



An
Coimisiún
Pleanála

Inspector's Report

PL-501417-DF-26

Development	Retention permission for a detached single-storey garden office / gym structure in the rear garden
Location	33 The Boulevard, Bealing Village, Tyrrelstown, Dublin 15, D15 V9T8
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW26A/0105E
Applicant	Natalia Emelyanova
Type of Application	Retention permission
Planning Authority Decision	To refuse retention permission
Type of Appeal	First Party
Appellant	Natalia Emelyanova
Observers	None
Date of Site Inspection	16 th July 2026
Inspector	Trevor Rue

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1.0 Site Location and Description

- 1.1. The application site is about 2.3 kilometres to the north of the centre of Blanchardstown. It has a stated area of 0.011 hectares and comprises the curtilage of a three-storey mid-terrace dwelling on the western side of The Boulevard in Tyrellstown. The terrace is made up of eight houses. A service road runs along the western side of the terrace, where dedicated car-parking spaces are lined out in a row. Access to the service road is via Bealing Walk to the west of the site.
- 1.2. The northern and southern site boundaries with 35 and 31 The Boulevard respectively, are marked by fences and walls. The rear, western site boundary is defined by a 2.2-metre-high wall and by a door of similar height. The ground level at the rear wall is 0.7 metres below that at the back of the dwelling. Much of the space between the rear boundary and the dwelling is taken up by a single-storey flat-roofed structure. The remaining rear amenity space directly behind the dwelling is about 6 metres wide and 31 square metres in area.
- 1.3. The gym/office structure is 6.522 metres long, 4.054 metres wide and 2.75 metres high. It protrudes above the rear boundary wall and the fences on the boundaries with the adjoining properties. There are two windows and a door in the side elevation facing No. 31. The walls are rendered.
- 1.4. There are several shed-like structures of differing sizes and shapes in neighbouring gardens in the terrace. The surrounding area is predominantly residential with a mix of two- and three-storey dwellings.

2.0 Proposed Development

- 2.1. It is proposed to retain the garden structure for office/gym use.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 5th May 2026, Fingal County Council refused permission for the following reason:
The subject site is zoned 'RS' Residential with the objective to 'provide for residential development and protect and improve residential amenity' within the Fingal

Development Plan 2023-2029. The development, by virtue of its scale, design and location, is a visually incongruous and dominant feature which adversely impacts the visual amenity of the local area and results in overbearing, overshadowing, overlooking and loss of light impacts which seriously injure the residential amenities and depreciate the value of 31 & 35 The Boulevard and surrounding properties. As such, the garden room structure materially contravenes the 'RS' Residential zoning objective and Section 14.10.4 of the Fingal Development Plan 2023-2029 and will set an inappropriate precedent for other similar forms of development. The development is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. A **planning officer's report** typed on 1st May 2026 provided the reasoning for the authority's decision. The main points were as follows:

- No design changes have been made following a previous refusal of planning permission for retention of the garden-room structure.
- The garden room adversely impacts on the visual amenity of the local area and the residential amenities of the neighbouring properties. It is not acceptable.

3.2.2. The Council's **Water Services Department** had no objection subject to conditions.

3.3. Third Party Submission

3.3.1. The Council received a submission from a resident of an adjoining property, which may be summarised as follows:

- It was surprising that this application was accepted for consideration, given that the previous application resulted in refusal of permission and a decision that the building should be removed. Nothing has changed since that decision.
- The structure is close to the objector's property with windows on his side. It continues to impact significantly on the quality of life in his property. It restricts access to sunlight in his garden and obstructs views. It is unsightly and incongruous with the surrounding area and lowers the price of property. Two photographs were embedded in the submission.

