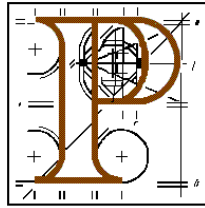


# An Bord Pleanála



## Inspector's Report

**PL06D.245916**

**DEVELOPMENT:-** Retention of existing dental use at ground floor, construction of a porch to the front and side of existing building, construction of a single-storey extension to the rear, form a new external entrance door to first floor part of building to be used for residential use and erect illuminated signage on front elevation of building and non-illuminated sign on the boundary wall at 112 Churchview Road, Killiney, Co. Dublin.

### PLANNING APPLICATION

**Planning Authority:** Dun Laoghaire Rathdown County Council  
**Planning Authority Reg. No:** D15A/0448  
**Applicant:** Gerard O'Connor  
**Application Type:** Permission  
**Planning Authority Decision:** Refuse

### APPEAL

**Appellant:** Gerard O' Connor  
**Type of Appeal:** 1st-v-Refusal  
**DATE OF SITE INSPECTION:** 10<sup>th</sup> March 2016  
**Inspector:** Colin McBride

## 1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area of 0.0269 hectares, is located west of Killiney and north of Loughlinstown. The site is located off Churchview Road in a residential area. The site is occupied by a two-storey building that would have originally been a dwelling but appears to have been in use as a dental practice (not operating at the time of the site visit). To the north and south are identical structures (dwellings). To the west of the site the existing two-storey dwellings in Brackenbush Park back onto the western boundary of the site. To the east and on the opposite side of the road is Kilbogget Park.

## 2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for retention of existing dental use at ground floor, construction of a porch to the front and side of existing building, construction of a single-storey extension to the rear, form a new external entrance door to first floor part of building to be used for residential use and erect illuminated signage on front elevation of building and non-illuminated sign on the boundary wall. The extensions to the existing structure have a floor area of 49sqm. The whole of the ground floor including the extension to is to be a dental practice. The first floor is to be used as a self-contained residential unit with independent access to the side. The site layout indicates provision of two off-street car parking spaces.
- 2.2 In response to further information the proposal was revised with reduction in the size of the extension to the rear from 42 to 26.1sqm, provision of front porch only (3.12sqm), first floor residential to be omitted with second surgery to remain at first floor level and changes to the signage.

## 3. LOCAL AND EXTERNAL AUTHORITY REPORTS

### 3.1

- a) Water Services (18/08/15): Further information required including information regarding disposal of surface water.
- b) Transportation Planning (26/08/15): No objection subject to conditions.
- c) Planning report (31/08/15): Further information required including details of surface water, measures to deal with noise emissions, revisions to the scale of the dental practice relative to residential use, clarification of the site boundary and more detail regarding signage.

- d) Water Services (11/11/15): No objection subject to conditions.
- e) Planning Report (20/11/15): It was considered that the proposal would be contrary Section 16.5.5(II) Medical Surgeries/Centres for Medical Practitioners of the County Development Plan. It was also considered that the extension to the rear would have a negative visual impact and result in overshadowing relative to the adjoining property at no. 110. Refusal was recommended based on the reasons outlined below.

#### 4. DECISION OF THE PLANNING AUTHORITY

##### 4.1 Permission refused based on three reasons, which are as follows...

1. *Having regard to the 'A' zoning objective at this site, it is considered that the proposal consisting of the sole use of, intensification of use and extension of the property entirely for commercial medical purposes and without any residential element, is contrary to Section 16.5.5(ii) of the Dún Laoghaire-Rathdown County Development Plan, 2010-2016, would seriously injure the amenities or depreciate the value of property in the vicinity and would set a poor precedent for similar type development in the area. The development is, therefore, contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the 'A' zoning objective at this site and to Section 16.5.5(ii) of the Dun Laoghaire-Rathdown County Development Plan, 2010-2016, it is considered that the proposed extensions and retention and intensification of commercial medical change of use of the entire subject premises, would represent an inappropriate overall use in this modest site and residential location and would be contrary to the zoning objective at this location, which is to protect and/or improve residential amenity. The proposed development would, therefore, contravene materially a development objective indicated in the Dun Laoghaire-Rathdown County Development Plan for the zoning of land for the use solely or primarily of particular areas for particular purposes and would, therefore, be contrary to the proper planning and sustainable development of the area.*
3. *Having regard to the height, layout and orientation of the proposed rear ground floor commercial extension and noting the layout, orientation and design of the adjacent property to the north/northwest, No. 110 Churchview Road, it is considered that the proposed ground floor rear extension would be visually obtrusive, would have an overshadowing effect and would seriously injure the amenities or depreciate the value of the properties in the vicinity and would be contrary to the proper planning and sustainable development of the area.*

## 5. PLANNING HISTORY

5.1 No planning history on the site.

## 6. PLANNING POLICY

6.1 The appeal site is within the area covered by the Dun Laoghaire-Rathdown County Development Plan, 2016-2022, and has a zoning objective 'A': 'to protect and/ or improve residential amenity.'

