



An
Coimisiún
Pleanála

Inspector's Report

ABP-322271-25

Development	Single-storey shed with flat roof located to the rear of property intended for use as a gym.
Location	14 Mount Eustace Rise, Tyrrelstown, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW25A/0025E
Applicant(s)	Michael Adewuyi
Type of Application	Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Michael Adewuyi
Observer(s)	None
Date of Site Inspection	12 June 2025

Inspector

Paul Christy

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The subject site is located in the large suburban residential area of Tyrellstown, north Dublin. The area is characterised by a typical suburban layout largely comprised of terraced, and semi-detached, dwellings.
- 1.2. There is an unusual pattern of development in the immediate vicinity of the subject dwelling, resulting in the subject rear garden being 'encircled' by the rear gardens of six other dwellings (namely No. 12 Mount Eustace Terrace; and Nos. 6, 7, 8, 9 and 10 Mount Eustace Crescent).
- 1.3. The subject property is a two-storey, semi-detached dwelling with a small area of garden to the front and a more generous, if irregular, shaped garden to the side and rear. The rear garden is entirely enclosed with wood panel fencing. The height of the fencing varies slightly but is generally of the order of 1.7m-1.9m.

2.0 Proposed Development

In the public notices, the proposed development is described as being for the retention of a single-storey, flat roof shed intended for use as a gym. The shed is located at the bottom of the rear garden close to the party boundaries with five of the six third party dwellings referenced at para. 1.2. A full length glass sliding door on the front (eastern) elevation provides access to the unit, and a smaller window is also provided on this elevation. There is no other fenestration on the side or rear elevations. The stated dimensions of the unit are 6.5m x 3.5m in area, and a height of 2.8m externally. The stated setbacks from neighbouring properties are: from the rear fence party boundary - 0.80m; from party boundary to the north (No.12 Mount Eustace Terr.) – nearest 1.07m, furthest 2.16m; from the party boundary to the south-west (No.7 Mount Eustace Cres.) – nearest 0.87m, furthest 1.71m.

3.0 Planning Authority Decision

3.1 Decision: Refuse

- 3.1.1. The decision referred to '*the actual layout and design*'. It was considered that the development would comprise a '*visually incongruous feature on this restricted site which would have a significant negative impact on the existing residential amenity of surrounding properties.*' The reason also referenced a failure to satisfy the Development Management Standards for garden rooms in Section 14.10.14 of the Development Plan.

3.2. Planning Authority Reports

- 3.2.1. [Planning Report]: One report on file dated 18 March 2025 signed by an SEP, endorsed by an Administrative Officer and signed off by a Senior Planner. In the report, the planning history of the site is noted, including: the refusal by the Authority of a two-bedroom, detached house in the side garden of the site; the granting of permission by the Local Authority for the construction of a two-storey side extension; and the fact that there is an active enforcement file on the site (the report does not provide any details in respect of this file).
- 3.2.2. In terms of assessment, the key points contained in the report include;
- The noting at site inspection of the floor plans not matching what had been constructed on site ie. the presence in the structure of a toilet, shower and kitchen facilities;
 - The non-compliance with Development Plan Section 14.10.4 as the structure has been fitted for '*habitational uses*' including a kitchen, toilet and shower as well as a separate enclosed room that could function as a bedroom;
 - Whilst there would be no issues with respect to overlooking, the development would comprise a visually incongruous and dominant feature in this residential location.

- Would set an ‘unwanted precedent for similar scale back garden development’.

3.2.3. The report concludes with the statement that: *‘Having regard to the layout and orientation of the subject site, the development ... poses significant negative impacts on the residential amenities enjoyed by adjoining dwellings and would set a negative precedent for similar poor development in the area.’*

3.2.4. [Fingal County Council Water Services Department]: No objections, subject to standard conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. None

4.0 Planning History

4.1. Subject site

P.A. Ref. FW24A/0147E: Two-storey side extension. 2024 Grant with standard conditions.

P.A. Ref. FW23A/0263: Detached house in side garden. 2023 Refusal on grounds of (1) haphazard development; and (2) presence of an outbuilding on site, contrary to condition of parent permission.¹

¹ The referenced outbuilding is the subject of this planning application.

4.2. Wider Vicinity

P.A. Ref. FW23A/0366, ABP Ref. 319101-24: Retention of a single storey rear garden shed/exercise room with a floor space of 24 sq. m. and pitched roof over same. 2024 Grant.

