



An  
Coimisiún  
Pleanála

## Inspector's Report

**ACP 323471-25**

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<b>Development</b>	Construction of 1 no. 3-bedroom dwelling, ranging in height from 1-2 storeys accessed via existing private gate off Elton Court and all associated site development works.
<b>Location</b>	Lands to the rear of 9 Elton Park, Sandycove, Co. Dublin A96 W261
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D25A/0457/WEB
<b>Applicant(s)</b>	Ceri McDonnell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Patrick Rhatigan & Stephanie Walsh
<b>Observer(s)</b>	None

**Date of Site Inspection**

15<sup>th</sup> November 2025

**Inspector**

Barry Diamond

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### Appendix 1 –EIA Screening

## 1.0 Site Location and Description

- 1.1. The application site comprises a portion of the rear garden area of No. 9 Elton Park which is a large detached two storey house with in-curtilage parking and private garden areas to the front and rear.
- 1.2. The site is a maintained garden area and is bounded on all sides by maturing vegetation and a stone wall forms the boundary between Nos 8 & 9 Elton Park. Deciduous trees of some 10 metres in height define the boundary between the application site and Elton Court. There is a greenhouse and small shed located on the application site along with intermittent small trees and shrubbery spread intermittently within the site.
- 1.3. The surrounding area comprises residential properties varying in height from two to three storeys with the Elton Court residential development located to the north (rear of the site). Nos. 1-8 Elton Park are located to the southeast and are Protected Structures (RPS No's:1390-1397).
- 1.4. The site is to be accessed along a private lane which serves Elton Court. There is an existing gated access and laneway from the application site onto the private road.

## 2.0 Proposed Development

- 2.1. The proposed development seeks permission for a mix of elements including:
  - a) Demolition of existing greenhouse, garden shed and garden room (circa. 43.1 sqm);
  - b) Construction of 1 no. 3-bedroom dwelling, ranging in height from 1-2 storeys accessed via existing private gate off Elton Court;
  - c) Construction of 2m high boundary wall between No. 9 Elton Park and the proposed site;
  - d) 1 no. car parking space;
  - e) 162.3 sqm of private open space in the form of a paved patio area and garden;
  - f) 2 no. enclosed bicycle parking spaces;
  - g) 1 no. enclosed bin store; and
  - h) All associated site development works.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 25<sup>th</sup> July 2025 the Planning Authority decided to grant planning permission subject to conditions.

#### 3.1.1. Conditions

3. The glazing within west facing section of the first floor window serving Bedroom 3 (RM No. 107) shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

REASON: In the interests of residential amenities and to prevent overlooking.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

#### 3.2.2. The Planning Officer comments on the initial scheme that;

- The site is zoned under objective 'A' where residential development is acceptable in principle;
- The proposal complies with the residential room size standards for a three bedroom, two storey (6 person) dwelling;
- The dwelling would enjoy adequate sunlight and has sufficient useable external amenity space;
- A cycle store is provided with sufficient room for additional cycle storage;
- An Arborists Report has been provided which states that the existing trees can be retained with conditions requiring tree protection during construction being an added safeguard;
- The contemporary design contrasts with the other existing dwellings, however, it is considered acceptable;
- Adequate drainage for the development can be achieved through upgrades;
- The proposal is considered to be an appropriate use of scarce land and is in accordance with Objectives PHP18 and PHP19 which seeks to increase density in the built up area;

- While the separation distances from neighbouring dwellings is 14 metres and would be below the minimum 16 metres stipulated in the Compact Settlement Guidelines, no windows are proposed on the northwest elevation meaning that there would be no impact on the houses along Elton Court;
- The window serving bedroom 3 (RM No. 107) should be finished in obscure glazing to avoid oblique views of No. 9 Elton Park;
- Noise impacts from construction are an inevitable feature of development and are temporary in nature;
- Issues of rights of way/access cannot be dealt with through the planning process;
- Impacts of overshadowing are not considered to be significant;
- The site is within an 'Accessible Area' as per the Compact Settlement Guidelines with a maximum parking requirement of 1.5 spaces. One parking space is provided with sufficient in-curtilage manoeuvrability. The additional traffic impact from the proposal is not considered to have an impact on the road network, or pose a traffic hazard.

### 3.2.3. Other Technical Reports

- Drainage Planning - indicated that they had no objection subject to conditions.
- Transport Planning Section: No comment received

### 3.3. Prescribed Bodies

- Uisce Éireann - No objection.