6.2 Section 8.2.12.2 Medical Surgeries/Centres for Medical Practitioners:

The Planning Authority will distinguish between small scale medical practices involving one to two principals (i.e. doctor/dentist/physiotherapist owning the business) with a maximum of one to two employees, and larger medical practices accommodating two or more medical practitioners and two or more support staff.

The Planning Authority will consider on their own merits, any applications for the establishment of small-scale medical practices, or the extension/ refurbishment of existing small-scale medical practices, in residential areas. Applications should involve professional medical (commercial) activities carried out by the resident of the building or, the premises should incorporate an otherwise occupied living unit. The living accommodation should comprise a minimum of circa 45% of the overall building floor area.

The operation of these premises shall not have negative impacts on the residential amenities of the surrounding area. Parking and access arrangements shall be as per the Transportation Section's requirements, while parking areas shall not dominate the front curtilage of the property in contrast to other community orientated developments, regard will be had to the following:

- Overall need in terms of necessity, deficiency, and opportunity to enhance or develop local or County facilities.
- Practicalities of site in terms of site location relating to uses, impact on local amenities, desirability, and accessibility.
- Conformity with the requirements of appropriate legislative guidelines.
- Conformity with land use zoning objectives.

## 7. GROUNDS OF APPEAL

7.1 A first party appeal has been lodged by Tom Phillips & Associates on behalf of Gerard O'Connor. The grounds of appeal are as follows...

- It is noted that the existing dental practice has been operating at this location since 1980 with the Planning Authority taking no enforcement action. The proposal seeks to regularise the situation as well as improve disabled access to the surgery. It is noted that the existing use has been operating for a significant period of time without any adverse impact on adjoining amenity.
- It is noted that proposal is for sole use as a dental practice and that such is the existing arrangement on site. The applicant/appellant revised the proposal in response to further information to omit the proposed residential use at first floor level. In this regard it is noted that the proposal would not entail an intensification of commercial use over the existing operation on site, which currently has capacity for two surgeries and that such is to remain the case.
- The proposal is consistent with Section 16.5.5(ii) of the County Development Plan. It is also noted that as the building has been in use as a dental practice for over 20 years that this policy does not directly relate to the proposal. It is noted that the existing and proposed development is a small scale practice that has been operating for significant period of time.
- The proposal has no adverse impact upon residential amenity in the area with it reiterated that the use has been long established at this location as well as the scale of the revised extension being acceptable in regards to the amenity of adjoining properties. It is also noted that the proposed extension and alterations would be acceptable in the context of visual amenity.
- The revised signage would be acceptable in the context of residential and visual amenity (applicant/appellant amenable to a condition requiring removal of the etched signage from the frosted glass).
- There will be no adverse impact through noise/fume emissions with measures outlined to reduce noise levels from equipment to satisfactory standards.
- There is no adverse traffic impact with it noted that the use is long established at this location and is not being intensified. It is noted that two off-street car parking spaces are to be provided.

## 8. RESPONSES

8.1 Response by Dun Laoghaire Rathdown County Council.

- The PA note that the proposal for a medical use that would entail no residential element and accommodate two surgeries would be contrary policy outlined under Section 16.5.5(ii) of the County Development Plan.

## 9. OBSERVATIONS

### 9.1 Observation by Duncan Clarke & Nell Kavanagh, 110 Churchview Road, Killiney, Co. Dublin.

- The provision of sizeable commercial development at this location including impact in regards to traffic and parking would raise safety issues.
- The size of the extension would have an adverse impact on the observers residential amenity through an overbearing impact and causing overshadowing.
- The proposal would have an adverse impact through noise and fume emissions.
- The proposal would have an adverse impact on existing sewage and drainage systems in regards to capacity.
- The signage proposed is inappropriate in a residential area.
- The extent of the proposal would devalue the appellants' property.