P.A. Ref. FW23A/0012, ABP Ref. 316193-23: Detached single storey office/gym to rear garden. 2023 Refusal on the grounds of the structure being visually incongruous and a dominant feature, and having a negative impact on the residential amenity of surrounding properties.

P.A. Ref. FW18B/0084, ABP Ref. 302669-18: Retention of various elements, including granny flat and sun room. 2018 Grant, subject to conditions.

P.A. Ref. FW24A/0403, ABP Ref. 321377-23: Retention for single storey extension and garden room. 2025 Split decision. Garden room refused on basis of over-development, when taken in conjunction with rear ground floor extension and remaining private rear amenity space.

P.A. Ref. FW24A/0130, ABP Ref. 319853-23: Retention of garden room. 2024 Refusal on the grounds of substandard private amenity space.

P.A. Ref. FW25A/0015E, ABP Ref. 322199-25: Retention of shed with pitched roof intended for use as a gym. Refused by the Local Authority generally for the same reason as that given for the subject case. ABP undecided as of 18 June 2025.

5.0 Policy Context

5.1. National Policy

- 5.1.1. In the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities'², Specific Planning Policy Requirement 2 identifies minimum private open space standards for houses. The minimum space for 3 bedrooms (the current number of bedrooms in the subject property) is 40m² and the minimum space

² Department of Housing, Local Government and Heritage

for 4 bedrooms (as permitted for the subject dwelling under P.A. Ref. FW24A/0147E) is 50m².

5.2. Development Plan: Fingal Development Plan, 2023-2029

- 5.2.1. Zoning: In the 'Blanchardstown North' Sheet No.12 Zoning Objectives section, the subject site and surrounding area is located in an area zoned as RS-Residential'. The relevant Zoning Objective is to: *'Provide for residential development and protect and improve residential amenity'*. The associated 'Vision' is to: *'Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.'*
- 5.2.2. Mapped Designation: The site is also within the 'Noise Zone C – Dublin Airport' mapped designation. The relevant Development Plan provisions for this designation are provided in the table below.

Dublin Airport – Noise Zone C

Objective DAO11 – 'Requirement for Noise Insulation'

Policy seeks to *'Strictly control inappropriate development and require noise insulation where appropriate'* in, inter alia, Noise Zone C areas in accordance with detailed specifications contained in Development Plan Table 8.1.

Table 8.1 contains an 'Indication of Potential Noise Exposure During Flight Operations', and an Objective, for each Noise Zone. For Noise Zone C, the Objective is: *'To manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance, and to ensure, where appropriate, noise insulation is incorporated within the development. Noise sensitive development in this zone is less suitable from a noise perspective than in Zone D. A noise assessment must be undertaken in order to demonstrate good acoustic design has been followed.'*

Further information in relation to the specific requirements of a noise assessment is also provided.

- 5.2.6. Objectives/Policies: SPQHO35 – ‘Private Open Space’ requires that all private open spaces for houses and apartments/duplexes including balconies, patios, roof gardens and rear gardens are designed in accordance with the qualitative and quantitative standards set out set out in Chapter 14 Development Management Standards.
- 5.2.7. Development Management Standards: Section 14.6.5 ‘Open Space Serving Residential Development’ does not provide specific minimum garden space areas. Rather, it includes a general statement that: *‘Private open space is designed to serve individual residential units and its scale is dependent on the nature and scale of the residential unit in question.’*
- 5.2.8. Development Management Standards: Section 14.10.4 provides specific guidance on Garden Room as follows. *‘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.’*

5.3. Natural Heritage Designations

- 5.3.1. The site is located 5.6km from the Royal Canal Proposed Natural Heritage Area (Code 002103) to the south and 8.8km from the Santry Demesne Proposed Natural Heritage Area (Code 000178) to the east. The nearest Natura 2000 sites are the South Dublin Bay and River Tolka Estuary Special Protection Area (12.5km to the south-east) and the Malahide Estuary Special Protection Area (13.18km to the north-east).