4.0 Planning History

4.1. Application Site

- 4.1.1. **F99A/1620:** On 10th October 2000, permission was granted for residential development comprising 2,119 dwellings in the townlands of Tyrrelstown, Hollywoodrath, Parslickstown and Mulhuddart. The area to be developed included the present application site. Condition 30 of the permission reads as follows:

Having regard to the provision of small rear garden sizes and narrow frontage houses, notwithstanding the exempted development provisions of the Local Government (Planning and Development) Regulations 1994 (or any amendment or replacement of said Regulations), no additional development whatsoever shall take place within the curtilage of each house save with a prior grant of planning permission.

REASON: To prevent overshadowing and overlooking of neighbouring private space and buildings by exempted development.

- 4.1.2. **21/288B:** A planning enforcement file remains active.

- 4.1.3. **FW23A/0012:** On 9th March 2023, retention permission was refused for the detached single-storey office/gym in the rear garden of the present application site. On 1st August 2023, following an appeal (**316193**), An Bord Pleanála refused retention permission for the following reason:

Having regard to the scale and design of the development proposed to be retained, including its height, fenestration, proximity to site boundaries and changes to site levels relative to ground levels of adjoining properties, it is considered that the development proposed to be retained would comprise a visually incongruous and dominant feature in this residential location and would have a significant negative impact on the existing residential amenity of surrounding properties by reason of visual prominence, visual intrusion, and by reason of overlooking of the residential property to the south. The development proposed to be retained would seriously injure 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.

4.2. Comparison Sites Cited by the Appellant

- 4.2.1. **FW23A/0366:** On 30th January 2024, retention permission was refused for a single-storey rear garden shed/exercise room with a floor space of 24 square metres and a pitched roof at 47 The Boulevard. On 7th August 2024, following an appeal **(319101)**, An Bord Pleanála granted permission. The Board considered that there were material differences between the structure at No. 47 and the structure at the present application site in regard to scale, height, design, and site levels relative to ground levels. The Board was satisfied that the structure at No. 47 would not be visually incongruous or dominant. It would not lead to overlooking of adjoining properties or be overbearing.
- 4.2.2. **FW25A/0015E:** On 11th March 2025, retention permission was refused for a single-storey shed with pitched roof for use as a gym and for storage purposes to the rear of 69 The Boulevard. On 14th July 2025, following an appeal **(322199)**, An Coimisiún Pleanála, on a 2:1 vote, granted permission generally in accordance with the Inspector's recommendation. The Inspector did not consider the structure to be overly dominant or overbearing in the context of neighbouring development and was satisfied that it was not visually incongruous.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Sheet 12 of the Fingal Development Plan 2023-2029 indicates that the application site is subject to a RS – Residential zoning, whose objective is to provide for residential development and protect and improve residential amenity. The vision for this zoning, set out in Section 13.5 of the Plan, is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.
- 5.1.2. Section 14.10.4 of the Plan states that 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. Guidance on Site Layout Planning for Daylight and Sunlight

- 5.2.1. The Third Edition of the Building Research Establishment good practice guide “Site Layout Planning for Daylight and Sunlight” (BRE 209) was published in 2022. Chapter 2 considers light from the sky (daylighting), while Chapter 3 considers sunlighting.
- 5.2.2. Section 2.2.4 of BRE 209 states that loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. Section 2.2.23 says that if any part of a new building, measured in a vertical section perpendicular to a main window wall of an existing building, from the centre of the lowest window, subtends an angle of more than 25° to the horizontal, then the diffuse daylighting of the existing building may be adversely affected.
- 5.2.3. Section 3.2.13 of BRE 209 states that if a living room of an existing dwelling has a main window facing within 90° of due south, and any part of a new development subtends an angle of more than 25° to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected. Figure 27 indicates that developments wholly due north of the window need not be checked.
- 5.2.4. Section 3.3.17 states that, to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21st March. If as a result of new development an existing garden or amenity area does not meet the above, and the area that can receive two hours of sun on 21st March is less than 0.80 times its former value, then the loss of sunlight is likely to be noticeable. If a detailed calculation cannot be carried out, it is recommended that the centre of the area should receive at least two hours of sunlight on 21st March.

