



An
Bord
Pleanála

Inspector's Report

ABP-321709-25

Development	Retention of extension & all associated site works.
Location	38 Chapel Gate, Naul Road, Balbriggan, Co. Dublin, K32 CF50
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/0954E
Applicant(s)	Dhingra Gagan & Nisha John
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party V Refusal
Appellant(s)	Dhingra Gagan & Nisha John
Observer(s)	Paul Reilly.
Date of Site Inspection	8 th April 2025
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The site is located at 38 Chapel Gate, Naul Road, Balbriggan. It comprises a two-storey semi-detached dwelling situated on a corner site in an established residential area west of Balbriggan town centre. The site is bounded to the east by No. 37 Chapel Gate, to the west by Harry Reynolds Road, and to the south by the private amenity space of No. 1 Chapel Gate. The area is characterised by similar two-storey semi-detached housing, and the stated site area is 0.021 hectares.

2.0 Proposed Development

- 2.1. Retention permission is sought for:
- a) Single storey detached building within the rear garden of the existing dwelling: Flat-roofed structure with a stated floor area of approximately 15 sqm and a height of 2.7 metres.
 - b) Open-sided pergola structure with a plexiglass flat roof; stated floor area of approximately 24 sqm and a height of 2.6 metres.
 - c) Storage/garage area along the western boundary of the dwelling, comprising a lean-to corrugated metal roof structure running the full length of the main dwelling, with a stated floor area of approximately 13 sqm and a maximum height of 2.55 metres.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission on the 13th of December 2024 for the following reason:

- 1) Having regard to the scale and design of the development to be retained, including its height, mass, overbearing nature, proximity to the site boundaries and visual obtrusiveness within a housing development with small rear garden areas, it is considered that the development comprises a visually incongruous

and dominant feature in this residential location which has a significantly negative impact on the existing residential amenity of surrounding properties. The proposed development would set an undesirable precedent for other similar developments. The development by reason of visual prominence seriously injures the amenities of the area and of property in the vicinity, 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.

- 2) Having regard to the lack of adequate information submitted with regards to the proposed surface water drainage arrangements, the proposed development to be retained is considered unacceptable as it cannot be concluded how the surface water drainage arrangements would function. Therefore, the applicant has failed to demonstrate compliance with the provisions of the Fingal Development Plan 2023-2029 and the proposed development to be retained would be prejudicial to public health and, as such, would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report forms the basis for the decision to refuse permission.
stating:

Visual and Residential Amenity Impact:

- The scale, design, height, and proximity of the development to site boundaries make it visually obtrusive and overbearing.
- The structure negatively impacts the residential amenity of surrounding properties, particularly through overshadowing and its dominant presence in a residential area with small rear gardens.

Surface Water Drainage

- The applicant failed to provide adequate information about surface water drainage arrangements.
- Concerns exist about how rainwater runoff from the structures would be managed, which could lead to flooding or other drainage issues.

3.2.2. Other Technical Reports

- Water Services – Requested further information with regard to SUDS.
- Transport Planning – No objection.

3.3. Prescribed Bodies

- Uisce Eireann – No objection

3.4. Third Party Observations

One number third-party submission was made on the application making the following points:

- Nature of the development: Concerns about the detached structure being rented out or used as a residence due to the bathroom and kitchen facilities within.
- Drainage concerns: The manhole for sewage is in the rear garden, and the toilet and shower waste pipes are connected to a sewage access point, raising concerns about improper connections for rainwater and waste.
- Flooding: The garden level was raised by approximately one foot and covered with paving slabs, leading to potential flooding in the neighbouring garden during heavy rain.
- Pergola: The timber wall/pergola built, increased the height of the boundary wall to 9 ft 4 inches, exceeding Fingal County Council's height restrictions of 2 metres. Concerns of runoff into neighbouring property. The timber wall of the pergola blocks light to the neighbouring property and garden.

4.0 Planning History

- 4.1. **Active Enforcement Case:** Ref. No. 24/122: This case pertains to a structure and fence located at the rear of the property.

5.0 Policy Context

5.1. Development Plan

Fingal County Development Plan 2023 – 2029

The Fingal County Development Plan 2023 – 2029 is the relevant Development Plan for the subject site.

The subject site is zoned “RS – Residential” which has zoning objective, *“to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity”*.

3.5.13.1 Residential Extensions

Policy SPQHP41 – Supports extensions of appropriate scale, 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.

Chapter 14 Development Standards

14.10.2 Residential Extensions

The need for housing to be adaptable to changing family circumstances 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. In particular, the design and layout of residential extensions must have regard to and protect the amenities of adjoining properties, particularly in relation to sunlight, daylight and privacy. The design of extensions must

also have regard to the character and form of the existing building, its architectural expression, remaining usable rear private open space, external finishes and pattern of fenestration. Additionally, careful consideration should be paid to boundary treatments, tree planting and landscaping. The following section provides guidance in relation to, front extensions, side extensions, rear extensions, first floor rear extensions, roof alterations including attic conversions and dormer extensions.

