



An
Bord
Pleanála

Inspector's Report ABP-319853-24

Development	Retention of garden room with all associated site works
Location	36 Mount Eustace Park, Tyrrelstown, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW24A/0130
Applicant(s)	Jossy Akwuobi
Type of Application	Retention Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Jossy Akwuobi
Observer(s)	None
Date of Site Inspection	11 July 2024
Inspector	Aoife McCarthy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 161m² and is located at 36 Mount Eustace Park, Tyrrelstown, Dublin 15. No.36 comprises a 2-storey 3-bed semi-detached house with garden to the front and rear.
- 1.2. The site includes off-street parking to the front of the property. A gated access is located to the rear garden is located to the immediate west of the house. The rear garden also includes a single storey garden shed.
- 1.3. The subject structure for retention is located within the rear garden. The drawings indicate that the structure contains a kitchen/dining area, bedroom and bathroom. From site inspection, it is confirmed that the bedroom is in use as a living room, and that the internal layout otherwise accords with the drawings as submitted with the planning application.
- 1.4. The site is bounded by Mount Eustace Park to the east; by adjoining properties at No.34 and No. 38 Mount Eustace Park, to the north and south respectively; and by the side boundary wall of No. 1 Mount Eustace Close to the west.

2.0 Proposed Development

The proposed development comprises the retention of a single storey garden room with a Gross Floor Area (GFA) of 21m² and a maximum height of 2.89m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 The Planning Authority issued a Notification of Decision to Refuse Permission on the 9th May 2024 for a single reason that can be summarised as follows;
 - The proposed development would by reason of design and layout (including presenting as a separate unit of accommodation) be contrary to SPQR 2 and SPQR 3 of the Sustainable Residential Developments and Compact Settlement-Guidelines for Planning Authorities in Urban Areas, 2024;

- and be contrary to Objectives DMS027, DMS028, DMS031 and DMS032 of the Fingal Development Plan 2023-2029.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's Report recommended refusal as set out in the Chief Executive's Order and reflects the reason for refusal.

3.2.2. Other Technical Reports

Water Services Department Report states no objections and is acceptable subject to condition.

3.3. Prescribed Bodies

3.3.1 None received.

3.4. Third Party Observations

3.4.1. None received.

4.0 Planning History

4.1. **Planning Authority Reg. Ref.: F99A/1620:** Notification of a Decision to Grant Permission was made on 10th October 2000 for development on a site, including the subject site. The application included 2,119 no. residential units and all ancillary works.

4.2. Condition No. 30 of the permission sets out the following:

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

5.0 Policy and Context

5.1. Sustainable Residential Developments and Compact Settlement-Guidelines for Planning Authorities in Urban Areas, 2024

5.1.1 The decision of the Planning Authority in this case included reference to the following provisions of these Guidelines

- **SPPR 2** which sets out minimum private open space standards for houses; and
- **SPPR 3** relating to car parking standards, applicable to new developments.

5.2. Fingal Development Plan 2023-2029

5.3 Land Use Zoning

5.3.1 The site is subject to land use zoning RS – Residential, with the objective “to provide for residential development and protect and improve residential amenity”.

5.4 Development Plan – Garden Rooms (Section 14.10.4 refers)

5.4.1 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 of 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.

5.5 Development Plan/Objective DMSO27 – Minimum Private Open Space Provision

5.5.1 Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:

- 3 bedroom houses or less to have a minimum of 60 sq. m. of private open space located behind the front building line of the house.

- Houses with 4 or more bedrooms to have a minimum of 75 sq. m. of private open space located behind the front building line of the house.

5.5.2 Narrow strips of open space to the side of houses shall not be included in the private open space calculations.

5.6 Objective DMSO28 – Minimum Private Open Space Provision for Townhouses

5.6.1 Allow a reduced standard of private open space for one and two bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/ corner sites. In no instance will the provision of less than 48 sq m of private open space be accepted per house.

5.7 Objective DMSO31 – Infill Development

5.7.1 New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

5.8 Objective DMSO32 – Infill Development on Corner / Side Garden Sites

5.8.1 Applications for residential infill development on corner/side garden sites will be assessed against the following criteria:

- Compatibility with adjoining structures in terms of overall design, scale and massing. This includes adherence to established building lines, proportions, heights, parapet levels, roof profile and finishing materials.
- Consistency with the character and form of development in the surrounding area.
- Provision of satisfactory levels of private open space to serve existing and proposed dwelling units.
- Ability to safeguard the amenities of neighbouring residential units.
- Ability to maximise surveillance of the public domain, including the use of dual frontage in site specific circumstances.
- Provision of side/gable and rear access arrangements, including for maintenance.

- Compatibility of boundary treatment to the proposed site and between the existing and proposed dwellings.
- Existing boundary treatments should be retained/ reinstated where possible. " Impact on street trees in road-side verges and proposals to safeguard these features.
- Ability to provide a safe means of access and egress to serve the existing and proposed dwellings.
- Provision of secure bin storage areas for both existing and proposed dwellings.

