



An  
Coimisiún  
Pleanála

## Inspector's Report

**ABP-323511-25**

### Development

(a) The removal of the existing rear garden metal shed and be replaced with (b) the construction of a single storey detached garden room to the rear to consist of a gym/games room, bathroom and office space. (c) The development is to include for all associated site works, landscaping and drainage.

### Location

43 Offington Lawn, Sutton, Dublin 13,  
D13 N6F2

### Planning Authority

Fingal County Council.

### Planning Authority Reg. Ref.

F25A/0557E

### Applicant(s)

Robert Byrne & Caroline Hogg.

### Type of Application

Permission.

### Planning Authority Decision

Grant Permission.

### Type of Appeal

First Party v Condition

### Appellant(s)

Robert Byrne & Caroline Hogg.

<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	16-10-2025.
<b>Inspector</b>	Adam Kearney.

## 1.0 Site Location and Description

- 1.1. The subject property is a detached single storey dwelling on a 0.19 Ha plot located at 43 Offington Lawn, a mature residential area at Howth Head in north County Dublin. The neighbourhood is low density and backs onto Deerpark Golf Club and features a consistent architectural style, primarily comprising single storey detached homes, with only minor modifications to the streetscape over time.

## 2.0 Proposed Development

- 2.1. The application seeks the removal of an existing metal shed to the rear and replacement with a single storey detached Garden Room with a circa 60m<sup>2</sup> footprint and offset c.14m northeast of the rear building line of the primary dwelling. The Garden Room to consist of a gym/games room, bathroom and office space and all associated works.

## 3.0 Planning Authority Decision

### 3.1. Grant Permission –

- 3.1.1. Subject to 8 Conditions
- 3.1.2. **Condition No. 2** requiring the omission of the bathroom;
- 3.1.3. *The bathroom indicated in submitted plans for the garden room shall be omitted.*  
*REASON: In the interest of clarity and to ensure proper planning and sustainable development.*
- 3.1.4. **Condition No. 4** precludes use for habitation/tourism
- 3.1.5. *That the garden room shall not be used for human habitation of any kind whatsoever, and in particular shall not be used for sleeping accommodation for any persons, whether part of the family occupying the main dwelling, or otherwise. The building hereby permitted shall not be used for any form of tourist accommodation,*

*and shall not be sold, let or otherwise transferred or conveyed, save as part of the overall dwelling plot. REASON: In the interest of residential amenity.*

### **3.2. Planning Authority Report**

- The site is zoned RS, where residential development is acceptable in principle.
- The application was assessed under Policy 14.10.4 of the Fingal Development Plan, which allows garden rooms for ancillary use but prohibits them from being fitted with kitchens or bathrooms to prevent independent residential use.
- The scale, design, and location of the garden room deemed acceptable and was considered not to cause overlooking, overshadowing, or to be overbearing, and that there was sufficient residual garden space.
- However, inclusion of a bathroom conflicts with 'Garden Room' policy. Permission was granted subject to conditions, including the removal of the bathroom and restrictions ensuring the garden room remains ancillary to the main dwelling and not used for habitation.

#### **3.2.1. Other Technical Reports**

- Water Services - No Objection subject to condition. The proposals are considered acceptable in terms of water and drainage.

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

None.

## 4.0 Planning History

- 4.1. **F17B/0166 - A)** Grant Permission for two single storey extensions with associated roof light to the rear of the existing single storey dwelling, B) Modifications to the existing openings, C) Externally insulate and render the existing dwelling and a new entrance canopy together with associated ancillary and site works.