### 3.4. Third Party Observations

There were eight representations made to the Planning Authority during the processing of the planning application which are attached to the file. I consider that some of the issues raised in their submissions to the Coimisiún correlate with the issues raised, however, the additional issues raised in the observations to the Planning Authority are as follows:

- The existing birch trees in the application site will not prevent overlooking during the winter months;
- Trees were removed in the site prior to the application being submitted and a further loss of trees will arise from the proposed development;
- The proposal is detrimental to the character of the area;
- The boundary wall of No. 9 provides security from intruders for other residents, its loss will have a negative impact;
- Risk of damage to boundary walls;
- Drainage requirements will require excavation of the private road and no consent has been requested or given. The existing manholes shown on the plans do not exist;
- The parking and internal manoeuvring areas are insufficient and will result in vehicles, including service vehicles and visitors reversing onto the roadway;
- The private road is unsuitable for construction traffic and there is no parking available for construction vehicles;
- There is insufficient cycle spaces provided; and
- There needs to be conditions to: retain trees along the northern boundary; to make good any damage caused during construction; to restrict construction vehicles parking or storage outside the site; prohibit parking post construction off-site; to provide street signage for safety due to increased traffic; to ensure the boundary wall is constructed in materials to match the existing buildings; provide an EV charger and restrict the times of construction activity.

## 4.0 Planning History

### Site

No relevant permission.

### Setting

D24B/0368/WEB – Permission was granted for development consisting of a single storey garden room / playroom / gym and store with WC within rear garden along the north east boundary and facing existing house with associated drainage and

landscaping works to rear garden at Ardlea, 10 Elton Park, Sandycove, Co. Dublin, A96 C673.

D24B/0128 - Permission was granted for the renovation & extension: 1) Demolition of existing single storey kitchen and conservatory extension to rear elevation and construction of a part two storey, part single storey replacement extension to rear north east garden elevation to provide new kitchen, dining, garden room with ancillary pantry and utility at ground floor with new master ensuite at first floor. 2) Internal alterations to provide for revised layout. 3) Replacement front entrance porch, new windows & revised front bay window. 4) Landscaping works to front and rear gardens, revised drainage and all associated site works at 10, Ardlea, Elton Park, Sandycove, Dublin, A96C673

D04A/1023 & PL 06D.211565 – Permission was refused on appeal for a two storey style mews building with basement lower floor level and single storey only over existing ground level, including connection to public services and all associated site works opening onto laneway to rear at Elton Court to the rear garden of existing house with revised site boundaries from previous application under Reg. Ref. D04A/0699 at 8 Elton Park, Sandycove, Co. Dublin, A96 C673.

1. Having regard to the design of the dwelling as proposed (including both as initially submitted to the planning authority and as subsequently amended), which relies on the use of blind windows or windows with substandard daylighting properties and outlook, it is considered that the proposed development would provide an inappropriately poor quality of residential amenity for future occupants. Therefore, the proposed development would constitute a substandard form of development and would, thereby, be contrary to the proper planning and sustainable development of the area.

2. Having regard to its layout and poor design quality and on the basis of the submissions made in connection with the planning application and appeal, it is considered that the proposed development would be out of character with the pattern of development in the area and would seriously injure the amenities of property in the vicinity. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is the Dun Laoghaire Rathdown County Development Plan 2022-2028. The site is zoned 'A' with the objective to provide residential development and improve residential amenity while protecting the existing residential amenities.

Policy Objective PHP18 (Residential Density) is relevant and states: Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.

Policy Objective PHP19 (Existing Housing Stock – Adaptation) states that it is a policy objective to: “Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods”.

Policy Objective PHP20 (Protection of Existing Residential Amenity)

Policy Objective CA6 (Retrofit and Reuse of Buildings)

Section 12.3.1 (Quality Design)

Section 12.3.3 (Quantitative Standards for All Residential Development)

Section 12.3.4 (Residential Development – General Requirements)

Section 12.3.7 (Additional Accommodation in Existing Built-up Areas)

Section 12.3.7.6 (Backland Development)

Section 12.4.8 (Vehicular Entrances and Hardstanding Areas)

12.4.5.1 Parking Zones

12.4.5.2 Application of Standards

Section 12.8.2 (Open Space Categories for Residential Development)

Section 12.8.7 (Private Amenity Space – Quality Standards)

Section 12.8.7.1 (Separation Distances)

Policy Objective HER 8: (Work to Protected Structures) - Ensure that any development, modification alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.

Policy Objective HER 21: (Nineteenth and Twentieth Century Buildings, Estates and Features).