5.9 **Natural Heritage Designations**

5.9.1 There are none in proximity to the site.

5.10 **EIA Screening**

5.10.1 Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and 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**

6.1.1. A first party appeal against the Planning Authority's decision has been lodged in this instance. The grounds of appeal can be summarised as follows:

- The structure was built on the understanding that the development was exempt from planning, having regard to the size of the structure, and remaining rear garden space available to the house.
- It is intended that the structure will be used as part of the use of the existing house.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority confirmed that they have no further comment with respect to the subject appeal.
- 6.2.2. In the event that the Board decide to grant permission, it is recommended that a financial contribution and/or Bond in accordance with Fingal County Council's Section 48 Development Contribution Scheme is applied by condition.

6.3. Observations

- None.

6.4. Further Responses

- None.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including the report of the local authority, having inspected the site and having regard to the relevant local and national policies and guidance, I consider the substantive issue in this appeal relates to compliance with the Development Plan with respect to the provision of a garden room.
- 7.2. In this context, I note that the Planning Authority have, in my view, inaccurately included reference in the Notification of a Decision to Refuse Permission dated 9th May 2024 to the following:
- SPPR 2 (Private open space for new houses) and SPPR 3 (Car parking) of the Sustainable Residential Developments and Compact Settlement-Guidelines for Planning Authorities in Urban Areas, 2024; and
 - Objectives DMS027 (Minimum Private Open Space Provision), Objective DMS028 (Minimum Private Open Space for Townhouses), DMS031 (Infill

Development), DMS032 (Infill Development on Corner/Garden Sites) of the Fingal Development Plan 2023-2029.

7.3. These considerations are set out below.

7.4. **Compliance with Development Plan – Garden Room**

- 7.4.1. The Development Plan set out that a garden room can provide uses which are ancillary to the main house, notably excluding kitchen and toilet facilities. The definition also specifies that the structure should be modest in scale; ensuring the provision of a viable resultant rear garden.
- 7.4.2. In this context, further to a review of the submitted drawings and site visit, I note that the subject garden room contains a living room/bedroom, a combined kitchen/dining room and bathroom. No other uses are contained within the structure.
- 7.4.3. At the outset, it is my opinion therefore that these uses do not constitute ancillary accommodation as specified in the definition of a garden room.
- 7.4.4. In this context, the first party appeal sets out that the structure is for use by the Applicant's family only, which is noted. However, this does not address the key issue; that the garden room contains a combined kitchen/dining room, bedroom/living room and bathroom; rather than ancillary accommodation, as prescribed in the Development Plan.
- 7.4.5. It is further considered that the subject garden room is excessive in footprint, having regard to the limited extent of the rear garden arising to serve the existing dwelling. In my opinion, this resultant reduced size significantly limits the functional viability of this private amenity space.
- 7.4.6. In this context, I note that the proposed garden room comprises c. 21m² GFA with rear garden area of c.30m².¹ It is noted that there is no specific standard, applicable to retrospective cases such as the subject development proposal.

¹ The drawings two differing figures relating to total private open space (30m² and 33 m²) to the rear of the property.

- 7.4.7. For reference therefore, comparison is made with SPPR2 of the Sustainable Residential Developments and Compact Settlement Guidelines, 2024, sets out a minimum requirement of 40m² of private open space for a new 3-bedroom house. As such, indicatively, the extent of private amenity space within the rear garden falls significantly below the quantitative private amenity space standard for new houses.
- 7.4.8. Further to a review of the site, I note that there is a high degree of overlooking between the subject rear garden and rear garden of No.1 Mount Eustace Close, to the immediate west; heightened by the reduction in available private open space, arising from the construction of the subject structure.
- 7.4.9. It is therefore considered that the scale of the proposal is excessive, having regard to the limited resultant rear garden to serve the existing dwelling, contrary to the definition of Garden Room as referenced above.
- 7.4.10. Having regard to the above, it is therefore considered that the proposal does not comply with the definition of a garden room having regard to the uses contained within the subject structure.
- 7.4.11. Further, it is considered that the garden room is excessive in size, having regard to the limited resultant rear garden to serve the existing dwelling; and therefore contrary to the definition of a garden room as set out in the Fingal Development Plan 2023-2029.

8.0 Appropriate Assessment Screening

- 8.1. I have considered the proposed retention of a garden room in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The site is located within 9.5km of Rye Water Valle/Cartron SAC (Code 001398), the closest European Site to the proposed development.
- 8.3. The proposed development comprises Retention Permission for a garden room (c.21sqm GFA) within the rear garden of a property at 36 Mount Eustace Park, Tyrrelstown, Dublin 15.

- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion relates to:
- The limited extent of works forming part of this project, within an established residential development.
 - The distance of the project to the closest European Site.
- 8.6. I conclude that 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.
- 8.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that permission should be refused for the reasons and considerations stated below.

10.0 Reasons and Considerations

The application site is zoned with the objective “provide for residential development and protect and improve residential amenity” in the Fingal Development Plan 2023-2029. Having regard to the limited site size, scale and design of the subject proposal, the proposed development fails to accord with Section 14.10.4 of the Fingal Development Plan 2023-2029 with respect to the provision of garden rooms, would result in substandard private amenity space, negatively impacting on the residential amenity of the subject dwelling and adjoining properties. The proposed development would also set an undesirable precedent for future development in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.



Aoife McCarthy
Planning Inspector
25 July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319853-24		
Proposed Development Summary	Retention of garden room and all ancillary site works.		
Development Address	36 Mount Eustace Park, Tyrrelstown, 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	
		No	X
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)
			Conclusion
No		X	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4
4. Has Schedule 7A information been submitted?			

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Aoife McCarthy Date: 25 July 2024