## 5.0 Policy Context

- 5.1. Fingal County Development Plan 2023-2029, property is zoned 'RS' - The objective of which is to 'Provide for residential development and protect and improve residential amenity'
- 5.2. **Policy** - Chapter 14 Development Management Standards
- 5.2.1. **Section 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 resident 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*

## 6.0 Natural Heritage Designations

- 6.1. The nearest designated sites are the North Dublin Bay SAC (Site Code: 000206) and the North Bull Island SPA (Site Code: 004006) c. 600m to the west of the site. The Baldoyle Bay SAC (Site Code: 000199) is also located c. 700m to the north of the site and the Howth Head SAC (Site Code: 000202) is located c.900m to the site's southeast. The proposed Natural Heritage Area (pNHA): North Dublin Bay, is also located c. 600m to the west of the site.

## **7.0 EIA Screening**

- 7.1. 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 this report.

## **8.0 The Appeal**

### **8.1. First Party Grounds of Appeal- Summary of Main Points**

- The appellants challenge Condition 2 of the granted permission, which requires the omission of the bathroom from the proposed garden room. They argue this condition is unnecessary and inconsistent with established precedent.
- It is highlighted that Fingal County Council and other Dublin local authorities have previously granted permissions for garden rooms and ancillary structures that included toilets or bathrooms. Examples cited include permissions in Fingal (FW25A/0059E, F24A/0444, F21A/0367, F14B/0261, F13B/0169) as well as in Dublin City Council and Dún Laoghaire-Rathdown where none of these permissions required the removal of bathroom facilities.
- The appellants stress that the proposed garden room is intended solely as a gym/games room and office space. They confirm it will not be used for habitation and point to Conditions 3 and 4 of the permission already prohibit such uses, ensuring the structure remains ancillary to the main dwelling.
- It is argued that the inclusion of a bathroom is for convenience, particularly as both applicants work from home and will use the office daily. Without a bathroom, they would need to repeatedly return to the main house which would impact working time and be impractical.

- Forthcoming exemptions for detached garden structures up to 45 sqm containing toilets and showers is cited and while the applicants concede that their proposal exceeds this size, they argue the principle supports their case.
- In conclusion, they request that Condition 2 be removed, allowing the bathroom to remain, as it aligns with precedent, does not enable habitation, and ensures the garden room functions effectively.

## 8.2. Planning Authority Response

Fingal County Council, in its response to the appeal, reaffirmed its decision to require the omission of the bathroom from the proposed garden room. The Planning Authority argued that including toilet facilities would contravene Policy 14.10.4 of the Fingal Development Plan 2023–2029, which prohibits such structures from being fitted out in a manner that could enable residential use. The Council maintained that, subject to this amendment, the development would not adversely affect residential or visual amenity, and it requested that An Coimisiún Pleanála uphold the permission with the conditions attached, including the application of standard development contributions.

## 9.0 AA Screening

I have considered the proposed development of a c. 60m<sup>2</sup> Garden Room in light of the requirements S177U of the Planning and Development Act as amended. The subject site is not located within or adjacent to a European site. The closest European Sites, part of the Natura 2000 Network is North Bull Island Special Protection Area (Site Code: 004006) and North Dublin Bay Special Area of Conservation (Site Code: 000206) circa 0.6 KM

Having considered the nature, small scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have an appreciable effect on a European site. The reason for this conclusion is as follows:

- The small scale of the development involving a detached garden room.

- The location of the development in a serviced urban area

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

## 10.0 Water Framework Directive

10.1. The subject site is located 0.6 km east of North Bull Island and North Dublin Bay.

The proposed development comprises (a) The removal of the existing rear garden metal shed and be replaced with (b) the construction of a single storey detached garden room to the rear to consist of a gym/games room, bathroom and office space. (c) The development is to include for all associated site works, landscaping and drainage. No water deterioration concerns were raised in the planning appeal.

10.2. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.

10.3. The reason for this conclusion is as follows:

- small scale and nature of the development]
- lack of hydrological connections

10.4. Conclusion

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.



