



An  
Bord  
Pleanála

## Inspector's Report ABP 303074-18

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### Development

Demolition of single storey extension and chimney at side and garden structures. Construction of two one storey extension at side, porch and canopies, extension of roof for attic conversion and new gable end profile and construction of detached garage. Block up existing entrance and create new vehicular and pedestrian entrances, alterations to boundaries, landscaping and site works.

### Location

No 7 Churchtown Road Upper.

### Planning Authority

Dun Laoghaire Rathdown County Council

### P. A. Reg. Ref.

D18A/0858

### Applicant

Fergus Dolan.

### Type of Application

Permission.

### Decision

Grant Permission

### Appellant

Ian and Lisa Marconi

### Observer

Alan Collins and Jane Fitzhenry.

### Date of Site Inspection

8<sup>th</sup> February, 2019

### Inspector

Jane Dennehy

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.4. Third Party Observations .....	4
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal .....	5
6.1. Grounds of Appeal .....	5
6.2. Applicant Response .....	6
6.3. Planning Authority Response.....	8
6.4. Observations.....	8
6.5. Further Responses.....	9
7.0 Assessment.....	9
8.0 Recommendation.....	
9.0 Reasons and Considerations.....	14

## 1.0 Site Location and Description

- 1.1. The site has a stated area of 1,013 square metres and is located on a corner site on the north side of Upper Churchtown Road and southern end of Landscape Park in an established residential area characterised primarily by two storey semi-detached houses and some bungalows and cottages. Many have been many have been upgraded and extended. The existing house on the application site is a two storey semi detached house with a single storey flat roofed extension at the side, the total stated floor area of which is 144 square metres. There is vehicular access off the corner at Landscape Park and Upper Churchtown Road and front curtilage parking and side gardens. There is dense coniferous planting along the boundaries of the site.
- 1.2. The original plot was subdivided to allow for development of bungalow facing onto and accessed from Landscape Park. Details of the planning history, to which reference is made in the planning officer report are not available.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:
  - Demolition of single storey extension and chimney at side and garden structures, including a swimming pool,
  - Construction of two storey and a one storey extension at side,
  - a porch and canopies to the rear and front,
  - an extension of roof for attic conversion with a new gable end profile and,
  - construction of a detached garage at the rear of the house and adjacent to the northern boundary with No 111 Landscape Park and western boundary with No 5 Upper Churchtown Road.
  - Closure of the existing entrance (off Landscape Park) and creation of new vehicular entrance towards the northern end the frontage onto Landscape Park and creation of pedestrian entrances off Upper Churchtown Road and Landscape Park., alterations to boundaries, landscaping and site works.

2.2. The total stated floor area of the existing elements of the existing house be retained in conjunction with the proposed extensions is 287 square metres. The depth the garage structure is 15350 mm and its width are 6,500 mm. The lodged plans also show proposals for a timber shed inside the site frontage on Landscape Park.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

By order dated, 30<sup>th</sup> October 2018, the planning authority decided to grant permission subject to conditions of a standard nature. According to Condition No 3, *“the entire structure be used as a single dwelling unit and shall not be sub divided in any manner or used as to or more separate habitable units”*. The reason provided is *“to prevent unauthorised development.”*

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

##### 3.2.1. **Planning Reports**

The planning officer indicates satisfaction with the proposed development in his report.

##### 3.2.2. **Other Technical Reports**

The report of the **Transportation Department** indicates no objection to the proposed development subject to conditions which include restriction in width of the proposed entrance to a maximum of 3.5 metres, to accord with development plan requirements.

The report of the **Drainage Division** indicates no objection to the proposed development subject to conditions which include a requirement for all surface water to be collected within the site and discharged to soak pits designed to BRE 365 standards. (Discharge to the combined sewer is not permitted.)

