



An  
Bord  
Pleanála

## Inspector's Report ABP-301283-18

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<b>Development</b>	Permission for a single storey flat roofed storage building to the yard to the rear of the site.
<b>Location</b>	Ark Vetcare, Kill Lane, Foxrock, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0034
<b>Applicant(s)</b>	Ark Vetcare
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ark Vetcare
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> June 2018
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.12ha is located on the corner of Kiln Lane and Foxrock Grove. The site comprises a gravelled courtyard to the rear of relatively new building with commercial use at ground floor (veterinary clinic and orthodontist / doctors surgery) with residential apartments above. A set of photographs of the site and its environs taken during the course of the site inspection is attached.

## 2.0 Proposed Development

- 2.1. Permission is sought for the provision of a 63 sqm single-storey flat-roofed storage building, with masonry rendered walls and zinc capping, in the yard to the rear of the site. Internal floor to ceiling height is 2.6m, taking into account structure and insulation the overall height is just under 3.4m. The building is to be for the use of the existing veterinary practice. The stated area of the existing building is 632sqm.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. DLRCC issued a notification of decision to refuse permission for the following reason:

*Having regard to the restricted nature of the site and its context, including its close proximity to adjacent residential properties and existing structures, the proposal for a single-storey, commercial/veterinarian surgery related storage building of 63 square metres floor area at this location, and the footprint of the proposed structure; by reason of its scale, height and massing, would result in overdevelopment of the site, would have a negative impact on the amenities of residents and users of the site and surrounding residential properties. The proposed storage building would seriously injure the residential amenities of the adjacent properties by reason of its size, layout and use. It is considered that the proposed development of the storage building would therefore, seriously injure the residential amenities and depreciate the value of property*

*in the vicinity, and would be contrary to the proper planning and sustainable development of the area.*

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

3.2.2. The **Case Planner** noted the recent split decision to refuse permission for a similar albeit larger rear storage building (Reg Ref D17A/0669 refers). Also noted that under the parent permission for the overall site (Reg Ref D04A/1307 refers) the rear yard appeared to be divided and allocated as “landscape court” areas for the two upper floor apartments. The report states that the proposed development would occupy the majority of the rear gravelled yard area and would be located relatively close proximity to the surrounding site boundaries and buildings and this is unacceptable. The Case Planner having considered the proposed development recommended that permission be refused for a single reason. The notification of decision to refuse permission issued by DLRCC reflects this recommendation.

#### 3.2.3. Other Technical Reports

3.2.4. **Transportation** – No objection subject to a condition relating to the prevention of debris / damage to the roadway.

3.2.5. **Drainage** – No objection to the scheme subject to conditions relating to SuDS and hardstanding areas.

### 3.3. **Prescribed Bodies**

3.3.1. There are no reports from any prescribed bodies recorded on the appeal file.

### 3.4. **Third Party Observations**

3.4.1. There is no evidence of any third party observations on the the appeal file.

## 4.0 **Planning History**

4.1. There is no evidence of any previous appeal on this site. Reference is made to the following planning applications throughout the appeal file:

- **Reg Ref D17A/0669** – Split decision. Permission was granted for a ground floor kennel area (35sqm) to the rear of the veterinary practise and refuse permission for 80sqm single flat roofed storage building and proposed signage to the front
- **Reg Ref D04A/1307** – Permission granted on foot of outline permission Reg Ref D03A/0742 for extension and alterations to the surgery, two storey, detached building to provide for a doctors group surgery and two apartments, together with car parking and ancillary services.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative Development Plan is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**. The site is zoned Objective A where the objective is *to protect and/or improve residential amenity*. The site is also located within the boundary of the Deansgrange Local Area Plan (LAP) 2010-2020. Relevant sections of the Development Plan are: Chapter 3: Enterprise & Employment Strategy and Chapter 8: Principles of Development.

### 5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The first party appeal has been prepared and submitted by, Edward Fitzgerald Selby Architect, on behalf of the applicant. The issues raised may be summarised as follows:
- The proposed structure is to stand in a vacant gravelled yard.
  - The yard currently provides no amenity to either the adjacent apartments over the dental practise nor the existing veterinary practise.