## **11.0 Assessment**

### **11.1. Overview**

- 11.1.1. This is a first-party Section 139 (Planning and Development Act, 2000 [as amended]) appeal against a Condition. The Condition under appeal is Condition No. 2 attached to the Planning Authority's decision to grant permission. The precise wording of Condition No. 2 is set out at Section 3.1.3 of this Report.
- 11.1.2. Having regard to the nature of the Condition the subject of the Appeal, it is considered that the determination by An Coimisiún Pleanála of the application, as if it had been made to it in the first instance, would not be warranted. Therefore, in my opinion, the Commission may determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000 (as amended), and I intend to limit my consideration to the matters raised in relation to the terms of that condition.
- 11.1.3. Having visited the site and reviewed the application and the appeal and further to the S139 status I am satisfied that the sole issue is whether or not condition No. 2 pertaining to the removal of a bathroom in the Garden Room plans should be omitted or retained
- 11.1.4. With respect to the application for a Garden Room, Section 14.10.4 of the Fingal County Development Plan 2023–2029 outlines the criteria for this form of development. While the section on the face of it restricts the installation of kitchens and bathrooms due to their connection with traditional habitable buildings, it does not entirely prohibit bathroom facilities in garden structures. Rather the language used ensures that such amenities do not facilitate residential accommodation within these ancillary spaces.
- 11.1.5. The appeal points to several instances where Garden Rooms were permitted and where bathrooms/sanitary facilities were not excluded but the PA in their response maintain their stance that the Bathroom should be omitted. In this instance the applicants have set out reasons for the inclusion of a Bathroom for practicality

reasons primarily associated with the proposed use of part of the space as a home office. I am satisfied that given its remove (c.14m) from the primary dwelling and its proposed use as a home office on a daily basis then the requirement for sanitary facilities is established and that the provision of a bathroom on this basis will not result in the creation of a separate residential unit because a WC/shower does not in itself create “habitable accommodation” — it simply supports its ancillary function.

11.1.6. Moreover, as correctly pointed out by the appellants in their appeal, the permission granted by the PA already includes conditions restricting the future use of the structure with Condition 3 specifically precluding any future use as a habitable space.

11.1.7. Taken in the round, to seek the omission of a bathroom whose justification for same is credible, merely as a mechanism to prevent a habitable use already excluded by another condition not contested by the applicants, is unnecessary and overly restrictive in the context of the development’s ancillary purpose and the safeguards already in place.

11.1.8. I am therefore satisfied that the outright omission of a bathroom is a disproportionate restriction when the proposal otherwise complies with the Development Plan in terms of scale, siting, and non-habitable use.

## **12.0 Recommendation**

12.1. Having regard to the nature of the condition the subject of the appeal, the Commission is satisfied that the determination by the Commission 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 (As Amended) to REMOVE Condition No. 2 and the reason therefore.

## 13.0 Reason and Considerations

Having regard to the provision for 'Garden Rooms' in the Fingal County Development Plan 2023 – 2029 (Section 14.10.4) and the stated reasons for the development which include use as a home office and taking into consideration Condition 3 already precludes use for habitation it is reasonable to allow the inclusion of sanitary facilities within the Garden Room for purposes ancillary to the proposed use. The Planning Authority's Condition 2 requiring the omission of the bathroom is therefore, not warranted.

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.

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Adam Kearney

Planning Inspector

20<sup>th</sup> October 2025

## Appendix 1

### Form 1 - EIA Pre-Screening

<b>An Bord Pleanála</b>  <b>Case Reference</b>	ABP-323511-25		
<b>Proposed Development Summary</b>	(a) The removal of the existing rear garden metal shed and be replaced with (b) the construction of a single storey detached garden room to the rear to consist of a gym/games room, bathroom and office space. (c) The development is to include for all associated site works, landscaping and drainage.		
<b>Development Address</b>	43 Offington Lawn, Sutton, Dublin 13, D13 N6F2		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>			Proceed to Q3.
<b>No</b>	✓		No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required

<b>No</b>			Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>			Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>		<b>Pre-Screening conclusion remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** Adam Kearney

**Date:** 20-10-2025