



An
Bord
Pleanála

Inspector's Report ABP-321377-24

Development	Retention Permission sought to retain rear single storey extension and garden room to the rear garden of dwelling house.
Location	177 Boulevard, Mount Eustace, Tyrrelstown, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW24A/0403
Applicant(s)	Jun Bilag & Cherry Palecpec
Type of Application	Permission for Retention
Planning Authority Decision	Split Decision
Type of Appeal	First Party
Appellant(s)	Jun Bilag & Cherry Palecpec
Observer(s)	Tara and Ray Keely
Date of Site Inspection	31 st January 2025
Inspector	Emma Nevin

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.0159 ha, is located within an existing residential development, and comprises a three-storey semi-detached dwelling. The existing dwelling has a stated area of 120 sq. m.
- 1.2. There is pedestrian access to the front of the dwelling with dedicated car parking to the rear, which is accessed via the access road to Mount Eustace Close to the south of the dwelling with a rear pedestrian access gate.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of:
 - A single storey extension, of stated floor area, 12 sqm, and extending over the full width at the rear the subject house. The subject extension has a single pitched roof and projects a stated 3.0 metres beyond the existing rear building line.
 - A 'garden room' located at the northern end of the rear private open space, with a stated width of 3.725 metres and length of 6.225 metres.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority recommended a split decision on the 20th November 2024 to **Grant Permission** for 'The provision of the rear extension' subject to 2 no. standard conditions specified in Schedule 1, and to **Refuse Permission** in respect of 'The garden shed' for reasons set out in Schedule 2 as follows:

"1. The development constitutes an overdevelopment of this restricted site, is visually incongruous, out of character with development in the area and provides a substandard level of private amenity space to the rear of the subject house and by its internal design materially contravenes section 14.10.4 Garden Rooms of the Fingal Development Plan 2023 - 2029, would set a bad precedent for other similar

substandard developments in the area and thereby is contrary to the proper planning and sustainable development of the area.

2. The subject development by reason of its bulk, height, massing and proximity to site boundaries is overbearing upon property in the area and materially contravenes section 14.6.6.4 Overlooking and Overbearance of the Fingal Development Plan 2023 - 2029 and is contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

- 3.2.1. A planning Report dated 15th November 2024 (signed 20th November 2024) has been provided.
- 3.2.2. The original planning report concluded that *“the provision of the rear extension to the house is acceptable however the garden room is not considered to be in accordance with the proper planning and sustainable development of the area, and as such the Planning Authority recommended a split decision as follows: “that planning PERMISSION be GRANTED for The provision of the rear extension’ subject to the conditions specified in Schedule 1 and that PERMISSION be REFUSED in respect of ‘The garden shed’ for the reasons specified in Schedule 2”, as noted in Section 3.1.1 above.*
- 3.2.3. Other Technical Reports:
- Water Services: Report received stating no objections.
 - Transportation Planning Section: Report received recommended conditions.
 - Parks and Landscape Division: Report received recommending further information.

3.3. Prescribed Bodies

- 3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.
- Uisce Eireann: No report received.

3.4. Third Party Observations

3.4.1. Three third party submissions were received, the main issues raised within which can be summarised as follows:

- The submitted drawings do not match the existing development.
- The overhanging of guttering, when the subject development is complete, into the adjoining development.
- Existent plumbing not shown on plans.
- Potential use of development as a 'separate dwelling'.
- 'Negative' impact of subject development on adjoining property.
- Increase in traffic resulting from subject development.
- Existence of 'strict planning guidelines in Tyrrelstown'.
- The subject structures 'take up the entirety of the garden'.
- 'Primarily built in concrete cinder blocks with few openings beyond door, small windows'.
- Impact on parking in the area.

4.0 Planning History

4.1.1. F99A/1620: Permission granted by Fingal County Council on 6th April 2000 for residential development comprising 2,119 no. 1, 2, 3 and 4 bed dwellings and ancillary site works, and the reservation of a 3.54 ha site for primary school, neighbourhood shopping and sundry support residential community services.

Condition 30 states:

“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 (or any amendment or replacement of said Regulations), 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”.

4.1.2. Enforcement History:

Enf: /24/180 – In relation to the existing development which is located within the subject site boundary.

5.0 Policy Context

5.1. Fingal Development Plan 2023 – 2029

- 5.1.1. The subject site is zoned ‘RS’ ‘Residential’, with a sated objective “*to provide for residential development and protect and improve residential amenity*”.

With a vision to “*Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity*”.

Airport Noise Zones: The site is situated within Noise Zone C associated with Dublin Airport.

5.1.2. Relevant Development Plan Policy:

Policy relevant to the development of extensions is set out in Sustainable Placemaking and Quality Homes - Chapter 3 as follows: “*The need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area*”.

- Policy SPQHP41 - Residential Extensions – “*Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities*”.
- Objective SPQHO45 - Domestic Extensions – “*Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area*”.

In Chapter 14 – Development Management Standards, the following are of relevance:

- 14.6 Design Criteria for Residential Development in Fingal.

