



An
Bord
Pleanála

Inspector's Report ABP-320508-24

Development	Demolition of existing structure and construction of dwelling.
Location	No. 73 Eagle Valley, Enniskerry, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	24243
Applicant(s)	Sarah Nolan.
Type of Application	Dwelling
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Sarah Nolan.
Observer(s)	Board of Eagle Valley Consolidated Management Clg. Gerard and Lily Hennigan. Brian O Flanagan & Paula Fitzpatrick.

Date of Site Inspection

10th October 2024

Inspector

Donogh O'Donoghue

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	8
5.3. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	10
6.3. Observations	10
7.0 Assessment	11
8.0 AA Screening.....	13
9.0 Recommendation.....	14

Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site is in a suburban estate located to the north of Powerscourt Demense and to the southwest of Enniskerry Village. The proposed development is located in a cul de sac that serves 5 houses and backs onto the Powerscourt golf course. The site has a stated site area of 0.163ha and is part of the rear garden space associated with the dwelling (No 73 Eagle Valley) that fronts onto the public road. The proposed dwelling is to be accessed through the existing house which fronts the site.

2.0 Proposed Development

- 2.1. The proposed development comprises of:
- the demolition of a garage associated with the existing dwelling on site
 - the construction of a detached 2 storey dwelling with a floorspace of 229sqm.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons:

1. Having regard to:

- (a) the location of the development on a constrained backland site in close proximity to the existing house,
- (b) the height bulk and scale of the proposed house,
- (c) the extent of the retaining works including the impact on the existing trees along the rear boundary,

it is considered that the proposed development would be out of character with the existing pattern of development within this area, would be visually obtrusive and would have an overbearing impact on the existing house. The proposed development would seriously injure the amenities of the area and depreciate the value of property in the vicinity. The development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed vehicular access and parking arrangements would result in traffic hazard because there is insufficient space in the parking area to allow vehicles to turn within the site for an exit in forward gear and the reversing of cars down a lengthy stretch of driveway is hazardous and there is potential for traffic movements to conflict with the cars associated with the existing house.

3.2. Planning Authority Reports

Planning Reports

- The planner's report is consistent with the decision of the planning authority.

Other Technical Reports

- District Engineer - No drainage information supplied.
 - Inadequate provision made for on-site parking and turning area for two vehicles.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

15 no Third Party Observations were received by the Planning Authority. The concerns raised relate to non-compliance with development plan policy, proposal forms an inappropriate form of backland development, would set an undesirable precedent in area, site does not have independent road frontage, impact on residential amenity of area, overlooking, loss of sunlight, impact on existing trees, road safety issues and breach of the terms of the deed of conveyance signed by each house owner in Eagle Valley estate

4.0 Planning History

There is no recently recorded history on this site.

Adjacent site to west

Planning ref 21/1481 - Permission granted for a single storey pitched roof extension and conversion of the existing garage into habitable space at 74 Eagle valley.

Adjacent site to east

Planning Ref 17/518 – Permission granted for a detached garden room at 64 Eagle valley.

Adjacent site within same estate

ABP 318336-23 (Planning Authority Ref 23/113) - Permission granted by ABP for the construction of a dwelling.

5.0 Policy Context

5.1. Development Plan

Wicklow County Development Plan 2022- 2028

- Housing Objective CPO 6.21: "In areas zoned 'Existing Residential house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see (PO 6.25 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity."
- Appendix 1 - Section 3.1.6, Infill / backland development in existing housing areas sets out the required standards with respect of infill residential development. It states that: Many older housing areas were built at densities and in such formats that resulted

in particularly large plot sizes. Where opportunities arise for infill or backland type development, the following standards shall apply:

- The site / plot must be capable of being developed in accordance with the density parameters set out for that area in the local area or town plan, or in any case in keeping with the prevailing density of the immediate area. Where no density limit is set (for example, in areas zoned 'existing residential'), the quantum of development that will be permissible will flow as a result of adherence to best development standards;
- The design of a new house should complement the area. Where an area has an established unique or valuable character worthy of preservation, particular care should be taken to match the style and materials of the area; however, where an area is a 'mixed-bag' of styles and periods, more flexibility can be applied;
- Particular attention will be required to be paid to the design and location of new windows, in order to ensure that the privacy of either the existing house on the plot or adjacent houses is not diminished; - Gable walls abutting public areas (e.g. footpaths, car parking areas and open spaces) will not be permitted and a minimum separation of 0.9m will be required between the house gable and the side wall of the plot;
- Where the access route to a proposed development site is proposed to run alongside the external walls of the existing dwelling on the development plot or the external walls of a dwelling on an adjoining plot, there must be adequate separation available to facilitate the required driveway (normally 3m) and allow a 0.5m 'buffer' area alongside any existing dwelling. Any deviation from this standard must be evaluated on traffic safety and residential amenity grounds;
- The re-design of access and car parking arrangements for the existing dwelling on the plot must be clearly detailed, and permission included for same where required; developments accessed from a long narrow • driveway must provide for the turning of vehicles within the site;
- Cognisance will be required to be taken of the potential of adjacent rear / side plots to be developed in a similar manner and separation between site boundaries, location of windows etc must not prejudice development options on the adjacent plot.

