



An
Bord
Pleanála

Inspector's Report

APB-318615-23

Development	The development will consist of the demolition of the existing garage to the side of the existing house, construction of a detached, single storey, three bedroom dwelling (total floor area approximately 174 square metres) to the rear of the existing dwelling accessed via the widened vehicular gateway on Eglinton Road, new driveway, one new car parking space and all associated landscaping, site and drainage works
Location	66 Eglinton Road, Donnybrook, Dublin 4, D04 P2X9
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4093/23
Applicants	Ciaran and Ann Fahy
Type of Application	Permission
Planning Authority Decision	To grant permission with conditions
Type of Appeal	Third Party
Appellants	John Sweetman and Saroj Sweetman
Observers	None
Date of Site Inspection	28 th February 2024
Inspector	Trevor Rue

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	6
3.4. Third Party Submission	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations	9
5.3. EIA Screening	9
6.0 The Appeal	10
6.1. Grounds of Appeal	10
6.2. Applicant Response	11
6.3. Planning Authority Response	12
7.0 Assessment	12
8.0 Recommendation.....	15
9.0 Reasons and Considerations.....	15

1.0 Site Location and Description

- 1.1. The application site is located about 2 kilometres to the south east of Dublin City Centre. It is situated on the southern side of Eglinton Road, a residential street in the Donnybrook area.
- 1.2. The site, with a stated area of 1090 square metres, comprises the curtilage of a large three-storey redbrick semi-detached Victorian house, which has a hipped roof and a grassed front garden. There is a detached garage to the side of the house, with a vehicular access and driveway. To the rear is a single storey extension with a pitched roof, and an extensive lawn with trees and bushes, enclosed by granite walls. The site is 68 metres deep, 9.5 metres wide at the front and 24 metres wide at the rear. Ground levels rise by up to 2.05 metres from the road to the rear site boundary.
- 1.3. To the south of the site there is a detached two-storey house, 19 Eglinton Wood, one of four dwellings served by a narrow cul-de-sac which runs south westwards from Eglinton Road.

2.0 Proposed Development

- 2.1. It is proposed to widen the access, demolish the garage, extend the driveway and erect a detached single storey L-shaped dwelling at the southern end of the site. A parking space would be laid out to the front of the new dwelling and private amenity space provided to the rear, adjacent to the southern site boundary. The existing 2.5 metre high walls to the rear boundary would be retained. Space for parking would also be provided in the front garden of the existing dwelling.
- 2.2. The proposed 174 square metre, three bedroom, dwelling would be modern in design. It would be of single storey construction with a flat sedum roof. Its walls would have a white render finish with extensive vertical batten cladding. Parapets would be capped with aluminium copings. Slim-framed aluminium windows and doors would be fitted.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 9th November 2023, Dublin City Council decided to grant permission, subject to 11 conditions.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The planning officer's reports of 30th August and 9th November 2023 provided the reasoning for the authority's decision. They described the site and proposed development, set out planning policies and planning history, and summarised third party submissions and interdepartmental reports. The primary planning matters were identified as the principle of development, compliance with development standards, impacts on residential amenity and conservation impacts.
- 3.2.2. The planning assessment included the following comments:
- Several dwellings in the vicinity have backland dwellings or structures in their rear gardens. There is a strong precedent for this type of development in the locality. The planning authority supports suitable backland development to make sustainable and efficient use of zoned and serviced lands.
 - The proposed development exceeds minimum requirements in respect of floor areas and internal layouts. The existing and proposed houses would have private rear gardens that exceed the requirement of 10 square metre per bed space. The proposed six-bed dwelling would have a private amenity area of 113 square metres.
 - The proposed dwelling would have a rear garden depth of 5.88 metres, less than the 7 metres generally required. However, the Development Plan facilitates shorter rear gardens where the minimum area standards are met and residential amenity is protected. The single storey height of the dwelling and the provision of obscured glazing on its eastern façade would prevent significant overlooking or overshadowing.