- 14.6.6 External Factors for Consideration.
- 14.6.6.4 Overlooking and Overbearance – *“Development proposals must assess levels of overbearance and potential to cause significant levels of overlooking to neighbouring properties. Issues in relation to excessive overlooking and overbearance may be addressed through relocation or reduction in building bulk and height. Mitigation measures to ameliorate overbearance should be considered and may include alterations to the bulk and massing of the proposed scheme relative to neighbouring property. Overlooking may also be addressed by appropriate design-led solutions including the sensitive placement of fenestration and balcony treatments”.*
- 14.10.2 Extensions to Dwellings – *“The need for people to extend and renovate their dwellings is recognised and acknowledged and the Council will support applications to amend existing dwelling units to reconfigure and extend as the needs of the household change, subject to specific safeguards”.*
- 14.10.2.3 Ground Floor Extensions (rear) – *“Ground floor rear extension will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining to serve the dwelling house. The proposed extension should match or compliment the existing dwelling house”.*
- 14.10.4 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 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. Such structures shall not be let or sold independently from the main dwelling”.*

5.2. Natural Heritage Designations

5.2.1. The subject site is not located within a designated European Site.

5.3. EIA Screening

5.3.1. I refer the Board to the completed Form 1 in Appendix 1.

5.3.2. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been received dated 3rd December 2024; the grounds of appeal are summarised below.

- The garden shed was constructed to support essential household functions by providing a dedicated space for work, exercise, and storage.
- The appellant has considered significant adjustments to the structure's design to reduce its impact and ensure compliance with planning requirements including:
 - Reduction in Size: length will be reduced from 6.2 meters to 4 meters, significantly decreasing its scale and mass, ensuring it remains subordinate to the main dwelling.
 - Removal of Plumbing: all plumbing will be removed, ensuring the garden room cannot function as an independent unit or for any purpose other than ancillary domestic use.
 - Completion of External Finish - the shed will be finished to match the appearance of the main dwelling.

- Reduced Mass and Visual Impact: By reducing the length of the shed, its visual presence will be minimised, mitigating any perception of overbearance on adjoining properties.
- Increased Private Garden Space by reducing the size of the structure.
- Boundary Compliance: The shed is positioned entirely within the property boundaries, ensuring no encroachment on neighbouring properties and avoiding any issues of direct overlooking.
- The use is entirely domestic, with no commercial activity planned.
- The garden room remains unfinished, allowing for compliance with all necessary adjustments to meet the concerns raised in the planning refusal.

6.2. Planning Authority Response

6.2.1. Report received dated 8th January 2025, stating that the Planning Authority has no further comment to make in respect of the appeal.

6.2.2. In the event that the appeal is successful, the Planning Authority requests the following be included:

- A financial contribution and/or a provision for any shortfall in open space and/or any Special Development Contributions required in accordance with Fingal County Council's Section 48 Development Contribution Scheme.
- The inclusion of Bond/Cash Security for residential developments of 2 or more units.
- Conditions should also be included where a tree bond or a contribution in respect of a shortfall of play provision facilities are required.

6.3. Observations

6.3.1. One observation was received which highlighted the following:

- Impact of proposed size reduction – the minor adjustment to the size of the structure does not mitigate the overbearing and intrusive impact of the shed, due to its height, size, and proximity to the adjoining site boundary.

- The gardens are small.
- The observers are avid gardeners who value outdoor living and the shed disrupts the enjoyment of the outdoor space.
- Inadequate external finish and boundary concerns – given the proximity of the structure to the adjoining fence makes it physically impossible to finish the exterior structure. The roof is in close proximity to the adjoining fence and it not complete. Once complete, it is unclear how the structure will not encroach the adjoining site.
- Overlooking windows and potential misuse – the inclusion of windows and roof window overlooking adjoining garden. Despite the size reduction the scale and design allow it for use a rental dwelling, which would further exacerbate overbearing presence and devaluation of property.

6.4. Further Responses

None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the first party appellant's submission (the subject matter of this appeal), site inspection and having regard to the relevant policies, objectives, and guidance, I am satisfied that the main issues to be considered are those raised in the grounds of appeal, and the observation I am satisfied that no other substantive issues arise. The main issues in determining this appeal are as follows:

- I. Principle of Development and Planning History
- II. Impact on Visual and Residential Amenity
- III. Appropriate Assessment, and
- IV. Other Matters.

7.2. Principle of Development and Planning History

7.2.1. The appeal site is located within an established residential development on lands zoned as 'RS – 'Residential' with the stated land use zoning objective to "Provide for

residential development and protect and improve residential amenity". The vision of this objective is to ensure that any new development in existing areas would have minimal impact on and enhance existing residential amenity.

In the regard the planning history on site is of relevant in particular Condition 30 of the parent permission F99A/1620 i.e. *"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 (or any amendment or replacement of said Regulations), 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".

- 7.2.2. While the principle of extension to and within the curtilage of the existing dwelling would be acceptable, this is subject to the protection of existing residential amenity. The issue of residential and visual amenity will be discussed further below.