5.3 Natural Heritage Designations

5.3.1. The application site is not within any Natura 2000 European site of nature conservation importance. The nearest Natura 2000 sites to the site are:

- Rye Water Valley/ Carton Special Area of Conservation, about 9 kilometres to the south west of the site, designated for petrifying springs and whorl snail; and
- North Bull Island Special Protection Area [for birds], about 15 kilometres to the east.

5.3.2. The application site is not in, or within 15 kilometres of, any Natural Heritage Area (NHA). There are nine proposed NHAs in Fingal, which are identified on Green Infrastructure Map 2 (Sheet 15) of the Development Plan. The nearest of these areas to the application site are Liffey Valley and Royal Canal.

6.0 Environmental Impact Assessment Screening

6.1. 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 (or Part V of the 1994 Roads Regulations). 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.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The grounds of appeal may be summarised as follows:

- A previous shed existed at the application site for 18 years without complaint or enforcement. The current structure was built in 2020 during the pandemic and is used as a home office and gym. It is 22.4 square metres in size. It has no kitchen, toilet, bathroom, bedroom or plumbing, and no commercial or habitation use. A Council official investigated in January 2022 and found no evidence of commercial use. Enforcement continued on other grounds.

- Section 14.10.4 of the Fingal Development Plan permits garden rooms as ancillary accommodation. It is not a prohibition but a framework for controlled permission. The appellant's structure meets all its criteria.
- The structure is smaller, lower and less intensively fitted than the comparable structures in the same estate at 47 and 69 The Boulevard which have been permitted on appeal. While the Council pursued demolition at No. 33, it granted permission for comparable structures on six sites in Tyrrelstown in 2025. To ensure consistent treatment, refusal of the current application requires a specific and evidenced justification.
- There is no technical evidence to support the allegations concerning overbearance, overshadowing, overlooking and loss of light. The Council did not produce a daylight assessment, a shadow analysis, a line-of-sight study or a valuation report.
- The rear garden of No. 33 drops by a series of concrete steps to the rear car park. The cabin floor is level. Its apparent height as seen from the car park includes this multi-step ground differential. The rear service area is a functional space containing parked cars, wheelie bins and boundary walls. Other comparable structures are visible and could be considered equally dominant. It is a utilitarian setting.
- No. 31 is located to the south of No. 33 and cannot be overshadowed by the appellant's structure. A daylight and sunlight impact assessment submitted with the appeal confirms that no neighbouring windows experience any noticeable reduction in daylight or sunlight and no outdoor amenity spaces experience any noticeable reduction in amenity sunlight due to the structure.
- Three independent physical barriers, visible in submitted photographs, prevent overlooking of No. 31 to the south. First, the window on the southern elevation of the structure is frosted/obscure glass. Second, anyone using No. 31's garden is positioned behind its own boundary wall. Third, a timber shed in No. 31's garden provides additional screening.
- The objection from No. 31 used template wording previously used in the appeal relating to No. 47, which was nevertheless successful. The objection should be afforded limited weight for the same reason. The photographs submitted

with the objection appear to have been taken from elevated viewpoints and are not proof of ground-level overbearing impact.

- On 21st April 2026, the Government decided to propose that structures up to 45 square metres in size should be exempted development. The appellant's structure is half that size. While Condition 30 of the permission for the overall residential development was drafted to survive amendments to exempted development regulations, the emerging policy direction supports a more permissive approach to ancillary domestic structures.