#### 3.3. **Third Party Observations**

3.3.1. Submissions were lodged by the appellant party and the observer party whose concerns are outlined in detail in paras 6.1 and 6.5. They indicate objection due to

overloading of the existing combined sewer, size and potential for commercial use or habitation of the proposed garage structure, and adverse impact on residential and visual amenities and on property value.

#### **4.0 Planning History**

There is no record of planning history for the site available.

#### **5.0 Policy Context**

##### **5.1. Development Plan**

5.2. The operative development plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022 according to which the site is within a location subject to the zoning objective, A: *to protect and/or improve residential amenity*. An undeveloped area of space to the south is subject to the zoning objective F: 'Open Space'.

5.3. According to section 8.2.4.9 vehicular entrance for single dwellings should not exceed a maximum width of 3.5 metres.

5.4. Guidance and standards for extension to dwellings are set out in section 8.2.3.4. The requirements section 8.2.3.4 include necessity for demonstration that there are no negative impacts on surrounding residential and visual amenities and that external finishes and design should be in harmony with the existing development. Criteria are included for design and assessment of new roofs, extensions to roofs or alterations to roof profiles.

#### **6.0 The Appeal**

##### **6.1. Grounds of Appeal**

6.2. An appeal was received from R W Nolan Associates on behalf of the appellant party of No 5 Upper Churchtown Road, the adjoining property on 22<sup>nd</sup> November, 2018. According to the appeal the proposed development of extensions and a detached

garage would have a serious negative impact on the appellant's property. It is submitted that:

- The proposed development is overdevelopment with reduced private amenity space. Use of existing private open space adjacent to the north western boundary of the site for parking will cause unacceptable noise and nuisance and erosion of the amenity at the rear garden for the occupants of the appellant's property.
- Nos 5 and 7 Upper Churchtown Road are a pair of semi-detached houses with symmetry and a consistent pattern in front garden size, height, roof profile and external finishes. The proposed development's design, bulk, scale, change from a hipped to a gable ended roof profile and, massing detracts from the symmetry and detracts from and disrespects this established character of the existing residential development.

The result would be visually incongruous and would compromise the streetscape in which it would be a dominant element and would set undesirable precedent. The proposed development does not have due regard for and is at variance with Section 8.2.3.4 of the CDP according to which first floor extensions are considered on their merits and can only be permitted if there are no significant negative impacts on surrounding residential and visual amenities. The criteria provided in Section 8.2.3.4 of the CDP for ground floor and first floor extensions and for alterations are included in the appeal submission.

- There are concerns about the potential future use of the detached garage structure included in the proposal. It is also of excessive scale, size and height for the location at the boundary with the adjoining garden and would injure the amenities of the house, the adjoining and surrounding properties. It would be inappropriate as a feature and would seriously injure the amenities of the area. at property. It is also contended that the purpose of the proposed new vehicular entrance is to provide an entrance for the proposed detached garage structure which it is also contended will be converted to a dwelling unit at a future date. It is submitted that the entrance to be blocked could also be

reopened at a future date so that two dwellings with separate entrances could be located on the site.

### 6.3. Applicant Response

6.3.1. A submission was received from Marston Planning on behalf of the applicant on 17<sup>th</sup> December, 2018 which includes a site plan with details which are required under condition No 2 of the planning authority decision on the new entrance design, photographs and is extensive in detail. The contents include a detailed description of the site location, planning background and context and the proposed development. It is submitted that the appeal and observer party concerns were addressed in the assessment by the planning authority. The rebuttal of the appeal can be outlined in brief below:

