European site (Rye Water Valley/Cartron SAC – site code: 001398). The development to be retained comprises a garden room for the use of the residents of the existing dwelling. While the building is currently connected to mains services, these will be disconnected. As such, the development to be retained has no hydrological or other connection to any European site. No nature conservation concerns were raised in the appeal.
- 7.4.2. Having regard to the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows:
- The small scale and nature of the development
 - The distance to the nearest European site and the lack of connections

- Taking into account the screening determination of the Planning Authority.

7.4.3. I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore a retrospective Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act, 2000 (as amended) is not required.

8.0 Recommendation

8.1. I recommend that retention permission be granted in this instance.

9.0 Reasons and Considerations

9.1. Having regard to the residential land use zoning of the site, the nature and scale of the existing residential property on the site and of the development to be retained, and to the intended purpose of the retained development as ancillary accommodation for the existing residents, it is considered that, subject to compliance with the conditions set out below, the retained development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The retained development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained in accordance with the plans and particulars lodged with the application.</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 a garden shed / home gym and shall not be used as habitable accommodation, unless otherwise authorised by a prior grant of planning permission.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
3.	<p>The existing dwelling and the garden shed / home gym shall be jointly occupied as a single residential unit and the garden shed / home gym shall not be used, sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the retained development in the interest of residential amenity.</p>
4.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services. The applicant shall supply and install rainwater butts as a minimum requirement. No surface water / rainwater shall discharge into the foul water system.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</p>
5.	<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, as amended. The contribution shall be paid within 6 months of the date of this Order 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</p>

	<p>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 An Bord Pleanála 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, as amended, 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>
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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.

Louise Treacy
Senior Planning Inspector

19th July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Garden shed / home gym of 26 m ²		
Development Address	9 Ashcroft Grove, Blakestown Road, 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	X
		No	
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			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		N/A	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** _____