Section 12.11.2 (Architectural Heritage - Protected Structures)

## 5.2. **Relevant National or Regional Policy / Ministerial Guidelines (where relevant)**

Architectural Heritage Protection – Guidelines for Planning Authorities 2011. These guidelines issue objectives for protecting structures, or part of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest and for preserving the character of architectural conservation areas. Chapter 13 of the guidelines that relate to curtilage and attendant grounds of protected structures is of particular relevance to this application.

‘Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities’, Department of Housing, Local Government and Heritage, (2024).

Best Practice Guidelines for Quality Housing for Sustainable Communities 2007.

## 5.3. **Natural Heritage Designations**

The appeal site is not located on or within proximity to any designated Natura 2000 sites, with the nearest designated site being the Dalkey Coastal Zone and Killiney Hill (001206), located c. 300 metres to the northeast of the site. The site is to drain to the public sewer and there is no connection to the designated site which is separated from the application site by intervening development and roadways.

## 6.0 **EIA Screening**

Having regard to the limited nature and scale of the proposed development, the location of the site within a serviced suburban area, its distance from areas of environmental sensitivity, and the criterion set out in Schedule 7 of the Regulations, 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 stage (see Appendix 2) and a screening determination is not required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1 The appellants (No. 10 Elton Park) grounds of appeal have been submitted by Downey Planning Consultants and can be summarised as follows:

- The site is within the proximity of a protected structure (1-8 Elton Park). Section 12.11.2.3 of the Development Plan are relevant for developments which may affect the setting of a Protected Structure. Issues of note include proximity to the Protected Structure, potential impact, the relationship between buildings, amenity value and impact on landscape features;
- No Architectural Impact Assessment has been submitted to take account of the Protected Structures in accordance with Appendix B of the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities' 2011. The proposal would obscure views of the Protected Structures from Elton Court;
- The proposal should be single storey in height to protect the character and amenity of the area and reduce the impact on neighbouring properties;
- There are concerns with a loss of light to the dwelling and garden of No. 10 Elton Park. The applicant has not provided a Daylight Availability Analysis under Section 12.3.5.2 of the Development Plan or a Daylight & Sunlight Assessment in accordance with Section 12.3.1 of the Development Plan;
- The proposal does not meet the minimum separation distances within the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities;
- The proposal is 3.36 metres higher than the approved playroom and gym within the rear garden of No. 10 Elton Park (Ref: D24B/0368/WEB) and will have an overbearing impact. The previous grant of permission allows for the removal of trees in the garden area of No. 10 Elton Park, however, the Arborist Report has referred to these as 'existing trees' and providing privacy screening for the subject proposed development;

- The corner window of the proposed dwelling will overlook the garden area and the previously approved rear extension (Ref: D24B/0128) of No. 10 Elton Park;
- The proposal will alter the building line along Elton Park and will create inconsistency;
- There will be a depreciation in value of the homes in the area;
- Permission was refused for a dwelling to the rear of No. 8 Elton Park (Ref: D04A/1023 & PL 06D.211565) as it was considered out of character with the pattern of development in the area and would harm the amenities of property in the vicinity and the appeal proposal is substantially the same; and
- There has been no demolition justification report submitted for the demolition of the existing greenhouse and the Development Plan seeks the reuse and refurbishment of existing buildings to reduce carbon footprint of new buildings.

## 7.2. Applicant Response

7.2.1 The applicant's response to the third party appeal was submitted by Brock McClure Planning & Development Consultants and is supplemented by a Daylight and Sunlight Assessment by H3D and an Architectural Heritage Impact Assessment by Paul Keogh Architects. The response can be summarised as follows:

- The Arborist Report only refers to trees within the application site providing screening;
- The Architectural Heritage Impact Assessment report concludes that the proposed development will not have a negative impact on the Protected Structures or its curtilage;
- An application was approved in proximity to Protected Structures at No. 1 Elton Park (Ref: D18A/1108) where the Planning Authority only assessed the impact on No. 1 Elton Park and not the adjoining buildings;
- A Daylight & Sunlight Assessment has been prepared to indicate the impact of the proposed dwelling and includes the impacts upon the approved gym and playroom along with the rear extension at No. 10 Elton Park. It concludes that there is no material impact;

- A Daylight & Sunlight Assessment is not required by the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities and the levels of daylight and sunlight were acceptable to the PA;
- Overlooking from the first floor bedroom window (Bedroom No. 3) can be mitigated by using obscure glazing on the west facing window of this corner window;
- The design of the building was altered following pre-application discussions with the Planning Authority and Section 4 of the 'Planning Application Report' which was submitted to the Planning Authority along with the application submission refers to the evolution of the design;
- The design of the dwelling is appropriate to the area, the height of the dwelling is similar to the dwellings in Elton Court to the rear and overall the proposal was acceptable to the Planning Authority; and
- There is no development management standard for the demolition of ancillary structure and the existing greenhouse is likely to be reinstated elsewhere.