5.4. EIA Screening

- 5.4.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001 (As Amended). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. At the time of commissioning the structure, the Appellant believed that it was exempted development due to its size (under 25m²). The initial purpose was as a personal gym and overflow storage space. The minor internal modifications were made in response to a specific health issue within the household. The modifications were never intended to transform the structure into an independent habitable dwelling. The internal layout shown in the planning application reflected the contractor's original floor plan and was not updated to reflect these minor internal changes. Nonetheless, the garden structure remains demonstrably ancillary and subservient to the main house and is used exclusively by the occupants of the property.
- 6.1.2. Planner's Focus On Internal Layout: While the reason for refusal makes no explicit reference to the internal layout, the Planning Officer's report places considerable emphasis on perceived internal modifications – specifically, the inclusion of a cooking facility and a bathroom. This is both puzzling and procedurally questionable. The reason for refusal only references Section 14.10.4 as a whole without providing specifics. There is no national planning policy that prohibits making internal modifications within a garden room provided it remains ancillary to the main dwelling. These types of changes are not uncommon and are often carried out to accommodate evolving domestic needs. Questions the validity of the Planner's heavy focus on internal configuration as a basis for assessing the development's

appropriateness, especially when this concern is not specifically included in the formal reason for refusal. Moreover, the internal layout has no bearing on the external scale, height or visual impact of the shed – the only issue explicitly addressed in the Planner’s reason for refusal.

- 6.1.3. Visual Impact and Context: The structure is modest in both scale and height. It is well screened and does not result in overlooking, overshadowing or overbearing impact on neighbouring properties. Furthermore, the subject property enjoys a larger-than-average rear garden compared to similar properties in the area, a fact that appears to have been overlooked in the Planner’s report. Contrary to the assertion that the development is visually incongruous, there are numerous comparable or larger developments within the estate that have been granted permission or permitted via retention applications.
- 6.1.4. Refers to ABP Ref. 319101 and notes that the Commission granted permission following an almost identical refusal by the Local Authority.
- 6.1.5. Refers to ABP Ref. 316193 refusal and notes that, in that case, unique site levels and fenestration led to real concerns about visual intrusion (whereas) the subject structure presents no such planning issues. Furthermore, no objection was raised by neighbours.
- 6.1.6. Policy Support: Notes policy support at both national and local level:
- National Planning Framework Objective 34 (support for lifetime adaptable homes)
 - Development Plan Objective DMS45 (supports extensions and structures that provide additional space while maintaining residential amenity)
 - Development Plan Objective PM45 (encourages innovative housing adaptations); and
 - Development Plan Objective PM46 (promotes housing solutions that address changing household needs and promotes inclusivity).
- 6.1.7. Established Precedents and Local Context: A review of recent aerial imagery and

planning records for the surrounding area clearly demonstrates a well-established pattern of rear garden structures – many comparable in size, scale and use to the subject structure. The Planner's concerns re precedent are both unfounded and inconsistent with the development patterns evident in the area where a range of outbuildings have become a common and accepted part of the residential fabric. The refusal fails to take into account the broader character of the area. These outbuildings reflect the natural evolution of modern households. In this context it is difficult to reconcile the Planner's concerns about precedent with the visual and policy realities on the ground.

- 6.1.8. Concludes by respectfully submitting that the subject structure is entirely in keeping with the established character of the area, represents no material departure from what is already accepted, and cannot reasonably be considered a threat to the zoning objectives or to sustainable development principles. A number of aerial photographs of the area are attached without commentary.

6.2. Planning Authority Response

- 6.2.1. A response from the Planning Authority was received on 15 May 2025. The response notes that the application was assessed against the policies and objectives of the Development Plan and existing government policy and guidelines, having regard to the Development Plan zoning objectives, as well as the impact on adjoining neighbours and the character of the area.
- 6.2.2. Refers to Section 14.10.4: 'Garden Rooms' of the Development Plan. Observes that 'It would appear that the subject structure has been fitted for accommodation purposes and short-term letting as it includes a kitchen/living room, shower/WC and an enclosed room fitted for accommodation purposes. The structure thereby would not satisfy the criteria for garden rooms in Section 14.10.4. Permitting such developments would set an undesirable precedent for similar scale structures used for residential accommodation purposes.
- 6.2.3. Requests that the Commission upholds the decision of the Authority. If permission is being considered, requests that: a condition be added seeking the removal of any

kitchen and shower/WC facilities; and provision should be made for applying financial contributions and bonds, as appropriate.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. Overview

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

- the scale of the structure and impacts on adjacent residential amenities; and
- use of the structure.