### 9.2 Observation by the Watson Killiney Residents Association.

- This observation uses the identical points and wording of the observation Duncan Clarke & Nell Kavanagh outlined above.

## 10. ASSESSMENT

### 10.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development  
Residential/visual amenity  
Traffic/car parking  
Other Issues

### **10.2 Principle of the proposed development/development plan policy:**

10.2.1 The proposal concerns an existing two-storey structure that according to the information on file has been used as a dentist surgery for a significant period of time (since 1980), but had not been subject to permission for change of use from a dwelling. The existing layout provides for two consulting rooms/surgeries and ancillary accommodation (office, waiting rooms, sanitary facilities). The initial proposal was to extend the building at ground floor level and retain use of the ground floor for a dental surgery with two consulting rooms and change the first floor to a self-contained two bed apartment unit. In response to further information the plans were altered with the floor area of the extensions reduced and the use of the entire building for a dental practice

including two consulting rooms. The appeal site is zoned 'A': 'to protect and/or improve residential amenity'. Under Chapter 18, Land Use Zoning Objectives of the County Development Plan 'doctor/dentist' is noted as being a use 'open for consideration' within this zoning. There is specific policy under Chapter 8, Development Management of the County Development Plan in relation to 'Medical Surgeries/Centres for Medical Practitioners' (Section 8.2.12.2 (new Development Plan has superseded section 16.5.5(ii) although policy is similar in nature). This section notes that "the Planning Authority will consider on their own merits, any applications for the establishment of small-scale medical practices, or the extension/ refurbishment of existing small-scale medical practices, in residential areas. Applications should involve professional medical (commercial) activities carried out by the resident of the building or, the premises should incorporate an otherwise occupied living unit. The living accommodation should comprise a minimum of circa 45% of the overall building floor area". Given the proposal provides for two consulting rooms/surgeries, I would consider that the proposal is a small-scale medical practice. In regards to residential development, there was an initial proposal for a self-contained apartment unit at first floor and that was subsequently altered to a proposal without a residential aspect.

10.2.2 Although policy under section 8.2.12.2. suggests that proposal for medical practices in a residential area should have a residential element attached, I would consider the initial proposal featuring residential use to be unacceptable as the scale of the existing building even after extension does not lend itself to the provision residential accommodation of any meaningful quality in regards to development control standards such as dedicated parking, open space, residential amenity or sufficient independence from the commercial use. I would consider that the initial proposal provided a residential unit of less than satisfactory quality in regards to development control standards. I consider that the existing building would be better served being one use whether that is as a dental practice as proposed or as a single residential unit. In this regard I would note that the first version of the proposal did comply with Section 18.2.12.2, however as noted above I would consider this proposal less satisfactory than the revised proposal featuring a single use and a reduced level of extension. I would consider that the proposal is for a small scale medical practice and subject to such being satisfactory in regards visual amenity, adjoining residential amenity and traffic safety, the nature of the proposal would be acceptable at this location (revised proposal after further information).

### **10.3 Residential/visual amenity:**

10.3.1 As noted earlier the proposed use is 'open for consideration within the 'A' land use zoning objective. I would consider the nature of the use in the form of a small scale medical practice to be acceptable within a residential area such as this. Such an activity is not carried out during unsocial hours. In regards to the issue of noise and emissions, there are no emissions proposed or likely to occur. In regards to the issue of noise and disturbance the applicant/appellant has indicated the noise level likely to be anticipated and the measures proposed to keep such within acceptable limits. I would consider that subject to appropriate conditions in this regard that the operation of the proposed development would have no significant or adverse impact on the residential amenities of adjoining properties.

10.3.2 The proposal initially entailed a single-storey extensions to the front, side and rear. This proposal was amended to entail a reduced level of extension with, extension to the front in form of a new porch and a single-storey extension to the rear. In regards to visual amenity the proposed extensions to the front and side are subordinate in scale to the existing dwelling and would not be out of character and scale at this location. The bulk of the extension proposed is to the rear of the existing structure and would not be visible in the surrounding area. I am satisfied that both the original and revised proposals for extension to the existing building are satisfactory in the context of the visual amenities of the area.