### 7.3. **Planning Authority Response**

The Planning Authority consider that the grounds of appeal do not raise any new matter that would justify a change of attitude to the proposed development.

### 7.4. **Observations**

None.

## 8.0 **Assessment**

8.1 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, having inspected the site, and having regard to the relevant local policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Design and Layout
- Residential Amenity

- Protected Structure
- Access
- Other Matters

## 8.2 Principle of Development

8.2.1 The site is zoned 'A' with the objective 'to provide residential development and improve residential amenity while protecting the existing residential amenities.' The development of additional housing is permissible under this zoning, however, its acceptability is subject to other development management policies and guidance. It should also be noted that the surrounding area is solely residential in character and that the prevailing pattern of development in the immediate vicinity of the application site is dominated by housing. I consider that the principle of residential development is acceptable in the area.

## 8.3 Design and Layout

8.3.1 The proposed dwelling is set within the rear garden area of No. 9 Elton Park and represents a subdivision of the plot. The site is enclosed within the rear garden area and is largely screened from public viewpoints. While some views would be achieved when entering Elton Court to the east of the site these views are short term and constrained by existing buildings, vegetation and the gated entrance to the site.

8.3.2 The dwelling is made up of two blocks, one is single storey (5.02 metres) in height which looks onto the rear of No. 9 Elton Park and the second block is two storey (7.11 metres) in height and backs onto Elton Court. Both blocks have a separate mono pitch roof with a metal finish while the walls will have a brick finish. There are a number of varying window styles and size of openings, which includes corner windows and high level windows.

8.3.3 There are no issues raised with the room size standards and I concur with the Planning Authority that these are all to an acceptable standard for a three bedroom dwelling as per the Development Plan and the Guidelines for Quality Housing for Sustainable Communities 2007.

8.3.4 There is an area for the parking of one car which is enclosed by a sliding gate. An area for bin stores, cycle storage and a useable amenity area in excess of 60sqm is also provided. The development will entail the removal of some trees and shrubbery

to facilitate the development, however, the applicant has provided a landscaping plan to indicate the retention of some of the trees with additional landscaping.

- 8.3.5 The application documents submitted to the Planning Authority contained an Arborists Report which indicates that one tree needs removed due to its poor health with other trees needing to be removed to facilitate the proposed dwelling. The report also indicates tree protection measures to be implemented during construction to ensure that the Root Protection Areas of the trees to be retained are not affected. This is a matter which was conditioned by the Planning Authority and I am of the view that the conditions for tree retention and protection during construction are a necessary part of the grant of planning permission. I consider that following construction the site will remain well enclosed by existing trees and the addition of further planting will further enhance the development.
- 8.3.6 Policy Objective PHP19 (Existing Housing Stock – Adaptation) seeks to densify existing built-up areas through small scale infill development and supports backland development on suitable sites. The suitability of the site is subject to a number of development management standards which are considered under the residential amenity section of the report. A third party indicated that the development of this site will alter the building line along Elton Park and will create inconsistency. I consider that the building line along Elton Park would be unaffected by the proposed development. While the proposed is set to the rear of the building line, the Development Plan is supportive of the densification of the existing urban footprint and Section 12.3.7.6 allows for backland development.
- 8.3.7 The existing greenhouse and shed will be removed in order to facilitate the siting of the dwelling. The lack of a demolition justification report for the removal of these structures was raised by the third party who also stated that the Development Plan seeks the reuse and refurbishment of existing buildings to reduce carbon footprint of new buildings.
- 8.3.8 Policy Objective CA6 (Retrofit and Reuse of Buildings) requires ‘...the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible...’. The reuse of existing buildings is only a requirement ‘where possible’ and I do not consider that it would be feasible for the small greenhouse or wooden shed to be retrofitted for use as a dwelling. In addition, there is no development management standard requiring the submission of demolition justification report for

ancillary structures and the applicant indicates that the greenhouse will be reconstructed elsewhere.