7.3. Impact on Residential and Visual Amenity

Rear extension:

- 7.3.1. While not specifically referenced in the appeal or observation, I concur with the decision of the Planning Authority in respect to the rear extension to be retained. Given the scale, location, and single storey design, I am satisfied that the extension to be retained will not impact negatively on adjoining residential or visual amenities.

Garden Room:

- 7.3.2. The first reason for refusal considers that the development constitutes overdevelopment of this site and provides a substandard level of private amenity space to the rear of the subject house. The second reason for refusal states that the garden room by reason of its bulk, height, massing, and proximity to the boundaries is overbearing upon property in the area and contravenes the Development Plan.
- 7.3.3. I concur with the concerns raised by the Planning Authority in respect to the garden room as constructed on site and the overdevelopment of the site and the negative impact upon the adjoining residential dwellings.

- 7.3.4. As part of the first party appeal, however, the applicant is proposing to reduce the size of the garden room by reducing the length from 6.2 metres to 4 metres with the width retained at 3.72 metres. The appellant is also proposing to remove all plumbing and complete the external finish to the garden room. The appellant considers that the modifications will reduce the mass and visual impact of the garden shed and will increase the garden space. It is confirmed that the use is entirely domestic.
- 7.3.5. While I note the appellants commitment to reduce the size of the garden room, following site visit and review of the first party appeal, I am not satisfied that the reduction in size of the garden room when taken in conjunction with the rear extension to be retained, and the remaining rear amenity space, which is not stated as part of the appeal submission, does not constitute overdevelopment of this site, would set an undesirable precedent for similar developments, and as such would detract from the residential amenity of the existing residents given the limited nature of the rear gardens within the residential development.
- 7.3.6. Additionally, having regard to the overall height and design of the garden room, notwithstanding the reduction in size, I consider that the garden room would appear visually overbearing given its height, roof design and proximity to the adjoining site boundary to the east and would therefore detract from the residential amenity of the adjoining site, No. 179.
- 7.3.7. Therefore, the garden room does not accord with Section 14.10.4 Garden Rooms of the Fingal Development Plan, as I am not satisfied that the garden room to be retained is “modest in floor area and scale, relative to the main house and remaining rear garden area”, and that applicant has not demonstrated 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”.
- 7.3.8. As such, I recommend that permission be refused for the retention of the garden room in this regard.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the distance to the nearest European site, 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.

7.5. Other Matters

7.5.1. Conditions:

As noted in Section 3.1.1 above, the local authority recommended a split decision to grant permission to retain the single storey rear extension subject to 2 no. standard conditions. Given the nature and scale of the development, I concur with the local authority and recommend the inclusion of standard conditions in this instance.

7.5.2. Overhanging/Oversailing:

The issues raised in the observation in respect to the development overhanging or oversailing the adjoining site is, however, a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

7.5.3. Devaluation of property:

I note the concerns raised in the observation in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the development would not adversely affect the value of property in the vicinity.

8.0 Recommendation

8.1. I recommend that having regard to the documentation submitted as part of the first party appeal, the observations made by the parties, the information on file and to the site visit and assessment above that the Board issue a split decision as follows:

- (i) It is recommended that retention permission be granted for the provision of the rear extension, subject to the conditions below.
- (ii) It is recommended that retention permission be refused for the garden room for the reasons and considerations below.

9.0 (i) Reasons and Considerations

- 9.1. Having regard to the provisions of the Fingal County Development Plan 2023-2029, the nature and scale of the rear extension to be retained, it is considered that, subject to compliance with the conditions set out below, the development would be appropriate in terms of scale, form and layout, would not adversely impact on the residential amenity of neighbouring properties, nor impact on the character or visual amenity of the existing residential estate. The 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 carried out, completed and retained in accordance with the plans and particulars lodged with the application, received by the planning authority on the 4th day of October 2024, except as may otherwise be required in order to comply with the following conditions. 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 dwelling and the extension shall be jointly occupied as a single residential unit and shall not be used for any other purpose, including short-term letting, unless authorised by a prior grant of planning permission. The extension shall not be let, sold, or otherwise transferred or conveyed save as part of the dwelling. The principal use of the application site shall remain in private residential use.</p> <p>Reason: In the interests of the proper planning and development of the area</p>

11.0 (ii) Reasons and Considerations

11.1. The garden room to be retained when taken in conjunction with the rear ground floor extension and remaining private rear amenity space to serve the existing residential dwelling, constitutes overdevelopment of this restricted site, and due to its scale, height, design, and proximity to the adjoining site boundaries would appear visually overbearing as viewed from the adjoining sites, in particular to the east, and would therefore detract from the residential amenity and character of the area. The development to be retained contravenes Section 14.10.4 'Garden Rooms' of the Fingal Development Plan 2023 - 2029, would set an undesirable precedent for similar developments in the vicinity and thereby is 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.

Emma Nevin
Planning Inspector

4th February 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	321377-24		
Proposed Development Summary	Retention for single storey extension and garden room to rear of house.		
Development Address	177 Boulevard, Mount Eustace, 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	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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
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	N/A	Development is not a project of type listed in Schedule 5, Part 2
Yes			No EIAR or Preliminary Examination required

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required