7.1.2. The results of the appellant's daylight and sunlight impact report may be summarised as follows:

- Three neighbouring properties were assessed, namely Nos. 31 and 29 to the south and No. 35 to the north.
- A quantitative daylight availability impact assessment comparing vertical sky components metrics before and after the development was carried out for windows assumed to serve residential rooms in the selected buildings to the procedures and standards set out in BRE 209. It was found that no neighbours' windows experience a noticeable reduction in daylight due to the development.
- A quantitative sunlight exposure impact assessment comparing annual and winter probable sunlight hours before and after the development was carried out for only those ground-floor windows assumed to serve living rooms facing within 90° of south as stipulated in BRE 209. It was found that no neighbours' windows experience a noticeable reduction in sunlight due to the development.
- An amenity sunlight analysis of the assumed outdoor open space was carried out for the neighbouring property to the north (No. 35) to the procedures and standards set out in BRE 209. It was found that the change in amenity sunlight incident on the amenity zone of No. 35 does not exceed the BRE 209 threshold of 20%. No outdoor amenity spaces experience a noticeable reduction in amenity sunlight due to the development.

7.2. Planning Authority Response

7.2.1. The planning authority responded as follows:

The garden room structure contravenes the “RS” Residential zoning objective and Section 14.10.4 of the Fingal Development Plan 2023-2029 and will set an inappropriate precedent for other similar forms of development. The development is therefore contrary to the proper planning and sustainable development of the area. No further comments.

8.0 Assessment

8.1. Issues

- 8.1.1. Having inspected the site and considered in detail the documentation on file for this first-party appeal, it seems to me that the main planning issues are:
- whether the legal, policy and factual context has changed since the previous appeal relating to the application site;
 - whether the garden structure materially contravenes the Development Plan;
 - its effect on the visual amenity of the area; and
 - its effect on the residential amenity of neighbouring properties.

8.2. Legal, Policy and Factual Context

- 8.2.1. The layout of the housing development of which 33 The Boulevard forms part was approved 26 years ago. It provides separate pedestrian and vehicular accesses to dwellings and locates car parking in rear culs-de-sac. As the houses were to have narrow frontages and the rear garden sizes were to be small, Fingal County Council imposed a condition withdrawing exempted development rights within the curtilages of the dwellings in order to prevent overshadowing and overlooking of neighbouring private spaces. As the appellant acknowledges, any new legislation widening the scope of exempted development would not change the effect of that condition.
- 8.2.2. There has been no change in policy since the Commission refused retention permission for the structure in August 2023. It is confirmed in the Inspector’s report that the previous appeal was decided in the content of the current (2023-2029) Fingal Development Plan, which came into effect on 5th April 2023.
- 8.2.3. There is no significant difference in the manner in which the structure is depicted in the current application drawing compared with the previous one. The appeals relating

to 47 and 69 The Boulevard were determined having regard to the specific characteristics of those sites and structures. The Commission was careful to distinguish No. 47 from the present application site and No. 69 is not in the same parking area. I conclude that the legal, policy and factual context has not materially changed since the previous appeal relating to the application site

8.3. Material Contravention of the Development Plan

- 8.3.1. The Council's reason for refusal states that the garden structure materially contravenes the RS zoning objective and Section 14.10.4 of the Development Plan. These provisions require residential amenity to be protected but do not provide quantifiable standards against which compliance can be gauged. Whether a particular development would or would not protect residential amenity cannot be determined as an objective fact; it requires the exercise of planning judgement. Such judgements, being site-specific, are unlikely to create more than localised precedents or to undermine the future implementation of the Development Plan.
- 8.3.2. It seems to me, therefore, that the RS zoning objective and Section 14.10.4 are not sufficiently specific to give rise to the possibility of a material contravention. In my view, the Commission should not consider itself constrained by Section 37(2) of the Planning and Development Act 2000, which sets out limited circumstances in which it may permit a development which materially contravenes a Development Plan.

8.4. Visual Amenity

- 8.4.1. The appellant's structure has a stark, boxy, unadorned appearance. Due to the change in levels, it protrudes significantly above the back wall of her property. It is unduly bulky, dominant and visually incongruous when viewed from the parking area to the rear. There are other structures to the rear of dwellings in the area, including those approved on appeal at Nos. 47 and 69, but none is as large or obtrusive as the structure that is the subject of this appeal. In my opinion, the structure unacceptably detracts from the visual amenity of the area. While I do not consider that a grant of permission would set a widespread precedent affecting Fingal as a whole, it would in my opinion set an inappropriate precedent for similar structures in the immediate area.