14.10.2.2 Side Extensions

Side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation) and impacts on residential amenity. First floor side extensions built over existing structures and matching existing dwelling design and height will generally be acceptable. In certain cases, a set-back of the extension's front facade and its roof profile and ridge may be sought to protect amenities, integrate into the streetscape and avoid a 'terracing' effect. External finishes shall generally match the existing.

14.10.2.3 Ground Floor Extensions (rear)

Ground floor rear extensions 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 complement 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

The subject site is located within any Natura 2000 sites. The nearest are:

- Skerries Island SPA (004122) c6.6 km to the southeast.
- Rogerstown Estuary SPA (004015) and SAC (000208) c11.6 km to the south.
- Northwest Irish Sea SPA (004236) c1.7 km to the west.

6.0 Environmental Impact Assessment Screening

- 6.1. Having regard to the nature and scale of the development, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required. See Appendix 1.

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal has been lodged against the Planning Authority's decision to refuse permission. The grounds of appeal can be broadly summarised as follows:

Compliance with Planning Exemptions

- Garden Room – The appellant considers the garden room and link extension were built in line with exempted development planning guidelines, including height and area limits. The garden room is below the allowed 3 metre height for flat roofs and smaller than the 25 sqm permitted for domestic sheds/garden rooms.
- Not uncommon for two storey extension to be built up to 3 or 4 metres out from the rear of a house.

Visual Amenity

- The structures are in no way impacting the visual amenity of the surrounding area as they are set to the rear.

Drainage and Flooding

- The appellants assert that drainage was installed in accordance with Fingal Council's SUDS principles, including rainwater planters and ponds to manage surface water. They dispute claims of flooding and damage to neighbouring properties.

Other

- Neighbour's Complaint: The appellants claim the neighbour's objection is vexatious and lacks evidence. They allege bias in Fingal County Council's decision-making process, which they believe unfairly favoured the neighbour.

7.2. Planning Authority Response

Response received dated 13th February 2025 requesting the Board to uphold the decision of the Planning Authority. If the appeal is successful, provisions for financial contributions, bond/cash security of 2 or more units, tree bond, and contributions for play provision facilities should be included in conditions for approval.

7.3. Observations

One observation on the appeal have been received from Paul Reilly at no. 37 Chapel Gate, Balbriggan to the immediate east. Points of note include:

Residential Amenity:

- Pergola blocks light

Potential Use of the Dwelling:

- Concerns about the possibility of the structure being rented out or used as living quarters.

Surface Water Drainage

- Waste pipes for the toilet and shower, as well as rainwater runoff from the structure, are connected to a sewage access point in the garden of no.37 Chapel Gate, which is not appropriate for rainwater and shower waste.
- Concerns about improper drainage causing flooding in the rear garden.
- The dwelling is built close to boundary walls, raising concerns about water gathering and weakening the walls over time.

Other

- Safety of the Structure: The dwelling was built without planning permission or proper plans, raising safety concerns.

8.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Visual & Residential Amenity
- Surface Water Drainage
- Other matters

8.1. Principle of Development

- 8.1.1. The site is zoned 'RS Residential' with an objective to "*Provide for residential development and protect and improve residential amenity*". Extensions are permitted under this zoning objective and accordingly, the proposed development is acceptable in principle.

8.2. Visual & Residential Amenity

- 8.2.1. The Planning Authority's first reason for refusal cited concerns regarding the height, massing, and proximity of the structures to site boundaries, stating that the development is visually incongruous with the character of the area and overbearing to neighbouring residential properties. The appellant contends that the structures to be retained qualify as exempted development.
- 8.2.2. I note the above and will separate and assess each structure individually below. The prevailing character of Chapel Gate is residential, comprising a mainly two storey semi-detached dwellings that are uniform in design and appearance. In this context, I have had regard to the relevant provisions of the Fingal Development Plan 2023–2029, in particular policy SPQHP41 which supports extensions of appropriate scale, subject to the protection of residential and visual amenities and objective SPQHO45 which encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area. Furthermore section 14.10.2 (Residential Extensions) which support extensions to existing dwellings where they meet changing household needs and protect neighbours' sunlight, privacy, and amenity. The design must respect the existing house, open space, and surroundings. Moreover, section 14.10.2.2 (side extensions) refer to side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation) and impacts on residential amenity; section 14.10.4 (Garden Rooms) which refers to garden rooms may be used as non-residential spaces like offices or gyms. They must be small, complement the house, not impact neighbours, and cannot include kitchens, toilets, or be used or sold as separate dwellings.