8.3.9 I consider that the design and layout of the proposed dwelling is acceptable and would not unduly harm the visual amenity or character of the area. A consideration of the impact on the nearby protected structures is provided later in the report.

#### **8.4 Residential Amenity**

8.4.1 The impact upon the residential amenity of neighbouring properties is an essential part of the assessment and in this regard I consider that dominance, overshadowing and overlooking are the main areas to be considered in respect to residential amenity.

8.4.2 Section 12.3.7.6 (Backland Development) of the Development Plan stipulates a minimum amenity space of 60sqm, a separation distance of 22 metres from the rear façade for two storey dwellings and a rear garden depth of 7 metres. It is noted that exceptions apply where the development would not impact negatively on adjoining residential amenity. Additionally, Section 12.3.5.2 refers to “A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows” and also provides that “In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable”.

8.4.3 It is important to note that SPPR 1 - Separation Distances - Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024) states that a minimum of 16 metres separation distance should generally be achieved, however, if there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme then a reduction is permissible. In addition, there shall be no specified minimum separation distance at ground level or to the front of houses.

8.4.4 A separation distance of 14 metres exists between the rear of the proposed dwelling and the rear of the nearest dwelling in Elton Court, however, there are no windows in the first floor of the proposed dwelling other than high level skylight windows which do not offer any opposing views and are considered acceptable. A separation distance of 23.5 metres is achieved between the proposed first floor windows of the proposed development and the rear of No. 9 Elton Park, while a separation distance of 15.7 is achieved at ground floor level. As this falls below the minimum distance a

boundary wall is proposed to the front of the application site which will subdivide the site from No. 9 and limit any overlooking at ground floor level.

- 8.4.5 The third party (No. 10 Elton Court) raises concerns with a loss of privacy due to overlooking. A separation distance of 21.13 metres is achievable from the first floor of the proposed dwelling to the rear of No. 10 which is acceptable. In addition, the existing boundary wall and vegetation along the boundary would mitigate any overlooking at ground floor level.
- 8.4.6 Planning permission was granted for a ground floor rear extension to No. 10 Elton Park (third party's property) under (Ref: D24B/0128). This extension has not been constructed, however, it included significant areas of glazing and projects 7.2 metres from the rear elevation. The separation distance between the first floor window of bedroom 3 of the proposed dwelling and the neighbouring ground floor extension of No. 10 would be 14 metres.
- 8.4.7 The Planning Authority included a condition (No.3) which required that the western facing window on bedroom 3 be finished in obscure glazing and I agree that the use of a condition to control the potential overlooking would be a necessary safeguard to protect residential amenity given the reduced separation distance. The Planning Authority refers to the western facing window, however, this is more accurately referred to as the southwestern facing window and the condition has been amended to reflect this matter. Planning permission was also granted at the third party's property (10 Elton Park) for a playroom and gym (Ref: D24B/0368/WEB). This building has not been constructed, however, it is set back in the rear garden of No. 10 and while it has a side access door it has no windows on the side elevation which opposes the application site. I am of the view that there will be no overlooking into this building.
- 8.4.8 While the proposed separation distances are not strictly in accordance with the separation distances in the Development Plan (Section 12.3.5.2 ) and SPPR 1 of the Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024), reduced separation distances are permitted in the urban context where suitable privacy measures have been designed into the scheme. I am of the view that the separation distances are acceptable given the proposed design and no significant loss of privacy or overlooking will arise from the proposed development.

- 8.4.9 The issue of a loss of trees on the application site and the reference within the Arborist Report to 'existing trees' on the third party's property for screening purposes was raised. I have reviewed the documentation and do not consider that the Arborists Report refers to the screening provided by the trees within the third party's property. I acknowledge the third party's intention to construct a playroom/gym on their property which was granted permission under Ref: D24B/0368/WEB and the retention/removal of trees on the third party's property is not critical to my assessment of overlooking.
- 8.4.10 Overshadowing was raised as a concern by the third party and in response the applicant submitted a Daylight and Sunlight Assessment which is stated as being carried out in accordance with 'BS EN 17037:2018 Daylight in Buildings,' and BRE 209, 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', Third Edition 2022, by P. J. Littlefair.
- 8.4.11 The analysis examined the impacts on the adjoining garden areas and buildings including the previously approved gym and playroom (Ref: D24B/0368/WEB) and the rear ground floor extension Ref: D24B/0128. While these have not been constructed, they remain extant grants of planning permission. The report found that the impact from the proposed dwelling on the existing and approved development at No. 10 Elton Park and other adjoining properties would not be significant. I have viewed the site and the orientation of the proposed building in relation to the sun path and I am of the opinion that while some loss of light is likely to occur to the garden area of adjoining properties, this impact is likely to be for a short duration during certain times of the day and is not likely to be significant.
- 8.4.12 The third party stated that the dwelling should be single storey as this would mitigate the effect on their property and the wider area. I consider that the building is well set back on the site, has a limited ridge height and has been designed with the lower elevations onto the rear of the properties in Elton Park and Elton Court. While the gable elevation of 7 metres is positioned onto No. 10 Elton Park is to the rear of their garden and is set back within the boundary by 1.3 metres. Should the approved playroom and gym be constructed the impact would not be felt within the building given the lack of windows in the opposing gable elevation. I am of the opinion that any impact of dominance will be minimal and the proposal as presented is acceptable and no reductions of amendments are necessary.

