



An
Bord
Pleanála

Inspector's Report ABP321919-25

Development	The retention of a prayer room and associated sheltered patio.
Location	Nondaloy, Warren Lodge, Malahide Road, Kinsealy, Malahide, Co. Dublin, K36 TR90.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	FW24A/0514E
Applicant	Biswajit Kumar Saha.
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	First Party
Appellant	Biswajit Kumar Saha.
Observers	None
Date of Site Inspection	7 th May 2025.
Inspector	Derek Daly

1.0 Site Location and Description

- 1.1. The site is located in a rural area approximately 3 kilometres south of Malahide and 2.5 kilometres north of Balgriffin in the north County Dublin. The site has frontage onto the R107 Dublin Malahide Regional Route which defines the sites western boundary at a point where the 60kph speed limit applies.
- 1.2. The site adjoins the site of a dwelling to the south the boundary of which is defined by a high mature hedgerow and open lands immediately to the north and west. Although the site is in area characterised as rural there is a large presence of residential properties in the immediate area.
- 1.3. On the appeal site is detached dwelling. There is a prayer room and sheltered patio area the subject of this appeal located to the rear of the dwelling in the southeastern corner of the site.
- 1.4. The site has a stated area of 0.4 hectares.

2.0 Proposed Development

- 2.1. The proposed development as received by the planning authority on the 31st October 2024 is for the retention of a prayer room and associated sheltered patio area.
- 2.2. The prayer room measures 15.6 metres in length and 7.8 metres in width with a stated area of 114 m². The structure has a brick external finish and pitch roof and a stated maximum height to ridge level of 4500mm. Adjoining the prayer room is a patio area 16.6 metres in length and 9.8 metres in width with a stated area of 100m² with a shallow pitch roof of polycarbonate sheeting supported by a metal pillar substructure with a stated height of 3096mm to ridge level. The overall structure/development is freestanding and located in the southeastern corner of the site.
- 2.3. No additional toilet facilities are proposed to serve the development.
- 2.4. The gross floor space of existing buildings is stated as 382m² and the gross floor space of proposed works to be retained is stated as 114m².

- 2.5. The applicant following a request from the planning authority submitted additional details relating to the scale of use of the prayer room indicating approximately 25 to 30 attendees for a period of 2 hours on Sundays.
- 2.6. Details relating the disposal of surface water drainage in a submission dated the 12th December 2024.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The decision of the Planning Authority was to grant planning permission subject to nine conditions.
- 3.1.2. Condition no 3 refers to a grant of planning permission for a period of three years.
- 3.1.3. Condition 5, 6 and 8 regulated the use of the development in relation to being ancillary to the dwelling and use of amplified music.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planning report refers to the provisions of the current County Development Plan (CDP); the planning history of the site an assessment of the proposal referring to particular provisions of the CDP. Further information was recommended in relation to the nature of the use and scale of use including number of attendees.

The planning report dated 23rd January 2025 having considered the further information indicated that the proposed use is not a permitted use or a not permitted use in the Green Belt and is open for consideration. It was considered that the use would be ancillary to the dwellinghouse but recommended a grant of temporary permission to ensure the use integrates appropriately into the area without undue impact on surrounding residential amenities.

- 3.3. Other Planning Authority reports
- 3.3.1. Report of water services dated 3rd January 2025 in relation to the further information submitted indicates no objections subject to conditions.

- 3.3.2. The report of the Transportation Section dated the 24th July 2024 indicates no objections to the development.
- 3.4. Statutory consultees.
- 3.4.1. Dublin Airport Authority (DAA) in a submission dated the 19th June 2024 refers to the provisions of the current development plan in relation to noise zones and restricting new residential development in area within Noise Zone A in which the appeal site is located.

4.0 Planning History

- 4.1. P.A Ref. No F21B/0418.
- 4.1.1. Planning permission was granted for a house extension comprising a gym, play room, sunroom and home office at ground floor level and two bedrooms ensuite and a meditation room at first floor level with all required modifications to existing house on the 26th May 2022 subject to ten conditions.

Condition no 4 indicated that the entire premises 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.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The statutory development plan is the Fingal County Development Plan 2023-2029. The appeal site is zoned GB Green Belt with the Objective to protect and provide for a green belt.

In relation to the vision for this zoning it is to create a rural/urban Greenbelt zone that permanently demarcates the boundary (i) between the rural and urban areas, or (ii) between urban and urban areas. The role of the Greenbelt is to check unrestricted sprawl of urban areas, to prevent coalescence of settlements, to prevent countryside encroachment and to protect the setting of towns and/or villages. The Greenbelt is attractive and multifunctional, serves the needs of both the urban and rural communities, and strengthens the links between urban and rural areas in a

sustainable manner. The Greenbelt will provide opportunities for countryside access and for recreation, retain attractive landscapes, improve derelict land within and around towns, secure lands with a nature conservation interest, and retain land in agricultural use. The zoning objective will have the consequence of achieving the regeneration of undeveloped town areas by ensuring that urban development is directed towards these areas.