8.5. Residential Amenity

- 8.5.1. At the time of my site inspection, the structure was not in use. Internal work appeared to be in progress but its purpose was not evident. The tops of the windows and door on the southern side elevation of the structure are higher than the top of the fence adjoining the rear amenity space of No. 31. In the absence of preventative measures, there would be clear views from the structure into the amenity space. Film has been applied to the glass in the openings but I am not convinced that this arrangement is sufficiently durable and reliable to prevent overlooking in the long term. However, the concern about loss of privacy could be largely overcome by attaching a condition to any permission requiring opaque or frosted glass to be fitted.
- 8.5.2. I accept the conclusions of the appellant's daylight and sunlight impact report which found that no neighbouring windows experience any noticeable reduction in daylight or sunlight and no outdoor amenity spaces experience any noticeable reduction in amenity sunlight due to the structure. It may be significant that the Council did not reiterate its concern about overshadowing in its response to the appeal.
- 8.5.3. The structure is disproportionately large relative to the back garden of the application site and adjoining properties. It is located directly beside the boundary with No. 35 and only about 1.3 metres from the boundary with No. 31. It protrudes above the fencing on each side. It has a markedly overbearing effect on both adjoining properties and constitutes a significant visual intrusion into their small rear amenity spaces to the detriment of the living conditions of their occupants. Notwithstanding my views on material contravention, I have therefore reached the judgement that the development conflicts with the RS zoning objective and Section 14.10.4 of the Development Plan.

9.0 Appropriate Assessment Screening

- 9.1. Having considered the nature, location and small scale of the proposed development, the nature of the receiving environment as a built-up urban area, the absence of emissions therefrom, the distance from the nearest European site and the absence of a pathway between the application site and any European site, I am content on the basis of objective information that the development is not likely to have a significant effect on any European site, either alone or in combination with other plans or projects.

I therefore conclude that the carrying out of an appropriate assessment under Section 177V of the Planning and Development Act 2000 is not required.

10.0 Water Framework Directive

- 10.1. The application site is located about 450 and about 700 metres from two tributaries of the Pinkeen River, which flows into the Tolka. The proposed development comprises retention of an office/gym structure in the rear garden of a dwelling. 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 (WFD) which seek to protect and, where necessary, restore surface and 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 reasons for this conclusion are the nature and small scale of the works, the distance from the nearest water bodies and the lack of hydrological connections.
- 10.4. I conclude 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 Recommendation

- 11.1. I recommend to the Commission that planning permission be refused.

12.0 Reasons and Considerations

- 12.1. Having regard to the scale and design of the structure proposed to be retained, including its height, fenestration, proximity to site boundaries and changes to site levels relative to ground levels of adjoining properties, it is considered that it would

comprise a visually incongruous and dominant feature in this residential location and would seriously injure the residential amenity of surrounding properties by reason of visual prominence, visual intrusion and overbearance. It is considered that a grant of permission would conflict with the RS – Residential zoning objective for the site and Section 14.10.2 of the Fingal Development Plan 2023-2029; would set an inappropriate precedent for similar structures in the immediate area; and 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.



TREVOR A RUE

Planning Inspector

28th July 2026

Appendix A: Form 1 – EIA Pre-Screening

Case Reference	PL-501417-Df-26
Proposed Development Summary	Retention of an office/gym structure in the rear garden of a dwelling
Development Address	33 The Boulevard, Bealing Village, Tyrrelstown, Dublin 15
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a 'Project'. Proceed to Q2.
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☒ No, it is not a Class specified in Part 1. Proceed to Q3.	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	No Screening required.
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3).

Inspector:



TREVOR A RUE

Date: 28th July 2026