- The existing dwelling would retain an L-shaped rear garden of 202 square metres. It would be 8 metres deep when measured from the rear façade of the extension and 21 metres from the primary rear façade of the original dwelling. The rear garden would be of sufficient size and depth.
- The proposed dwelling would be 0.925 metres from the southern boundary and 0.9 metres from the eastern boundary. These separation distances are sufficient in this instance due to the single storey height of the dwelling.
- The proposed car parking provision of one space per dwelling accords with the maximum standard. A safe access could be provided.
- The proposed dwelling would have a maximum parapet height of 3.6 metres and would be substantially lower than the existing three-storey dwelling on Eglinton Road and the two-storey dwellings on Eglinton Wood. It is proposed to retain the boundary walls on the application site, which range in height from 1.65 to 2.5 metres. The walls, in conjunction with the single storey design, would militate against significant overlooking from the existing dwelling.
- There would be potential for overlooking from the rear windows of 19 Eglinton Wood into the private amenity space of the proposed dwelling. However, this level of overlooking would be typical of urban locations and the separation distance of about 10 metres would ensure significant impacts would not arise.
- New development in a conservation area should have an overall positive impact on the character and setting of the area. The application site slopes upwards so that the proposed dwelling would be elevated. From the drawings submitted with the application it was unclear how much of the dwelling would be visible from the public road.
- In response to a request for further information, the applicants submitted a series of photomontage views from key points on Eglinton Road and Eglinton Wood. They stated that due to the splayed nature of the site and mature landscaping, the proposed house would be virtually invisible from Eglinton Road. The planning officer noted that dwelling would be 55 metres from the public pavement on Eglinton Road. The further information led the officer to conclude that the proposed development would be appropriate.

Other Technical Reports

3.2.3. The Council's Transportation Planning Division offered no objection subject to conditions.

3.2.4. Following receipt of further information, the Council's Engineering Department, Drainage Division had no objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. In response to a pre-connection enquiry, Uisce Éireann advised that a water connection and a waste water connection would be feasible without upgrades to public infrastructure.

3.4 Third Party Submission

3.4.1. The present appellants submitted an objection to the planning authority in which they made the following comments:

- The proposal fails to meet the minimum rear garden depth standard.
- The proposed development would be visually discordant with the character and quality of the conservation area and streetscape on Eglinton Road.
- The proximity of the proposed dwelling to the rear garden and rear elevation of 19 Eglinton Wood would significantly intrude of its existing privacy.
- The proposed dwelling would be overlooked from adjoining property.
- The development potential of 19 Eglinton Wood would be pre-empted.
- The development would set an injurious precedent for backland development on Eglinton Road.

4.0 Planning History

4.1. There is no planning history relating to the application site.

4.2. **6572/06:** On 10th May 2007, the Council decided to grant permission for the demolition of 19 Eglinton Wood and the construction of four three-storey houses with basements and underground parking. Following an appeal, this decision was upheld by the Board on 29th January 2008. The development did not proceed.

- 4.3. **WEB1425/17:** On 22nd November 2017, the Council granted permission for a new three-storey (two-storey over basement) extension to the rear of 64 Eglinton Road.
- 4.4. **2321/20:** On 9th July 2020, the Council granted planning permission for an extension and alterations to 70 Eglinton Road, including a new single storey extension to the rear (south) of the dwelling.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 Map H of the Dublin City Development Plan 2022-2028 shows the application site in Primary Land Use Zoning Category Z2, Residential Neighbourhoods (Conservation Areas). The zoning applies to most properties on both sides of Eglinton Road.
- 5.1.2. Section 14.7.2 of the Plan states that the land-use objective for Zone Z2 is to protect and/or improve the amenities of residential conservation areas. It goes on to say that these areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. The principal land use encouraged in residential conservation areas is housing.
- 5.1.3. Policy BHA9 in Chapter 11 of the Plan is to protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement opportunities may include contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.
- 5.1.4. Section 15.15.2.2 of the Plan states that all planning applications for development in Conservation Areas shall:
- Respect the existing setting and character of the surrounding area.

- Be cognisant and/or complementary to the existing scale, building height and massing of the surrounding context.
- Protect the amenities of the surrounding properties and spaces.
- Provide for an assessment of the visual impact of the development in the surrounding context.
- Ensure materials and finishes are in keeping with the existing built environment.
- Positively contribute to the existing streetscape.

