



An
Bord
Pleanála

Inspector's Report ABP-318322-23

Development

Construction of outbuilding and replacement of boundary wall together with associated site works.

Location

1 Eglinton Square, Donnybrook,
Dublin 4, D04 E2W2

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

WEB1660/23

Applicant(s)

Alan Gaynor

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Alan Gaynor

Observer(s)

None

Date of Site Inspection

07th July 2024 & 25th July 2024

Inspector

Bernadette Quinn

1.0 Site Location and Description

- 1.1. The site is located in Eglington Square which is a residential development of terraces of red brick three storey townhouses. The appeal site is the first house on a terrace and its side elevation faces Eglington Road where it is set back from the road. There is a car parking space within the curtilage to the front of the property facing Eglington Square. The side elevation facing Eglington Road has a boundary wall which extends from the rear garden to forward of the front building line of the dwelling. A number of houses within the development have been extended to the rear, including those to the east of the appeal site whose rear gardens back onto Eglington Road.

2.0 Proposed Development

- 2.1. Permission is sought for construction of a single storey out building for storage with a flat roof to the front of the existing dwelling. Permission is also sought for replacement of the existing rear and side boundary wall located on the southern boundary of the appeal site with a brick finished wall to match the height and location of the existing boundary wall and finished in brick to match the existing brick finished wall at the entrance to Eglington Square.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. On 26th September 2023 the planning authority refused permission for the following reason:

1. The proposed development, notably forward of the established building line and directly on the boundary with the public footpath, would be out of character with the established pattern of development in the area and would be contrary to Appendix 18, Section 1.3 of the Dublin City Development 2022 - 2028. The proposed development would be visually obtrusive and seriously injurious to residential amenity and therefore contravenes the zoning objective for the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The report reflects the decision to refuse permission. The main points in the report include:

- The storage structure would be 4.27m forward of the existing established front building line of the terrace and would be visible from the Eglinton Square development. This would not be in line with other properties and would therefore be out of character with the area.
- The structure would be built directly onto the boundary with the public footpath which does not comply with Appendix 18 - Section 1.3 of the Development Plan. Such structures should be positioned within the existing boundary on site and should not form the boundary wall.
- The site is located within the settlement of Donnybrook (RMP DU018-060/DU022-082) a zone of archaeological potential. The Archaeology Section require a full archaeological survey of the boundary wall and site assessment should the applicant come in for any future applications on this site.

3.3.2. Other Technical Reports

Archaeology Section

- The proposed development is within the Zone of Archaeological Constraint for the Recorded Monument (RMP) DU018-060/DU022-082 (Settlement). A holy well, reputed to be associated with St Mobi (RMP DU022-082001) is located c. 38m to the north of the subject site. A boundary wall in approximately the same location as the extant wall is visible on multiple historic cartographic sources, indicating that this may be an original eighteenth century structure, associated with a now demolished eighteenth century house.
- It is a policy of the Development Plan (2022-28 Section 11.5.1, BHA6) that there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847.

- It is the policy of the Dublin City Development Plan 2022-28 (Section 11.5.5; BHA26) to protect and preserve monuments.
- It is recommended that the boundary wall be subject to a full archaeological survey and that the site is archaeologically assessed as outlined in Section 3.6 of the Framework and Principles for the protection of the archaeological heritage as Additional Information, and tested if feasible.

Drainage Division

- No objection subject to standard conditions.

Transportation Planning Division

- No objection to the proposed boundary wall and bike store subject to standard conditions.
- A temporary access, measuring c. 3.5 m in width, off Eglinton Road is shown on submitted existing drawings and there are concerns regarding the impact on Eglinton Road footpath and carriageway.
- DCC Parks, Biodiversity and Landscape services, similar to reg. ref. 2731/23, objects to the proposed temporary access.

3.4. Prescribed Bodies

None

3.5. Third Party Observations

None

4.0 Planning History

2731/21 Split Decision issued for development consisting of: alterations to previously approved development Reg. Ref. 3890/14 (as extended under Reg. Ref. 3890/14/X1), comprising: (i) provision of a pedestrian entrance gate (with steps) off Eglinton Road; (ii) provision of a temporary construction access off Eglinton Road that will be required for the duration of the construction period; and (iii) all ancillary works necessary to facilitate the development. Permission was Granted for the

pedestrian entrance gate while the construction access was refused for reasons relating to traffic hazard.