7.2. Scale of Structure, and Impacts on Residential Amenities

7.2.1. In its refusal decision, the Planning Authority considered that the development would comprise a *‘visually incongruous feature on this restricted site which would have a significant negative impact on the existing residential amenity of surrounding properties.’*

7.2.2. The Appellant contests the Authority’s conclusion. He states that the structure is modest in scale and height and is well-screened and does not result in overlooking, overshadowing, or overbearing impact on neighbouring properties, and the subject property enjoys a larger-than-average rear garden. The Appellant also refers to *‘numerous comparable or larger developments within the estate that have been granted planning permission or permitted via retention applications.’* and goes on to reference two cases in the vicinity (one permitted, one refused).

- 7.2.3. The key policy tests for the scale of such structures as contained in Section 14.10.4 Development Management Standards of the Development Plan are that they should be: *‘modest in scale, relative to the main house and remaining rear garden area’*; and that the design of the structure will not *‘detract from the residential amenities of either the main residence or of adjoining property’*.
- 7.2.4. In terms of the Appellant’s own property, I have no concerns regarding of the scale of the structure relative to the main residence. I would agree with the case made in the Agent’s submission that the subject property enjoys a larger than usual side and rear garden area. The structure is set back 7.7m from the main residence and the remaining rear garden area will be significantly in excess of 50m² (in the context of the minimum garden space standards for 4-bedroom dwellings as referenced at para 5.1.1). Thus, in my opinion, the subject case does not give rise to concerns in terms of restricted garden space for the subject property, which concerns were evident in the Commission’s decisions to refuse similar developments in the vicinity for this reason (Commission Refs. PL06F.321377 and PL06F.319853).
- 7.2.5. With regards to potential impacts on neighbouring properties, I acknowledge the Agent’s reference to the wider context of the many and varied rear garden structures contained in the wider area. In terms of the immediate context, I also note: that all of the neighbouring dwellings have either reasonable, or comparatively generous, rear garden space and some of these gardens also have structures therein; the consistent ground levels of all properties in the area; the finished floor level of the structure that is close to ground level; the existing screen perimeter fencing around the subject site; and the absence of any submissions from potentially affected neighbours in this regard.
- 7.2.6. By way of further context, I have also considered recent decisions of the Commission on similar cases in the wider vicinity of the subject site. The Commission granted a garden shed/exercise room (ref. PL06f.319101 Grant 2024) in the wider vicinity with a higher roof profile (3.7m ridge on a hipped roof structure), and in closer proximity to neighbouring properties than the subject structure. The Commission refused a garden room with a higher roof profile (ridge height 3.1m) with similar setback distances (ref. PL06F.321377 Grant 2025) due in part to the impacts

on the amenities of adjacent residents although, in that instance, it was also considered that the remaining rear garden space to serve the host dwelling was inadequate. Finally, in the case of Commission Ref. 316193-23 Refusal 2023, the Commission refused an office/gym on the grounds of visual prominence, visual intrusion and by reason of overlooking although in that case, changes to site levels relative to the ground levels of adjoining properties and fenestration, as well as height were key considerations.

- 7.2.7. On balance, I consider that the structure as built on-site can be accommodated without any undue detrimental impacts arising on the residential amenities of adjacent properties. I reach this conclusion in the knowledge of several discrepancies between the external dimensions of the structure as detailed in the plans submitted to the Local Authority and in the Appeal Statement when compared with the as-built structure. Thus at my site inspection I recorded the following external measurements: length 6.88m (6.50m on submitted plans); width 3.75m (3.50m); distance from rear fence 0.50m (0.80m); distance from party boundary to the north, No.12 Mount Eustace Terr. – nearest 0.50m (1.07m), furthest 1.35m (2.16m); distance from Party Boundary to South-West No.7 Mount Eustace Cres. – nearest 0.42m (0.87m), furthest 2.40m (1.71m). Thus the structure is longer and wider, and is closer to all three party boundaries than what is represented on the submitted site layout plan. These discrepancies are considered further in Section 7.3.

7.3. Intended Use

- 7.3.1. As set out in the public notices and application form submitted to the Local Authority, the applicant has clearly applied for retention permission for a single-storey shed with flat roof located to the rear of the property. The Appellant is not so definitive, however, regarding the proposed use of the structure. Neither permission, nor retention permission, is sought for any use. Rather, the public notices and application form simply ‘note’³ that the structure ‘*is intended for use as a gym*’. The

³ My word.