5.1.5. Section 15.11.3 of the Plan states that a minimum standard of 10 square metres of private open space per bed space will normally be applied. Generally, up to 60 to 70 square metres of rear garden area is considered sufficient for houses in the city. It notes that traditionally, a separation of about 22 metres was sought between the rear first floor windows of two-storey dwellings but says this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. Careful positioning and detailed design of opposing windows can prevent overlooking with shorter back-to-back distances and windows serving halls and landings which do not require the same degree of privacy as habitable rooms.

5.1.6. Section 15.13.4 of the Plan states that consideration of access and servicing and the interrelationship between overlooking, privacy, aspect and daylight/sunlight are paramount to the success and acceptability of new development in backland conditions. Applications for backland housing should consider the following:

- Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.
- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.

- The impacts on either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.

5.1.7. Map J of the Plan shows the application site in Parking Zone 2. Table 2 in Appendix 5 to the Plan sets a maximum standard of one car parking space per dwelling in Parking Zone 2. It is stated in Section 4.0 of Appendix 5 that in all new developments where car parking is provided within the curtilage of a dwelling, it should not dominate the front garden and should be discreet, set within the landscaping features.

5.2. Natural Heritage Designations

5.2.1. The Natura 2000 sites within the Dublin City Council boundary are:

- North Dublin Bay Special Area of Conservation (SAC)
- South Dublin Bay SAC
- North Bull Island Special Protection Area (SPA)
- South Dublin Bay and River Tolka Estuary SPA

5.3. EIA Screening

5.3.1. Having regard to the nature and modest scale of the proposed development, its location in a fully serviced urban area and the absence of any connections to environmentally sensitive locations, I conclude that the development is not likely to give rise to significant environmental effects. The need for environmental impact assessment can, therefore, be excluded by preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal is made on behalf of the residents of 19 Eglinton Wood, a two-storey family house situated directly to the rear of the application site. The principal ground of appeal is that the proposed development by reason of proximity to adjoining residential property would seriously injure their residential amenities and detract from the visual characteristics of a residential conservation area.

6.1.2. The following detailed points are made:

- Deficiencies in the Planning Application. The application site includes the existing house, 66 Eglinton Road. No subdivision boundary is shown between the proposed properties on the site location map or the site layout plan.
- Precedents. Ten of the 17 houses between 56 and 86 Eglinton Road inclusive have been the subject of a planning permission. However, except for the current proposal on the application site, none of these permission were for backland development. Rather than there being a strong precedent for this type of development, a planning permission for the proposed development would set an undesirable precedent for backland houses without independent road frontage.
- Failure to meet Development Standards. With respect to the existing character of the area, a proposed dwelling with a rear garden depth of less than 7 metres, part of which is less than 1 metre from the site boundary, would impact negatively on residential amenity by its sheer proximity. The rear garden of 19 Eglinton Wood measures approximately 10 metres [in depth].
- Inadequate Residential Amenity for the Proposed House. One of the three bedrooms in the proposed house, as well as its kitchen and living room, would have windows facing the rear garden. The living room and kitchen would be less than 7 metres from the rear boundary, while the bedroom would be less than 1 metre from that boundary. The development would not provide a minimum standard of residential amenity for future occupants. The distance between the first floor window of 19 Eglinton Wood to the rear glazing of the

living room would be 17 metres, which falls short of the normally required distance of 22 metres between opposing windows. The living room, kitchen and rear garden would be overlooked from the first floor windows of No. 19. The impact on privacy and residential amenity would be exacerbated by the use of full-height glazing.

- Impact on the Conservation Area. Due to the chosen angles of vision, the applicants' photomontages fail to provide a realistic picture of the impact of the proposed building on the streetscape. The elevation drawing shows the proposed dwelling clearly visible in the opening between Nos. 66 and 68. There is a series of similar semi-detached period houses on Eglinton Road, of which No.66 forms half a pair. A dwelling of contemporary design in the rear garden of No. 66 would detract from this streetscape. This would be exacerbated by the difference in levels from the proposed house site to the road and the significant gradient of the proposed driveway. The provision of parking space occupying the front garden of No. 66 would further detract from the visual amenity of the street.