3890/14 and 3890/14/X1: Permission Granted and extension of duration given until 09/09/2025 for the construction of an end of terrace four bedroom three storey dwelling (139 sq.m.) to the south east gable of No.1 Eglinton Square, private garden, car parking space, pedestrian gate and all associated ancillary works necessary to facilitate the development including landscaping and SUDS drainage. The Archaeology Section recommended a condition for an archaeological assessment be attached for a grant of permission due to the location of the subject site within the Recorded Monument DU018-060.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dublin City Development Plan, 2022-2028 is the operational development plan for the area within which the site is zoned 'Z1 – Sustainable Residential Neighbourhoods'. This land use objective seeks: "to protect, provide and improve residential amenities".

Policy BHA6 relates to Buildings on Historic Maps and states that there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847. A conservation report shall be submitted with the application and there will be a presumption against the demolition or substantial loss of the building or structure, unless demonstrated in the submitted conservation report that it has little or no special interest or merit having regard to the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011).

Appendix 18: Ancillary Residential Accommodation provides guidance in Section 1 in relation to residential extensions. Section 1.3 states that the proposed construction of new building structures directly onto the boundary with the public realm (including footpaths/ open space/ roads etc.), is not acceptable and it will be required that the development is set within the existing boundary on site and shall not form the

boundary wall. No specific guidance is provided in relation to garages, garden sheds or other external storage structures.

The subject site is located within the Zone of Archaeological Constraint for Recorded Monument (RMP) DU018-060/DU022-082 (Settlement).

A holy well (RMP DU022-082001) is located c. 38m to the north of the subject site.

5.2. Natural Heritage Designations

5.3. The site is not located on any designated Natura 2000 site(s), with the nearest Natura 2000 sites, South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210) located approximately 1.9 kilometres east of the site. The Grand Canal proposed NHA is located approximately 1.8m to the north and the South Dublin Bay proposed NHA is approximately 1.9m to the east of the site.

5.4. EIA Screening

5.4.1. See Appendix 1 - Form 1 EIA Pre-Screening attached to this report. The proposed development does not fall within a class of development as set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended), and therefore is not subject to EIA requirements.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. A first party appeal can be summarised as follows:

- The proposed wall seeks to match the boundary treatment at the entrance to Eglinton Square.
- The shed will not be visible from the road.
- A temporary opening was created in the boundary wall to facilitate deliveries for construction of a rear extension (constructed under exempted development regulations). The removed section of wall has been rebuilt.

- Appendix 18 Section 1.3 relates to side house extensions and does not apply to the proposed development of a shed which is not connected to the house and works to a boundary wall.
- The Archaeology Section report recommends further information and not a refusal. The boundary wall is not listed on the RPS and appears to be of modern construction. A previous permission on the site had a planning condition requesting an archaeological report before work commenced. An archaeological report can be provided if necessary.
- The planning authority incorrectly interpreted drawings. A photomontage is provided for the purposes of a visual representation of the proposed wall
- The proposed shed will not be visible from Eglington Square as indicated in the planning officer's report and the proposal is significantly smaller than the previously granted three storey house on the site.

6.3. Planning Authority Response

None received.

7.0 Assessment

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

- Visual Impact
- Archaeological Impact

7.2. Visual Impact

7.2.1. The proposed outbuilding will be constructed in front of the existing building line of the dwellings on Eglington Square. The planning authority raised concerns that the shed would be 4.27m forward of the established front building line of the terrace and as such would be out of character with the area. I note that the scale indicated on

the drawings included in the appeal file appears to be incorrect, however I am satisfied that there is sufficient information on the drawings to assess the appeal.