## **8.5 Protected Structure**

- 8.5.1 To the southeast of the application site are two terrace rows, each containing four Victorian era dwellings which front onto Elton Park. These dwellings known as No's: 1-8 Elton Park are protected structures and are listed as House(s) (RPS Nos: 1390-1397 inclusive) on the record. No. 8 Elton Park (House, RPS No. 1390) immediately abuts the application site along apportion of its southeastern boundary.
- 8.5.2 The third party raised concern that the development of the site for a dwelling would affect the setting of the protected structure(s), the proposal would affect views of the protected structures from Elton Court and that no Architectural Impact Assessment has been submitted.
- 8.5.3 As part of the appeal submissions an Architectural Heritage Impact Assessment by Paul Keogh Architects was submitted. The Architectural Heritage Impact Assessment contains an analysis of the historical setting, the current surrounding context and an analysis of the potential impact of the development. It concludes that the proposed development does not involve works which would have a direct impact on the architectural features of the structures, the contemporary design is finished in robust materials which are in keeping with the area and any views of the proposed dwelling would be read against the backdrop of the relatively modern residential development in Elton Court.
- 8.5.4 On receipt of the Architectural Heritage Impact Assessment, the Coimisiún consulted with the Heritage Council, Development Applications Unit, Failte Ireland, An Taisce and An Chomhairle Ealaíon with a deadline to respond of the 20th October 2025, however, no replies were received.
- 8.5.5 Policy Objective HER8: Work to Protected Structures states that '...any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' and that '...any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.'
- 8.5.6 The proposed development does not include works to any protected structure nor are there works within the curtilage of No. 8 Elton Park or any other protected structure. The Development Plan does refer to the impact that the development can

have on the setting of a protected structure and that can include both views towards and views out of the protected structure.

- 8.5.7 The principal elevation of the protected structures is onto Elton Park and from this vantage point there are very limited opportunities to view the application site given that there are only narrow gaps between the existing buildings. From Elton Court the views of the protected structures are largely blocked by existing dwellings, privacy wall screening and vegetation, however, some limited views of the rear of the protected structures do exist, however, these views would not be interrupted by the development of the proposed site.
- 8.5.8 The third party refers to views of the protected structures being affected from properties within Elton Court. I have taken that this refers to views from the rear of dwellings within Elton Court or their rear private amenity areas. These views are to private viewpoints and are restricted at present due to intervening vegetation. The proposed development includes the retention of the existing birch trees along its boundary with Elton Court and I am of the view that the setting of the protected structure(s) would not be affected from viewpoints along Elton Court. I also note that Section 13.8.1 of the Architectural Heritage Protection – Guidelines for Planning Authorities 2011 refers to the setting being affected by ‘important views’.
- 8.5.9 The views out of the protected structure(s) towards the application site would be limited to the rear of the protected structures. At present this outlook is onto Elton Court which comprises a mixture of house styles constructed around the 1990’s. Any views of the proposed development from the protected structure would be read against this backdrop and would not detract from the setting of the protected structure(s).
- 8.5.10 While the third party raises concern that planning permission was refused for a dwelling to the rear of No. 8 Elton Park (Ref: D04A/1023 & PL 06D.211565) this was within the curtilage of the protected structure and is not directly comparable with the current proposal which lies outside the curtilage.
- 8.5.11 I consider that the proposed development would not adversely affect the protected structures or their setting and is acceptable in this regard.

## 8.6 Access

- 8.6.1 The application site is located within Zone 3 parking area as defined by supplementary Map T2 of the Development Plan which indicates a standard of two

parking spaces for a three bedroom house. There was no response from the Transport Planning Section and the Planning Authority were satisfied with the access and parking arrangement.