Garden room

- 8.2.3. In terms of the garden room, I note the Planning Authorities concerns with regard to a shower, kitchen and toilet are with the garden room however I have regard to the development description before me that being the retention of a 'garden room' structure (15sqm) located to the rear of the existing property. The floor plans submitted

indicate the use would be for a 'garden room' ancillary to the main dwelling on site. It is my view that the use of the structure whilst may suggest a more independent use, such matters in my view could be addressed by way of an appropriate condition if the Board is of a mind to grant permission to be used ancillary to the main dwelling.

8.2.4. The garden room to be retained is single-storey, 2.7 metres in height, and located along the rear boundary, set back from off neighbouring boundaries by c200mm. As the garden room is single storey it is not prominently visible from the public road. Given this, I consider the garden room acceptable and not likely to adversely affect the residential or visual amenity of the area.

8.2.5. Having regard to the foregoing, it is my view the structure is in accordance with section 14.10.4 (Garden Rooms), policy SPQHP41 which supports extensions of appropriate scale, subject to the protection of residential and visual amenities and objective SPQHO45 which encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area. Therefore, it is recommended that retention permission be granted for this structure.

Rear extension/ Pergola

8.2.6. In terms of the rear extension comprises a timber pergola with a translucent roof, extending across the full width of the rear garden along the eastern boundary. It stands at 2.6 metres in height. I note the concerns raised by the Planning Authority and the observer regarding its scale, overbearing and potential impacts on residential and visual amenity.

8.2.7. In terms of visual amenity, the structure is flat roofed, 2.6 metres in height, is single storey in nature. Furthermore, the structure is set to the rear of the existing property and set from the perimeter boundary to the west by 4.1 metres which in my view is acceptable and is not overly visual from the public road by reason of its flat roof design. Given its single storey design and location to the rear of the existing dwelling where views of the structure are not overly visible from the public road it is my view this

structure to be retained would not cause any overbearing and any significant impact to the visual amenity of the surrounding area

- 8.2.8. Having regard to the foregoing, it is my view this structure to be retained is in accordance with section 14.10.2 (Residential Extensions) of the plan, policy SPQHP41 which supports extensions of appropriate scale, subject to the protection of residential and visual amenities and objective SPQHO45 which encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.
- 8.2.9. In terms of impact on residential amenity, I note the concerns raised by the Planning Authority and the observer in terms of overshadowing from the rear extension. As already mentioned, the design of the structure is single storey in nature, flat roofed and set at 2.6 metres in height and is off set from the neighbouring boundary to the east by c200 mm which in my view is acceptable. Furthermore, the appeal site and the neighbouring property are south facing and have an east to west orientation. Having regard to this orientation, the 2.6 metre height of the structure and setback from the boundaries edge which in I consider acceptable, it is my view that this element would not result in any undue overshadowing to the neighbouring property to the east. Moreover, at a height at 2.6 metres falls below the 4-metre threshold for rear extension as set out in the limitations of the Planning and Development Regulations 2001 (as amended).
- 8.2.10. Having regard to the foregoing, it is my view this structure to be retained would not cause any impact to the residential amenity of the neighbouring property and be in accordance with section 14.10.2 (Residential Extensions) of the plan, policy SPQHP41 which supports extensions of appropriate scale, subject to the protection of residential and visual amenities and objective SPQHO45 which encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area. Therefore, it is recommended that retention permission be granted for this structure.

Side extension

8.2.11. In terms of the side extension, I note the concerns raised by the Planning Authority regarding impact on visual amenity. Section 14.10.2.2 (side extensions) of the plan refer to side extensions will be evaluated against proximity to boundaries, size and visual harmony with existing (especially front elevation) and impacts on residential amenity. I note the structure is a lean-to single storey structure, 2.2 metres in height which sits below the existing boundary parapet wall to the west which in my view is acceptable. Furthermore, this element fronts the public road rather than neighbouring properties and as such in my view the impact to the residential amenity of neighbouring properties is eliminated and acceptable in my opinion. Given its single storey design at 2.2 metres and location to the side of the existing dwelling where views of the structure are not overly visible from the public road, I consider this structure to be retained would not cause any overbearing or any significant impact to the visual amenity of the surrounding area and or have any negative impact to the residential amenity of neighbouring properties.

8.2.12. Having regard to the foregoing, it is my view this structure would be in accordance with section 14.10.2.2 (side extensions) of the plan, policy SPQHP41 which supports extensions of appropriate scale, subject to the protection of residential and visual amenities and objective SPQHO45 which encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area. Therefore, it is recommended that retention permission be granted for this structure.