- 7.2.2. There is an existing boundary wall in front of No. 1 Eglington Square which is forward of the established building line and which extends west from the front boundary to meet the front building line of No. 1. The proposed shed would be located behind this wall and will have a flat roof at a height of 2.4m above ground level. Noting the difference in height between the front garden and the adjoining footpath, the roof of the shed will be below the level of the top of the existing wall. Having regard to the scale of the proposed shed and the presence of an existing wall at this location which will conceal the shed when viewed from the north, south and east, I am satisfied that it will not be visually obtrusive or seriously injure the residential amenity of adjoining properties as stated in the planning authority's reason for refusal.
- 7.2.3. I agree with the first party that Section 1 of Appendix 18 relates to residential extensions and is not relevant to the assessment of this proposal for a shed and as such will not be contrary to the development plan in this regard. The shed is located within the applicant's garden and the existing northern and eastern boundary wall and replaced southern boundary wall will form boundaries of the shed. I consider this to be acceptable.
- 7.2.4. A number of houses to the east of the appeal site and also located within Eglington Square have single storey extensions to the rear which are not visible from Eglington Road. Having regard to the pattern of development in the area and the scale of the proposed shed I do not consider the proposed development would be out of character with the established pattern of development in the area.
- 7.2.5. Having regard to the above and to the proposed use of the shed for domestic storage, I do not consider the development would contravene the Z1 zoning objective.
- 7.2.6. The application also seeks to replace a section of the existing southern boundary wall which measures approximately 20 metres in length and forms the boundary between Eglington Road and the side and rear garden of the appeal site. It is proposed to replace an existing wall with a 2 metre high brick finished wall with capping to match the height and finish of the existing entrance wall to Eglington

Square. I have no objection in principle to the proposal to replace the boundary wall. However, I note that on the date of my site inspection the wall was not in the same condition as the drawings and images submitted with the planning application and works have taken place to the wall which now appears to be comprised of a block wall and has been plastered and partly finished in brick. At the time the application was submitted the wall appeared to be formed of rubble with block work above as shown on the drawings submitted with the planning application and noted in the planning officer's report in their assessment of the file. I am satisfied that the section of wall for which permission has been sought has been replaced and partly finished in brick and that the works for which permission were sought in the planning application have been partly completed. Having regard to the nature of the application for permission I do not consider it appropriate to grant permission for works that have already been carried out. As such I consider this element of the development should be refused permission. I note that the wall forms part of the boundary of the proposed outbuilding and as such the outbuilding cannot be constructed independently of the wall. As such I also recommend that permission be refused for the proposed outbuilding.

7.3. Archaeological Impact

- 7.3.1. The site is located within a Zone of Archaeological Constraint for the Recorded Monument (RMP) DU018-060/DU022-082 (Settlement). The Archaeology Report of the Planning Authority states that cartographic sources indicate that a house with boundary walls existed in approximately the location of the subject site and that the boundary wall in question appears to be in approximately the same location on both the Ordnance Survey first-edition six inch (1844) and first edition 25 inch (1911) maps.
- 7.3.2. I note that Policy BHA6 does not preclude the removal of features and that the replacement wall is to be located in the same position as the existing wall. I also note that the PA did not refuse permission based on Policy BHA6. Having regard to the pattern of development in the area, to the scale of development proposed, and the characteristics of the wall to be replaced, I do not consider it appropriate to refuse permission on these grounds. Having regard to the site's location within the zone of archaeological constraint of a recorded monument I consider it appropriate to include

a condition requiring archaeological monitoring if the Board decides to grant permission for the wall.

- 7.3.3. I note that the location of the proposed shed is largely outside of the area of the boundary wall referred to in the local authority archaeology report and is within a previously developed area in the side garden of the existing house. If the Board decides to grant permission I do not consider it necessary to require archaeological monitoring prior to construction of the proposed shed.

8.0 AA Screening

- 8.1. I have considered the proposed development of a shed and replacement of a boundary wall in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located approx. 1.9 km from the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and South Dublin Bay SAC (000210).

The proposed development comprises the development of a shed and replacement of a boundary wall. 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 reason for this conclusion is as follows:

- The nature and scale of the proposed shed and boundary wall.
- The location and distance from nearest European site and the lack of any hydrological connectivity between the application site and the SAC/SPA.
- Taking into account screening determination by the Planning Authority.

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

9.0 Recommendation

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

10.0 Reasons and Considerations

The proposed development for which planning permission was sought differs materially from the characteristics of the appeal site whereby works to the boundary wall have already been carried out. The Board is, therefore, precluded from granting permission for the proposed development in this instance.

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.

Bernadette Quinn
Planning Inspector

26th July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318146-23		
Proposed Development Summary	Construction of outbuilding and replacement of boundary wall.		
Development Address	1 Eglinton Square, Donnybrook, Dublin 4, D04 E2W2		
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	X
		No	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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____