Prayer rooms and places of worship are not referred to in the use classes related to the zoning objective. It is indicated that uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.

There are zoning objectives which specifically permit places of worship such as zoning objective 'CI' Community Infrastructure, 'LC' Local Centre; 'MC' Major Town Centre; 'RA' Residential Area and 'RV' Rural Village.

- 5.1.2. Chapter 14 Development Management Standards and outlines a range of standards and requirements for the assessment of development.
- 5.1.3. Section 14.10.2 refers to Additional Accommodation in Existing Built-up Areas and although the development is not for additional accommodation the plan in section 14.10.4 Garden Rooms which are rooms which can provide useful ancillary accommodation such as a playroom, gym, or study/home office for use by occupants of the dwelling house and such structures 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. Section 14.10.5 refers to Home Based Economic Activity and although the development is not a proposal for small scale home-based economic activity, defined as small scale economic activity carried out by residents of the dwelling house and being subordinate to the use of the house as dwelling unit will be considered where the applicant is the resident of the house it reiterates that the development demonstrate that the proposed activity would not adversely impact the existing residential amenity of the area. This includes impacts such as increased traffic, noise, fumes, vibration, smoke, dust or odour. The Planning Authority will assess the suitability of the residential site to accommodate the proposed home-based economic activity having

regard to the: criteria such as the nature and scale of the activity proposed including hours of operation; requirement for the activity; location and size of the site; impacts on the amenity of the residential unit and on neighbouring properties in terms of noise and disturbance; the availability of adequate safe car-parking and expected levels of traffic generation; the general compatibility of the nature of the use with the site context and also that home-based economic activity will generally be permitted on a short-term or temporary basis to enable an ongoing assessment of any impact of the activity on residential amenity.

- 5.1.4. 14.14.4 Places of Worship Development proposals for the habitual use of a building as a place of public worship or religious instruction will be considered in the context of the land use zoning and the need to protect the amenities of established uses from impacts arising from traffic, noise or other disturbance. Planning applications for places of worship should be accompanied by details of the capacity of the facility (e.g. seating capacity), a traffic assessment and intended hours of operation.

Objective DMSO81 – Places of Worship Facilitate the development of additional places of worship through the designation and/ or zoning of lands for such community requirements and examine locating places of worship within shared community facilities, to be delivered through actively engaging with the community to understand diverse religious needs for a place of worship and consulting with faith communities to understand which ones are compatible for shared premises/sites.

Objective DMSO82 – Location of Places of Worship Require that new or enlarged places of worship be located in places where they do not create unacceptable traffic congestion or car parking difficulties nor cause a nuisance to existing residents or businesses

5.2. Natural Heritage Designations

- 5.3. The subject site is within and not proximate to any European site.

5.4. EIA Screening

- 5.5. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first party appeal in summary refers to;

- The appeal is in relation to condition no 3 of the planning authority decision to grant planning permission which specifically limits the duration of the permission to three years.
- It is requested that the permission be made a permanent permission and not limited in duration to three years.
- The prayer hall was constructed to facilitate religious practices and serves as a place of spiritual gathering for the appellant's family and community.
- Nondaloy is the permanent family home and the temple was built with the intention of being a lasting place of worship. Demolishing or removing the structure would cause significant personal and religious disruption.
- The prayer hall represents a significant financial investment and was constructed to be safe and compliant with building regulations.
- There is no clear reasoning as to why the permission is temporary and the temple meets all necessary planning and zoning regulations.
- The prayer hall serves the religious community and fosters cultural heritage, social unity and religious continuity.

6.2. Planning Authority Response

The planning authority in a response dated the 13th March 2025 refers to the assessment of the development in the context of the current development plan, residential and visual amenity and it was considered that a temporary permission of three years would enable the planning authority to ascertain how the development integrates. The response also refers to conditions to be considered in the event of permission being granted.

7.0 **Assessment**

- 7.1. The main issues in this appeal are principle of the development and the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- The principle of the development
- Grounds of appeal.
- Impact on residential amenity
- Traffic and parking

7.2. **The principle of the development.**

- 7.2.1. The proposal as submitted is for the retention of a prayer room and associated sheltered patio on the grounds of an existing dwelling. The planning authority in granting planning permission for the retention considered that the use would be ancillary to the dwellinghouse but recommended a grant of temporary permission to ensure the use integrates appropriately into the area without undue impact on surrounding residential amenities. In making the decision the planning authority note that in the context of the Green Belt zoning objective the use was not a permissible or non-permissible use and open for consideration.
- 7.2.2. It is noted that the vision for the green belt zoning vision for this zoning is primarily to create a rural/urban Greenbelt zone that permanently demarcates the boundary (i) between the rural and urban areas, or (ii) between urban and urban areas and to check unrestricted sprawl of urban areas, to prevent coalescence of settlements, to prevent countryside encroachment and to protect the setting of towns and/or villages.

The development in this regard it is noted is located on an existing residential site and not on open lands and therefore will not encroach into the open countryside and materially impact on the wider vision of the greenbelt.