- It does not serve as a landscaped back drop to any dwelling, nor comprise outdoor space in terms of apartments over the dental practise.
- The proposed structure is not visible from the front of the property, from the rear of the sides. It will not be visible form the garden of the dwelling to the rear.
- With regard to Reg Ref D04A/1307 it is submitted that the yard has never been used as outdoor space; it has always been in the use of the veterinary practise for parking a car or waking an animal. The balconies already have spacious balconies with a south facing aspect providing outdoor space.
- Reference is made to the new Apartment Guidelines and in particular Section 3.24 – Private Amenity Space. It is submitted that the existing block of apartments currently comply with all of the above requirements. There will be no loss of amenity for the residents of the apartments were the proposed development granted permission.

## 6.2. **Planning Authority Response**

- 6.2.1. DLRCC consider that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

## 6.3. **Observations**

- 6.3.1. There are no responses recorded on the appeal file.

## 6.4. **Further Responses**

- 6.4.1. There are not further responses recorded on the appeal file.

## 7.0 **Assessment**

- 7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Loss of Open Space
- Scale of the Building
- Other Issues

## 8.0 Principle

- 8.1. DLRCC refused permission for the provision of a 63 sqm single-storey flat-roofed storage building for the use of the existing veterinary practice in the gravelled yard to the rear the existing mixed use development because of the restricted nature of the site and its context, including its close proximity to adjacent residential properties and existing structures together with its scale, height and massing. It was considered that the scheme would result in overdevelopment of the site and would have a negative impact on the amenities of residents and users of the site and surrounding residential properties. It is also noted that the proposed development albeit slightly larger at 80sqm was the subject of a recent split decision from the Local Authority, where the storage building element of the planning application was refused permission.
- 8.2. Under the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 the site is wholly contained within an area zoned Objective A where the objective is to protect and / or improve residential amenity and where residential development is permitted in principle subject to compliance, with the relevant policies, standards and requirements set out in plan. A Veterinary Surgery is considered a use that is open for consideration under this zoning. Having regard to the existing veterinary surgery on site and the stated purpose of the proposal as a storage building for the use of the existing veterinary practice I am satisfied that the principle of the scheme at this location is acceptable at this location.

## 9.0 Loss of Open Space

- 9.1. The pertinent issue at hand in my view is the loss of open space and the scale of the proposal. It is evident from the information available on file that this gravelled yard was to be used as an amenity area to serve the apartments on site. While it was noted on day of site inspection that the gravelled area was well maintained there was

nothing to suggest that this is a high value residential amenity area frequented by inhabitants of the apartments. In fact, access to the area from the apartments was not obvious and the only function that the area appeared to serve was bin storage. Overall I agree with the applicant that the gravelled yard provides no amenity value to the apartments and I do not therefore consider that its change of use to be so significant as to merit a refusal in this case.

## 10.0 **Scale of the Building**

10.1. With regards to the storage building itself I share the concerns of the Local Authority in terms of its scale and footprint as it appears to dominate the space. I am not satisfied that it has been adequately demonstrated as to why such a large storage area is required. Such site coverage is unacceptable. It is therefore recommended that should the Board be minded to grant permission that a condition be attached requiring that the floor area be reduced to 40sqm with a single door access on the north west elevation to ensure that the area is not dominated by this storage building. It is further recommended that a condition be attached requiring the building to be used for storage only ancillary to the veterinary surgery and that no animals are to be housed in this building.

## 11.0 **Other Issues**

11.1. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

11.2. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development, a rear extension to an existing dwelling, within an established urban area, and its distance 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.

## 12.0 Recommendation

12.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

## 13.0 Reasons and Considerations

13.1. Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and its zoning for the site and to the location of the site in a mixed use development it is considered that, subject to compliance with the conditions set out below, the proposed development as amended would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 14.0 Conditions

1. 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 submitted to An Bord Pleanála, 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. The floor area of the storage building shall be reduced to 40sqm with a single door access on the north west elevation. The building shall be relocated to the west corner of the site. No animals shall be housed in the building. Prior to commencement of work on site plans and particulars

shall be submitted to the Local Authority for written agreement.

**Reason:** In the interest of residential and visual amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health

4. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of adjoining property in the vicinity

5. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** 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.

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**Mary Crowley**

**Senior Planning Inspector**

**29<sup>th</sup> June 2018**