6.2. Applicant Response

6.2.1. The applicants' response to the appeal presents the following arguments:

- The splayed western boundary of their property has the effect of making the rear garden of 66 Eglinton Road much larger than that of Nos. 58, 60, 62 and 64. It is the size of the rear garden of the application site which makes the proposed development possible. Similar development is not an option open to any other houses in this group, therefore a precedent would not be set.
- As the proposed access meets all technical requirements, the lack of an independent road frontage should not be a basis for refusal. No. 19 Eglinton Wood is already a precedent for backland development without independent road frontage.
- The Dublin City Development Plan accepts rear gardens shorter than 7 metres particularly, as in this instance, where the proposed rear garden size substantially exceeds the requirements of the Plan.

- The existing stone wall on the southern boundary of the application site, which is over 2 metres high, would remain, and the appellants' dwelling is located more than 10 metres from this wall. There would be no intervisibility between the ground floor of 19 Eglinton Wood and the proposed new house. There are four openings in the first floor northern elevation of No. 19 but only one of these is fitted with clear glass. Any issue of intervisibility relating to No. 19 would be confined to that single window.
- There is a certain inevitability about intervisibility in an urban environment. For example, the distance between the gables of 66 and 68 Eglinton Road is less than 10 metres. On the upper two floors there are three windows in No. 66 and four in No. 68 facing one another, all with clear glass. The area that would be affected by intervisibility in the proposed house is essentially the living area on the southern elevation. The architect has taken this into account by incorporating a canopy which ranges between 0.6 and 1.8 metres in depth. Thus, while there would be an element of intervisibility between the two houses, this is to be expected and its impact would be much less than suggested.
- The photomontages show that the proposed development would have very little visual impact even when seen from Eglinton Road along the line of the existing entrance. One reason for this is that the splayed western boundary wall would tend to pull the observer's eye away from the proposed house.

6.3. Planning Authority Response

- 6.3.1. The planning authority requested the Board to uphold its decision and that if permission is granted, the following conditions be applied – a condition requiring the payment of a development contribution under Section 48 of the Planning and Development Act; and a naming and numbering condition.

7.0 Assessment

Issues

- 7.1. Having inspected the site and considered in detail the documentation on file for this Third Party appeal, it seems to me that the main planning issues are the impact on the

Conservation Area and residential amenity. I must also consider whether an appropriate assessment (AA) is required pursuant to the European Union Habitats Directive.

Impact on the Conservation Area

- 7.2. Policy BHA9 of the Development Plan refers to protecting the special interest and character of Conservation Areas, contributing positively to their character and distinctiveness and protect and enhance the character and appearance of these areas. It seems to me that in this context character means more than appearance. Appearance is what can be seen but character comprises what is actually there. The requirements in Section 15.15.2.2 of the Plan to be cognisant of and/or complementary to the existing scale, building height and massing of the surrounding context and to ensure materials and finishes are in keeping with the existing built environment apply regardless of the extent to which development would be visible from the public realm.
- 7.3. The proposed development would involve the demolition of the existing garage and the use of the front garden of the existing house for car parking. Front garden parking can degrade the appearance of a street but it could not be said to be uncharacteristic of this particular Conservation Area, as there are several examples nearby.
- 7.4. With the garage removed, a partial view of the proposed dwelling would be available from Eglinton Road, funnelled through the space separating Nos. 66 and 68. In my judgement the proposed single storey flat-roofed structure and modern materials would be entirely out of keeping with the existing built environment and alien to the surrounding context. Policy BHA9 allows for contemporary architecture of exceptional design quality provided it is in harmony with the Conservation Area. However, in my opinion what is proposed in this application would harm the special interest and character of the Conservation Area and erode its distinctiveness.
- 7.5. It seems to me that a grant of permission for the proposed development would set an unwelcome and dangerous precedent for the introduction of unsuitable new buildings which do not respect the distinctiveness of the Conservation Area and which would lead over time to the erosion and loss of its special interest and character.