- 8.6.2 The proposed means of access is through the existing rear access to the garden area of No. 9 Elton Park which accesses onto Elton Court which it is stated as being a private road. One car parking space is proposed for this three bedroom house, however, the standard in the Development Plan is for 2 spaces. Section 12.4.5.2 allows for a deviation dependent on local circumstances such as proximity to public transport services and level of service which is at the discretion of the Planning Authority.
- 8.6.3 I am of the view that the site is within an accessible location given the proximity (250 metres) of the nearby bus stops along the R119 to the north of the site. SPPR 3 of the Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024) requires 1.5 spaces in 'Accessible Locations' and the applicant has provided one space. I am of the view that given the location, the road infrastructure and the proximity to different transport nodes that one car parking space is sufficient to serve the proposed dwelling.
- 8.6.4 While there were concerns raised with manoeuvrability with the site and that a car could not turn within the curtilage, I am of the opinion that this can be achieved given the space shown. A cycle store has been provided and sufficient space exists within the curtilage for additional cycle storage. I am of the view that given that the access is to serve one dwelling that there would be no adverse impact on the local road network in terms of traffic generation, traffic safety, or pedestrian/vehicle conflict.

## 8.7 **Other Matters**

- 8.7.1 There were several matters raised by third parties during the processing of the planning application in relation to the use of the laneway serving the Elton Court development being under private ownership and operated by a management company (Ronbow Management Company CLG). Potential damage to the laneway and the location of manholes for the site drainage and foul sewerage on this laneway was also raised. It was stated that no permission had been sought or granted by the owners to have any works carried out. In addition, the third parties during the processing of the planning application raised concerns with noise and dust during construction along with issues of contractors parking during the construction phase.

- 8.7.2 In respect to the above, I note that issues to do with ownership and property damage are not matters which can be adjudicated by the Coimisiún. I refer to Section 5.13 of the Development Management Guidelines for Planning Authorities (2007) which states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. I also refer to Section 34(13) of the Planning and Development Act 2000 (as amended) states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'. I note the existence of an existing laneway accessing the site with a gated access and that a right of way onto the private estate road for Upton Court is not disputed by the third parties.
- 8.7.3 Construction impacts can impact on residential amenity, however, these effects are normally short term and can be mitigated through the use of appropriately worded conditions. A condition was attached by the Planning Authority's to its decision notice and I am of the view that a similar condition should be attached in this case to that adverse impacts can be controlled.
- 8.7.4 The parking of commercial vehicles on the private roads lie outside the scope of the Coimisiúns jurisdiction, however, a condition can be imposed requiring a Construction Traffic Management Plan to be submitted to the Planning Authority prior to the commencement of development to ensure that the development would not impede traffic along Elton Court.
- 8.7.5 While the devaluation of property in the area was raised as a concern this is not normally considered to be a material consideration and I have not been provided with any evidence that such an effect would occur or that it would be disproportionate.

## 9.0 **AA Screening**

- 9.1 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located at lands to the rear of 9 Elton Park, Sandycove, Co. Dublin, no relevant designated sites are close by.
- 9.2 The proposed development comprises the construction of a three bedroom dwelling. 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.

9.3 The reason for this conclusion is as follows:

- Small scale and nature of the development;
- Distance from nearest European site, the intervening land uses and the lack of connections; and
- The screening decision of the Planning Authority.

9.4 I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 10.0 **Water Framework Directive**

10.1 The subject site is located at lands to the rear of 9 Elton Park, Sandycove, Co. Dublin which is 302 metres from the nearest known waterbody.

10.2 The proposed development comprises the construction of a three bedroom dwelling. No water deterioration concerns were raised in the planning appeal. I have assessed the proposed construction of the three bedroom dwelling and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status) and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

10.3 The reason for this conclusion is as follows:

- Small scale and nature of the development
- Distance from nearest water bodies and lack of hydrological connections.

10.4 I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and costal) 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

That planning permission be granted for the reasons and considerations set out below and subject to the conditions set out below.