Appellant attached the notation 'Gym' to the submitted floor plan but this does not, in my opinion, overcome the aforementioned ambiguity. Nor does the Appellant's answers to Question 20 of the standard application form submitted to the Local Authority. Question 20 addresses 'Services'. Applicants are requested to indicate the means of water supply and wastewater management/treatment from three options, namely 'Existing', 'New' or 'Not Applicable'. For both water and wastewater, the applicant ticked 'Not Applicable'. Given this ambiguity in terms of the use of the structure, the most procedurally appropriate approach for the Commission, in my opinion, is to assess the proposed development on the basis of those aspects of the application formally sought in the public notices and application form. The only such aspect formally sought was retention permission for the structure.

- 7.3.2. As noted by the Planning Authority, as acknowledged by the Appellant in the Appeal submission, and as I recorded during my site inspection, the structure is presently laid out to include: a living/kitchen area containing a sofa, television, small table, workspace, washing machine, oven and hob, sink, fridge and associated storage cupboards; an empty second room save for two small fitness items and a clothes dryer; and a toilet/shower room. On the basis of this evidence, the only reasonable conclusion to be drawn is that the structure has been prepared for 'habitational purposes' as described in the Local Authority's report. On this basis, the structure is contrary to the provisions of Section 14.10.4 of the Development Plan wherein it is clearly stated that garden rooms *'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.'*
- 7.3.3. I note that in a similar scenario in the wider locality to the subject case (Commission Ref. 302669-18), the Commission granted permission for, inter alia, the retention of a granny flat subject to a condition that the granny flat would be used solely for storage purposes incidental to the main dwellinghouse, and that kitchen and shower facilities were to be removed. However, in the subject case it is my opinion that the extent of the present fit out, the absence of any reference to this fit out in the submitted plans, and the above-noted discrepancies between the submitted, and actual, dimensions

leaves the Commission with no alternative but to refuse this application for the reason as set out below.

8.0 AA Screening

- 8.1.1. I have considered the proposed single-storey shed with flat roof intended for use as a gym at 14 Mount Eustace Rise, Tyrrelstown, Dublin in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is located 12.5km to the north-west of the South Dublin Bay and River Tolka Estuary Special Protection Area and 13.18km to the south-west of the Malahide Estuary Special Protection Area. No nature conservation concerns were raised in the planning appeal.

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 reasons for this conclusion are as follows:

- the nature of the works: small scale structure in a rear garden within an already heavily-developed suburban, residential area;
- the distance of the site from the nearest European site and the absence of any connections between the two.

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

9.0 Recommendation

- 9.1. I recommend that permission for the development be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

10.1. Section 14.10.4 of the Fingal County Development Plan 2023-2029, relating to 'Garden Rooms' supports the provision of garden rooms subject to, inter alia, the provisos that such structures: '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'; and 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'. Having regard to the present room layout and fit out of the structure to be retained, inclusive of kitchen facilities, toilet/shower room and living room/home office furniture, the proposed development would be contrary to Section 14.10.4 as it is considered that the structure is presently designed for the provision of living accommodation. It is further considered that the plans submitted with the application materially under-represent the length and width of the subject structure, and materially over-represent the separation distances of the structure from: the northern side elevation to the adjacent party boundary with No. 12 Mount Eustace Rise; the western rear elevation to the adjacent party boundaries with Nos. 8 and 9 Mount Eustace Crescent; and the southern side elevation to the adjacent party boundary with No. 7 Mount Eustace Crescent. Accordingly, to permit the proposed development would fail to meet the aforementioned standards of the Fingal County Development Plan, 2023-2029, would establish an undesirable precedent for similar development, and would disrupt the character of the cumulative rear garden arrangement in the area. The development proposed to be retained 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.

Paul

Paul Christy

Planning Inspector

24th June 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-322271-25		
Proposed Development Summary	Single-storey shed with flat roof located to the rear of property intended for use as a gym.		
Development Address	14 Mount Eustace Rise, Tyrrelstown, Dublin		
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	✓		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	n/a		
No			
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	n/a		
5. Has Schedule 7A information been submitted?			
No	n/a		
Yes			

Inspector: Paul Christy

Date: 24th June 2025

Paul Christy