Bray Municipal District Local Area Plan 2018 -2024 (Adopted Local Area Plan for Bray Municipal District 2018 - 2024 and includes the settlements of Bray, Enniskerry and Kilmacanogue)

The site is zoned 'RE Existing Residential'

Objective - To protect, provide and improve residential amenities of existing residential area.

Description - To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development; however new housing or other non-community related uses will not normally be permitted.

5.2. Natural Heritage Designations

- The nearest designated site is the Knocksink Wood SAC (Site Code 000725) which is located 520 metres to the north of the site.
- The site is located within the Powerscourt Woodland pNHA (Site Code 001768).

5.3. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- This proposal has been developed in the context of the Wicklow County Development Plan which supports the utilisation of existing residential areas with serviced zoned land.
- The height, bulk, design and scale of the proposed detached house on a substantial site is in keeping with other houses in the immediate area.
- The location of the proposed house was strategically located on the upper level of rear garden of house no 73.
- The proposed finish floor level has no impact on the existing trees and existing boundaries of the site.
- The proposed ridge height at 137.604 is in keeping with the pattern of development in the area.
- There are substantial separating distances from houses in the vicinity and as a result there will be no impact on the residential amenities of adjoining properties.
- There are existing services already on site including water and drainage etc for the existing house.
- Reference made to a recent decision by An Bord Pleanla to give planning permission for a similar development at No. 15 Eagle Valley, Planning Ref no 23/113 and ABP-318336-23. This application was originally refused by Wicklow County Council for a similar reason before the board subsequently overturned the decision. This is an important precedent with regard to National Planning Policy and the need to increase density of existing settlements by permitting developments similar to those proposed.
- The site plan has been amended to include a hammer head so that cars can now turn within the site and exit the site in forward gear and therefore reason 2 for refusal should no longer apply.

6.2. Planning Authority Response

None received

6.3. Observations

3 no observations were received, issues relate to:

- Proposal does not comply with Wicklow Development Plan 2022 - 2028 Infill/Backland Development in Existing Housing Areas.
- Proposal would set a precedent for other such developments within the estate, which would be out of character with the existing pattern of development in the estate and thereby seriously injure the amenities and depreciate the values of existing properties.
- Inadequate road frontage and lack of an independent vehicular access to the site.
- Proposal will over intensify the use of an already restricted vehicular entrance intended solely for a single dwelling and will create a hazard in terms of traffic and pedestrian safety.
- The proposal is no way comparable with the approved development at the rear of 15 Eagle Valley, ABP 318336-23 in terms of local context, juxtaposition or otherwise.
- Proposal is visually obtrusive and will have an over bearing impact on the main house on the site.
- Over development of a backland site.
- Lack of a subdivision boundary between the existing house and proposed house on the site.
- Proposed dwelling is too far removed from a fire hydrant.
- Impact on residential amenity of area including overlooking and loss of sunlight.
- Proposal is a breach of the terms of the deed of conveyance signed by each house owner in Eagle Valley estate which stipulates one dwelling per plot.

7.0 Assessment

7.1. Introduction

I have reviewed the contents of the file and the documentation submitted with the planning application and am satisfied that the issues for consideration before the board relate to the grounds of appeal. No new issues arise in this instance.

The issues to be considered therefore relate to the following:

- Principle of development
- Residential Amenities
- Traffic Safety
- Precedent

Principle of development

- 7.2. I note from the Wicklow County Development Plan 2022 – 2028 that infill / backland development in existing housing areas is supported where such proposals comply with the required standards which are outlined in Section 3.1.6 of Appendix 1. In addition, the Bray Municipal District Local Area Plan 2018 outlines that on Existing Residential zoned land, appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will be considered. The Eagle Valley estate generally comprises large detached dwellings on large sites facing the public road. The proposed development is located in the rear garden of an existing detached dwelling. The proposed house has no frontage onto the public road and proposes to share the access with the existing dwelling on site. I am of the opinion that the proposal which in effect is a dwelling in the rear garden of an existing dwelling constitutes a haphazard form of backland development and is at odds with the general character of the area. I note that the appellants make reference in their submission to a neighbouring development which was recently permitted by An Bord Pleanála, ABP 318336-23. This proposal was similarly for a dwelling in the rear garden of an existing house, however that situation differed significantly as that site was a corner plot and the proposed dwelling was in effect an infill site with direct frontage and a direct access onto the public road.