Residential Amenity

- 7.6. While the proposed subdivision of the site between the existing and proposed properties is not highlighted on the site location map, the proposed site plan shows a

2 metre high wall separating the garden of the existing property from the driveway and parking area serving the proposed dwelling. The same division is shown more clearly by the use of a dashed light blue line on the proposed site and drainage layout drawing. I do not consider the application deficient in this respect.

- 7.7. The application proposes a particular form of backland development, often referred to as “tandem” development, which consists of one house behind another sharing the same access. There are no examples of existing tandem development in the immediate vicinity of the site. The generally unsatisfactory consequences of tandem development include disturbance and lack of privacy suffered by the house at the front.
- 7.8. The proposed site plan indicates that an area to the front and side of the existing house would be a shared space. People and vehicles moving to and from the proposed dwelling would have to pass close to the side windows of the existing house at 66 Eglinton Road, significantly diminishing its residential amenity.
- 7.9. In their third party submission to the planning authority, the appellants complained that the proposed development would pre-empt the development potential of their property at 19 Eglinton Wood. No information has been provided about the appellant’s plans for development and there does not appear to be a current planning application. I consider therefore that this point of objection has not been sustained.
- 7.10. Section 15.13.4 of the Plan indicates that a backland dwelling should have a minimum rear garden depth of 7 metres. It goes on to say that a relaxation in rear garden length may be acceptable where two conditions are met. The second of these conditions is that the applicant can demonstrate that the dwelling will not impact negatively on adjoining residential amenity.
- 7.11. For much of its length, the proposed dwelling would come within 5.8 metres of the boundary wall with 19 Eglinton Wood but the main bedroom would come within 0.931 metres. The dwelling with a height of 3.6 metres would protrude above the 2.5 metre high wall. The dwelling would be an inescapable presence at the rear of No.19 next to its back garden, which has a depth of 10 metres. In my opinion, the proposed dwelling would have a severe negative impact on the existing residential amenity of No. 19. A relaxation in rear garden length is therefore not acceptable in this instance.
- 7.12. The large tree just within the southern boundary of the application site would be removed for the development. This would create a clear field of vision from one of the

upper rooms at the rear of No. 19 into the garden of the proposed dwelling. There would also be views into the kitchen / dining / living room area which would have full-height glazing. The proposed canopy would only partially shield those views.

7.13. While the traditional separation distance of 22 metres mentioned in Section 15.11.3 of the Development Plan relates to opposing rear first floor windows of two-storey dwellings, the key consideration is whether the amenities and privacy of adjacent occupiers would be preserved. In this case the dimension is 17 metres and the direction is slightly oblique and downwards.

7.14. I appreciate that some degree of intervisibility is inevitable in an urban context. However, having regard to the design solution presented and the juxtaposition of the proposed dwelling and No. 19 to the south, I judge that in this instance the degree of overlooking experienced by the prospective occupants of the new dwelling, especially when using their garden, would be unduly intrusive and potentially oppressive.

Appropriate Assessment Screening

7.15. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the fully serviced urban location and the distance from any Natura 2000 site, it is possible to screen out the requirement for the submission of an Natura impact statement and carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. I recommend that planning permission be refused.

9.0 Reasons and Considerations

9.1. It is considered that the proposed single storey flat-roofed dwelling constructed using modern materials would harm the special interest and character of the Conservation Area and erode its distinctiveness, contrary to Section 14.7.2, Policy BHA9 and Section 15.15.2.2 of the Dublin City Development Plan 2022-2028. A grant of permission would set an undesirable precedent for unsuitable buildings in the Conservation Area and would be contrary to the proper planning and sustainable development of the area.

- 9.2. It is considered that the proposed development would have an unacceptable adverse impact on the residential amenity of the existing properties at 66 Eglinton Road and 19 Eglinton Wood and of the prospective occupants of the proposed dwelling, contrary to Sections 15.11.3 and 15.13.4 of the Dublin City Development Plan 2022-2028.

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.



TREVOR A RUE

Planning Inspector

14th March 2024