Conclusion

8.2.13. Overall, in relation to the perceived impacts on visual residential amenity on the neighbouring property to the immediate east of the appeal site, I am of the view that any such impacts would not be of such significance so as to warrant alterations to the proposed design or indeed a refusal of permission. The subject development to be retained is considered to constitute a relatively minor single storey extension and to the side of an existing residential property in an established residential area, where

extensions to modify and improve houses are common. I am satisfied with the design approach and selected materials for the proposed development. Furthermore, I consider that the subject site has the capacity to absorb a development of the nature and scale proposed, without undue impacts to the visual and residential amenities.

- 8.2.14. Therefore, I recommended that retention permission be granted as I consider the development to be retained is in accordance with policy SPQHP41 (Residential Extensions), objective SPQH045 (Domestic Extensions), section 14.10.2 (Residential Extensions) which support extensions in particular section 14.10.2.2 (side extensions) which refers to side extension and section 14.10.4 (Garden Rooms) which support garden rooms as non-residential spaces.

8.3. Surface Water Drainage

- 8.3.1. Surface Water Drainage the second reason for refusal by the Planning Authority. The Planning Authority stated the applicant failed to demonstrate that the existing surface water drainage for the site. I note the Water Services report from FCC mentioned surface water drainage details had not been provided however did indicate details could be agreed in writing with a firm timeframe. The grounds of the appeal assert that drainage was installed in accordance with Fingal Council's SUDS principles, including rainwater planters and ponds to manage surface water. The observer has too raised concerns regarding drainage.
- 8.3.2. Having reviewed the site layout plan and the comments from the Water Services section, I am satisfied that surface water management measures could likely be implemented on-site to ensure that all surface water generated within the site is collected and disposed of within the site and that no surface water discharges are onto the public road or adjoining properties. Therefore, I am satisfied that time limit for details of surface water drainage regarding the subject development could be reasonably considered through agreement with the Planning Authority by way of appropriate condition(s) if the Board was minded to grant permission.

8.4. Other matters

- 8.4.1. With regard to the concerns raised by the observer about safety and complying with building regulations. This is governed by under a separate legal code and therefore need not concern the Board for the purposes of this appeal.
- 8.4.2. The observer has raised concerns relating to flood risk. The observer has submitted no evidence in support of this claim. The Planning Authority have not raised issue with flood risk in their assessment. The proposed development is located within Flood Zone C which has a low risk of flooding which in my view is acceptable.

9.0 Appropriate Assessment Screening

- 9.1. Refer to Appendix 2. Having regard to nature, scale and location of the development to be retained and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the development to be retained would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Recommendation

- 10.1. I recommend that retention permission should be GRANTED for the reasons and considerations as set out below.

11.0 Reasons and Considerations

- 11.1. Having regard to the nature, scale, location and design of the development to be retained, it is considered that, subject to compliance with the conditions set out below, the development to be retained would comply with the zoning objective for the site, the Fingal Development Plan 2023 – 2029 in particular policy SPQHP41 (residential extensions), objective SPQH045 (domestic extensions) and section 14.10.2 (residential extensions), section 14.10.2.2 (side extensions), section 14.10.4 (garden rooms) and would not seriously injure the visual or residential amenity of the area, and

would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be retained 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. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be retained in accordance with the agreed particulars.

Reason: **In the interest of clarity.**

2. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Within 3 months from the final grant of retention permission, the applicant/developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: **In the interest of public health.**

3. The 'garden room' shall be for domestic related uses only, ancillary to the use of the existing dwelling on the application site. These uses shall be as indicated in the plans and particulars submitted to the planning authority at application stage (that is, home office) and shall not be used for human habitation.

Reason: **In the interest of clarity and the proper planning and sustainable development of the area.**

4. The 'garden room' shall not be sold, let or otherwise transferred or conveyed, save as part of the existing dwelling on the site.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

5. 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 prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

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.

Gerard Kellett
Planning Inspector
17th April 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321709-25		
Proposed Development Summary	Planning permission/retention sought for single-storey domestic extension, structures to side/rear & all associated site works.		
Development Address	38 Chapel Gate, Naul Road, Balbriggan, Co. Dublin, K32 CF50		
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	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√	Alteration/extension to the existing dwelling is not specified as a Class of Development as per the regulations.	No further action required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	√	Screening determination remains as above (Q1 to Q4)	
Yes			

Inspector: _____

Date: _____

Appendix 2

AA Screening

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The site is not located within or adjacent to any designated Natura 2000 site. The closest European Sites are as follows:

- Skerries Island SPA (004122) c6.6 km to the southeast.
- Rogerstown Estuary SPA (004015) and SAC (000208) c11.6 km to the south.
- Northwest Irish Sea SPA (004236) c1.7 km to the west.

Having considered the nature and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The nature of the development.
- The separation distance between the subject site and the European and the absence of a direct hydrological connection between the sites.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.