- 7.2.3. In the context of the zoning which in effect does not specifically permit or not permit this use the development I consider has to be assessed on its merits in the context

of the criteria such as impact on residential amenities, impact on the wider area given the green belt zoning and traffic.

7.3. Grounds of appeal

- 7.3.1. The primary issues raised in the appeal relates to condition no 3 of the planning authority decision to grant planning permission which specifically limits the duration of the permission to three years and it is requested that the permission be made a permanent permission and not limited in duration to three years. It is indicated that the prayer hall was constructed to facilitate religious practices and serves as a place of spiritual gathering for the appellant's family and community; Nondaloy is the permanent family home and the temple was built with the intention of being a lasting place of worship. It is contended that there is no clear reasoning as to why the permission is temporary and the temple meets all necessary planning and zoning regulations and that the prayer hall serves the religious community and fosters cultural heritage, social unity and religious continuity.

The planning authority in a responding to the grounds referred to the assessment of the development in the context of the current development plan, residential and visual amenity and it was considered that a temporary permission of three years would enable the planning authority to ascertain how the development integrates.

- 7.3.2. In considering the development it is noted that the development the applicant has indicated in a further information response to the planning authority the frequency of the use of the prayer room indicating approximately five families with an approximate of 25 to 30 attendees for a period of 2 hours (indicated as between 11am and 1pm) on Sundays. There are no issues indicated in relation to traffic safety and issues in relation to surface water disposal were addressed in the course of the planning authority assessment.
- 7.3.3. In this context as the development is *in situ*, given that the frequency of use of the prayer room is known and the number of attendees are also known it would be reasonable to consider whether the development should be permitted or refused and a temporary permission is not necessarily required to ascertain how the development integrates and should be considered in the wider context of development management criteria. These criteria would include matters outlined in relation to those outlined in section 14.10.4 of the CDP Garden Rooms and section 14.10.5

Home Based Economic Activity which provide guidance for assessment of uses which would be considered ancillary to the primary use.

7.4. Impact on residential amenity

- 7.4.1. The primary issue to consider is whether the prayer room activity demonstrates that it would not adversely impact the existing residential amenity of the area. The potential impacts can be identified as increased traffic and noise, scale of the activity including hours of operation, whether the site can satisfactorily accommodate the development and impacts on the amenity of the residential unit and on neighbouring properties in terms of noise and disturbance; the availability of adequate safe car-parking and expected levels of traffic generation. Traffic and parking is assessed in section 7.5.
- 7.4.2. The site is of an adequate area to accommodate the development. There is a dwelling on the adjoining lands to the south and there is a well established hedgerow on the party boundary of the appeal site and the adjoining site. Issues of overlooking and overshadowing do not arise.
- 7.4.3. In terms of noise the incidence of noise based on the documentation submitted will be for a period of approximately two hours every Sunday. It would be appropriate in a grant of permission to limit the hours of the use of the prayer room to those indicated in the submitted documentation and also to limit the use of music and amplified sound as indicated in the conditions outlined in the planning authority decision.

7.5. Traffic and parking

- 7.5.1. The site fronts onto the R107 Dublin Malahide Regional Route at a point where the 60kph speed limit applies. The access point of the site has satisfactory sightline visibility and the report of the Transportation Section of the planning authority dated the 24th July 2024 refers to satisfactory sightlines being available. indicates no objections to the development.
- 7.5.2. In relation to on-site parking there is adequate space to accommodate the number of vehicles which it is estimated would be six vehicles based on the requirements for parking as set out in table 14.19 of the development plan and also the number of families which would attend the prayer room.

- 7.6. For the reasons already outlined therefore I consider that condition no 3 should be omitted in a grant of planning permission and that the appeal can be addressed under section 139(1) of the Planning and Development Act 2000 as amended.

8.0 Appropriate Assessment Screening

- 8.1. I have considered the proposal to amend a previous permission for the provision of a new house in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is within an established residential site.
- 8.2. The proposed development comprises in effect the retention of a prayer room and associated sheltered patio as outlined in section 2 in the Inspectors report. 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 is as follows; the nature of the development, the distance to designated sites and the absence of pathway to these sites.
- 8.3. 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 and 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

- 9.1. Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to OMIT condition number 3.

10.0 Reasons and Considerations

10.1. Having regard to the nature of the proposed development, the scale of the development, the pattern of development in the area and the existing residential use on site and the provisions of the Fingal County Development Plan 2023 – 2029 it is considered that that omission of condition number 3 is reasonable and the proposed development as submitted would not seriously injure the amenities of the occupants of the dwelling and of property in the vicinity and would be in accordance with 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.

Derek Daly
Planning Inspector

19th May 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	321943-25		
Proposed Development Summary	The retention of a prayer room and associated sheltered patio.		
Development Address	Nondaloy, Warren Lodge, Malahide Road, Kinsealy, Malahide, Co. Dublin, K36 TR90.		
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	Tick if relevant and proceed to Q2.	
	No X	Tick if relevant. 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)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.

No X	Tick or leave blank		Tick if relevant. No further action required
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3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?

Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No X	Tick/or leave blank		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?

Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?

No	X	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: Derek Daly Date: 19th May 2025