10.3.3 The third reason for refusal noted that "having regard to the height, layout and orientation of the proposed rear ground floor commercial extension and noting the layout, orientation and design of the adjacent property to the north/northwest, No. 110 Churchview Road, it is considered that the proposed ground floor rear extension would be visually obtrusive, would have an overshadowing effect and would seriously injure the amenities or depreciate the value of the properties in the vicinity and would be contrary to the proper planning and sustainable development of the area". The initial proposal was for a single-storey extension with a floor area of 42sqm to the rear. This was a flat roof extension with a ridge height of 3.35m and projecting 6.7m beyond the rear building line of the existing building. The rear extension was revised and reduced in floor area to 26.1sqm, an increased ridge height of 3.9m and projecting 4.95m beyond the rear building line. The extension is tight to the boundary with no. 110 Churchview Road. It is notable that both of the adjoining dwellings, no.s 110 and 114 on either side of the site appear to have been extended with both currently projecting further beyond the rear elevation of no. 112. In the case no. 110 to the south the level of extension to the rear is larger than at no 114. In the cases of both of the adjoining properties I would consider that the level of extension proposed to the rear to be satisfactory for



both the initial and revised proposals with the extension being single-storey in nature and not projecting significantly beyond the rear building line of no. 110 and the extension being concentrated adjacent the northern boundary of the site and stepped away from the boundary with no. 114. In this regard I am satisfied that the design and scale of the proposal would be satisfactory in regards to the residential amenity of the adjoining properties and would result in no loss privacy, overbearing impact or overshadowing.

10.3.4 In relation to signage (revised proposal) it is proposed to provide etched signage on the frosted glazing on the large window on the front elevation at ground floor level, some raised lettering on the front a gable wall between the ground and first floor windows and two small wall plaques at the entrance door. I consider that subject to the restriction that signage shall not be illuminated, that the signage proposed is acceptable in the context of visual amenity.

#### **10.4 Traffic/car parking:**

10.4.1 The initial proposal was for a dental practice with two consulting rooms/surgeries at ground floor and a two bed apartment unit at first floor. This was subsequently revised to the provision of dental practice only with two consulting rooms/surgeries. In both cases the proposal entailed the provision of two-off street car parking spaces to the front of the existing building. Under Table 16.3/16.4 of the County Development Plan the requirements for parking for a two bed apartment unit is one space per unit and in the case of Clinics and Group Medical Practices (doctor, dentist, consultant) the requirement is 2 spaces per consulting room. The initial proposal had a (dental practice and apartment) had a parking requirement of 5 spaces whereas the revised proposal (dental practice only) has a requirement of 4 spaces.

10.4.2 The proposal does entail an increase in parking provision on site with the existing property currently set up to provide for only one off-street space. Despite the fact the proposal does not provide the minimum level of car parking I do not consider that this fact alone is reasons to refuse and would note that this aspect of the proposal did not form part of the reason for refusal by the Planning Authority. Firstly I would note that site and development is within walking distance of a sizeable residential catchment area reducing the need for vehicular traffic. In addition the road network immediately adjacent the site is of a good standard and features a significant level of on-street parking. I am satisfied that the small scale nature of the development taken in conjunction with these facts would mean the proposal would be unlikely to

generate an excessive level of traffic or result in the creation of a traffic hazard at this location.

## **10.5 Other Issues:**

10.5.1 The observation raise concerns regarding capacity of existing drainage infrastructure in the area. In this regards the Council's Water Services section indicated no object to the proposal in relation any aspect of drainage.

10.5.2 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **RECOMMENDATION**

I recommend a grant of permission subject to the following conditions.

## **REASONS AND CONSIDERATIONS**

Having regard to the zoning objective, the design, scale, layout and location of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities, or the residential amenity of property in the vicinity and would be acceptable in the context of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by the plans submitted on the 29th day of October 2015 and on the 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.

Reason: In the interest of clarity.

2. Signage shall be in accordance with the details submitted on the 29th day of October 2015 with no other signage permitted and no illumination of permitted signage to be carried out.

Reason: In the interest of visual amenity.

3. No ventilation, air conditioning or other mechanical equipment shall be erected on the external walls of the buildings, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to protect the amenities of the adjoining properties.

4. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured [at the nearest dwelling] [at the nearest noise sensitive location] or [at any point along the boundary of the site] shall not exceed:-

- (i) An  $L_{AeqT}$  value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]
- (ii) An  $L_{AeqT}$  value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

[At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.]

(b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.

**Reason:** To protect the amenities of property in the vicinity of the site.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction waste.

Reason: In the interests of public safety and residential amenity.

6. 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 the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Colin McBride  
21<sup>st</sup> March 2016