Residential Amenities

- 7.3. The rear garden of house no 73 is substantial in size and is on two levels with the upper section circa 1.5m above the Finish Floor Level of the existing house on site. The site is reasonably well screened with mature planting along its boundaries. The garden is divided by a low wall and fence with steps to access the upper part. The proposed dwelling is positioned in the centre of the upper section of the garden. The proposed layout provides for the subdivision of the site and an acceptable level of amenity space and rear garden depth has been provided for each dwelling. The proposed dwelling largely faces west towards Powerscourt golf course but will also overlook the rear garden area of the adjacent property to the west. In this regard I am of the view the proposed two storey dwelling will have a negative impact on the amenities of that property by way of overlooking. The proposed dwelling is circa 30m from the existing dwellings to the east and in the context of an urban development I am satisfied that such issues as overlooking, overshadowing or overbearing do not arise in that direction.
- 7.4. The proposed development has no frontage onto the public road and it is proposed to demolish the existing garage associated the existing house to create an access. I am of the view that the proposed access arrangements through an existing house plot will negatively impact on the amenity of that dwelling. In this regard there is a distinction to be drawn between this site and ABP 318336-23 which had its own frontage and independent access.
- 7.5. Overall having regard to the above I conclude that the proposal represents inappropriate 'backland' development which would seriously injure the amenities of the neighbouring property as well as the occupants and future occupants of the residential property fronting the proposed dwelling.

Traffic Safety

- 7.6. The proposed dwelling will use the same access point onto the public road as the existing dwelling. This entrance is satisfactory, and no traffic issues arise. With regard to the Planning Authority's refusal no two, I am of the opinion that there is sufficient space on the site to allow vehicles to turn within the site. The proposed surfaced area in front of the proposed dwelling is 8.5m X 8.5m, which is larger than many of the

parking areas for the existing houses in the estate. I do note that revised plans were submitted with the appeal which shows the inclusion of a hammer head turning area which will aid on-site turning. I consider this amendment not material.

Precedent

- 7.7. The Eagle Valley estate comprises of large detached dwellings on large sites facing the public road. The proposed development is located in the rear garden of an existing detached dwelling and has no independent frontage onto the public road. I am of the view that the proposal constitutes a haphazard form of backland development, is out of character with the established character of the area and to permit this proposal would set an undesirable precedent for similar proposals in the estate. As set out above this proposal differs significantly from ABP 318336-23 as this development has no independent road frontage or independent access and given its location in the rear garden of an existing dwelling it cannot be viewed as an infill site.

Other issues

- 7.8. I refer to the observations on file which refer to a legal covenant that is in place with the management company which restricts the use of the site for a single dwelling house and their ascertain that the proposed development is in breach of this covenant. I do not consider this an issue for the Board to get involved in and that it is more appropriate that this is a legal matter to be resolved outside of planning.

8.0 AA Screening

- 8.1. Having regard to the modest nature and scale of development, location in an urban area, connecting to existing services and the absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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.

9.0 Recommendation

9.1. I recommend that permission is refused for the following reason

1. The proposed development, because of its location and inadequate frontage, constitutes inappropriate backland development which would seriously injure the amenities of the adjoining properties in the vicinity by reason of uncoordinated piecemeal development, a haphazard vehicular access arrangement and overlooking, would set an undesirable precedent for future similar such developments in the area and accordingly would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Donogh O' Donoghue
Planning Inspector

21st October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Demolition of garage and construction of a dwelling		
Development Address	No. 73 Eagle Valley, Enniskerry, Co. Wicklow		
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			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		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10 (b) (i) Construction of more than 500 dwelling units.	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320508-24	
Proposed Development Summary	Demolition of garage and construction of a house	
Development Address	No. 73 Eagle Valley, Enniskerry, Co. Wicklow	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The appeal site has a stated area of 0.163 Ha and is located in a suburban housing estate which is fully serviced.</p> <p>The proposed demolition of a garage and the construction 1 no dwelling is not considered exceptional in the context of the receiving environment.</p> <p>Removal of topsoil etc and other construction wastes will be relatively minimal. Localised construction impacts will be temporary.</p>	No
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The construction of 1 no dwelling in a fully serviced residential housing estate is not considered to be exceptional in the context of the existing environment.</p> <p>Whilst there are existing houses and a number of permitted small scale development in the area, they will not have a significant cumulative effect.</p>	No
<p>Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive</p>	<p>There are no ecologically sensitive locations in the immediate vicinity of the appeal site. The nearest European site is located c. 520m to the north –</p>	No

<p>site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>Knocksink Wood SAC (Site Code 000725)</p> <p>The appealed site is in a zoned suburban area and is not hydrologically connected to this site nor any other European site.</p> <p>There is no potential to significantly impact on the ecological sensitivities of this European site or other significant environmental sensitivities in the area.</p>	
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>		

Inspector: _____

Date: _____