## 12.0 Reasons and Considerations

Having regard to the design, appearance and layout of the proposed dwelling, it is the Commissions view that, subject to compliance with conditions below, the development proposed would not seriously injure the visual amenities of the area or residential amenities of any property in the vicinity, it would not adversely impact on the character of the area, would not add to any significant intensification of the private road onto Upton Court nor would the setting of the nearby protected structures be adversely affected. The proposed development, therefore, would be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the Planning Authority on the 9<sup>th</sup> day of June 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity and to ensure an appropriate high standard of development.</p>
3.	<p>The glazing within the southwestern facing section of the first floor window serving Bedroom 3 (RM No. 107) shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.</p> <p><b>Reason:</b> In the interests of residential amenities and to prevent overlooking.</p>
4.	<p>The proposed house shall be used as a single dwelling unit and shall not be sub-divided, sold, let, conveyed or otherwise used as two or more separate habitable units or for non-residential uses.</p> <p><b>Reason:</b> To prevent unauthorised development.</p>
5.	<p>To ensure the protection of trees within the site, the developer is required to implement all the recommendations pertaining to tree retention and protection as outlined within the submitted Arborist / Tree Report and accompanying drawings. The developer is required to retain the services of an Arboricultural Consultant throughout the life of the site development works to ensure the protection of all trees listed for retention. A completion certificate is to be signed off by the Arborist when all works are completed and in line with the submitted original landscape drawings. This certificate is to be submitted to the Planning Authority for record.</p> <p><b>Reason:</b> In the interests of orderly development and visual amen</p>
6.	<p>(a) All trees which are shown on lodged plans to be retained shall be protected by a stout timber fence, 1.5 - 2 metres high, and enclosing at least the area covered by the branch spread of the trees. The fence shall be erected before the commencement of any site works, and shall be maintained throughout the entire construction period.</p>

	<p>(b) No development works of any kind shall take place within the fenced-off area. In particular, the parking of vehicles, location of site huts, storage compounds or topsoil heaps, storage of oil and chemicals, and lighting of fires, is prohibited.</p> <p><b>Reason:</b> To protect the character of the site.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>a) All necessary measures shall be taken by the applicant to prevent any spillage or deposition of clay, dust, rubble or other debris, whether arising from vehicle wheels or otherwise, on the adjoining and/or adjacent public road and footpath network during the course of the construction works.</p> <p>b) Any damage to roads, footpaths or other public property caused by the development shall be made good to the satisfaction of the District Engineer.</p> <p><b>Reason:</b> In the interest of traffic safety and proper control of development</p>
9.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p><b>Reason:</b> To prevent flooding and in the interests of sustainable drainage.</p>
10.	<p>A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for</p>

	<p>storage of deliveries to the site.</p> <p><b>Reason:</b> In the interest of sustainable transport and safety.</p>
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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

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Barry Diamond  
Planning Inspector

26<sup>th</sup> November 2025

## Appendix 1 - Form 1 EIA Pre-Screening

<b>Case Reference</b>	ACP – 323471-25
<b>Proposed Development Summary</b>	Construction of a three bedroom dwelling.
<b>Development Address</b>	Lands to the rear of 9 Elton Park, Sandycove, Co. Dublin
	<b>In all cases check box /or leave blank</b>
<p><b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b></p> <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> <li>- The execution of construction works or of other installations or schemes,</li>   <li>- Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)</li> </ul>	<p><input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.</p> <p><input type="checkbox"/> No, No further action required.</p>
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<p><input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1.</p> <p><b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b></p>	<p>Class 10(b) (i) [Residential] mandatory threshold is 500 dwelling units.</p> <p>Class 10(b)(iv) [Urban Development] where the mandatory thresholds are 2ha, 10ha or 20ha depending on location.</p>
<p><input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
<b>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?</b>	
<p><input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of</p>	

<p>proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>Threshold = 500 dwelling units. Proposed development = 1 dwelling unit.</p>

<p><b>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)?</b></p>	
<p>Yes <input type="checkbox"/></p>	
<p>No <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ACP 323471-25
<b>Proposed Development Summary</b>	Construction of a three bedroom dwelling.
<b>Development Address</b>	Lands to the rear of 9 Elton Park, Sandycove, Co. Dublin
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The urban site is serviced and forms part of the curtilage of an adjacent dwelling which is not exceptional in the context of the surrounding area and development.</p> <p>A short term construction phase would be required and the development would not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance due to its scale. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. Its operation presents no significant risks to human health.</p>
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is situated in an urban area to the rear of an existing dwelling and the scale of the single unit proposal is not considered exceptional in the context of surrounding development. It is not likely to have any cumulative impacts or significant cumulative impacts with other existing or permitted projects.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters,</p>	<p>Having regard to the modest nature of the proposed development and the nature of the works</p>

<p>magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>constituting a single dwelling unit, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
<p><b>There is no real likelihood of significant effects on the environment.</b></p>	<p><b>EIA is not required.</b></p> <p>The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.</p>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_