- It is intended that the garage is to be used solely for carparking.
- It is confirmed that the site was previously subdivided to provide for construction of the single storey house which access onto Landscape Park
- The appellant's property at No 5 Upper Churchtown Road which is on a narrower plot with a longer rear garden has been extended at two storey level to the side and has an altered roof profile. Similarly, Nos 9 and 16 Upper Churchtown Road have been satisfactorily extended and altered without adverse impact on the area of amenities of adjoining properties.
- The proposed roof profile will match the highest part of the existing ridge (59.39 AOD) at 9.23 metres
- The proposed development, including the roof profile does not represent an incongruous design in the local and wider area. Examples of infill development and their roof profiles are provided in the appendix to the appeal and include No 1A Churchtown Road Upper, No 9 Churchtown Road Upper on the opposite corner to the application site.
- The proposed development will result in a dwelling which is almost identical in the relationship to the adjoining property at No 5, the appellant party's property. It is not overdevelopment of the site. It facilitates private amenity space provision to the front which can be reversed by provision for more than adequate space between the rear of the house and the garage (12 square

metres in area) which is well in excess of the minimum area of sixty metres required in the CDP. The garage could be removed at a future date.

- There is no basis on which the garage could have negative impact on the adjoining property. The applicant could have developed an extension at the back of the property up to forty metres in floor area and construct a shed at twenty-five square metres in area as exempt development. It is designed to have a 1.7 metres' setback from the boundary where the nearest element will have a height of 3.3 metres and it is designed to accommodate gym equipment. The garage is to be parallel to and setback 7.9 metres from the house and it has pitched roof and flat roof elements and a gross floor area of 81 square metres.
- Claims as to overshadowing or adverse impact by the garage on the residential amenities of the gardens at No 5 are unfounded. Additional living accommodation at the side and attic level lit by rooflights cannot affect the adjoining property.
- The new entrance is to be forty metres from the junction and is appropriately splayed. It is a planning gain and facilitates the use of the front garden as an amenity space. The proposed 1.8-metre-high boundary wall on the frontage will replace the unsightly hedge and is similar in height to the wall at No 5 and will include a pedestrian entrance.

It is requested that the appeal be dismissed and that the planning authority decision to grant permission be upheld

#### **6.4. Planning Authority Response**

- 6.4.1. The planning authority in a letter received on 16<sup>th</sup> January 2019 confirms that there is no change to the views in the planning officer report and the decision to grant permission

#### **6.5. Observations**

- 6.5.1. An observer submission was lodged by Alan Collins and Jane Fitzhenry of 105 Rathdown Park on their own behalf on 12<sup>th</sup> December, 2018 in which they state that



they recently purchased the property at No 111 Landscape Park. They state that while they have no objection in principle to redevelopment and extensions to the application site property they have concerns as outlined in brief below:

- The proposed roof profile is incompatible with the roof profiles of the existing surrounding development. There is scope for direct overlooking of No 111 Landscape Park from the proposed large, attic level picture window.
- The proposed detached garage to be located directly opposite No 111 Landscape Park is excessive in size at 100 square metres in area and 4.85 metres in height. It is equivalent to a standard single storey house and could be converted into a dwelling at a future date. Also, the original entrance could be re-opened. It will be imposing in scale and will add to the density of buildings on Landscape Park. The back garden of No 7 Upper Churchtown Road has previously been subdivided to allow for construction of an additional dwelling on Landscape Park.

#### 6.6. Further Responses

6.7. A further submission was received from RW Nowlan and Associates on behalf of the appellant on 29<sup>th</sup> January, 2019 according to which:

- It is confirmed that the principle objection is to the garage structure: to the position and scale and to the change in orientation of the house and roof profile of the extension which has overbearing impact and, due to alteration of the relationship between the two houses.

- It is reiterated that it is claimed that the garage will affect the amenity and privacy of their property and it is confirmed that it is estimated that the floor area of the garage is 99.77 square metres, height 4.85 metres in, that it is similar in width to the house, that the footprint is within seven metres of the rear of the house and, that it has a visual incongruous and intrusive impact

The garage structure is four times the exempted development size for garden structures. A smaller garage structure in the north east corner of the site is acceptable to the appellant. There is no validation to the applicant's claim as to similar size and nature of garage development in the area. The argument about exempt development is disingenuous.

- There is overreliance on the assessment of the planning authority in the defence of the proposed development. The assessment was based on a view that there is no adverse impact due to the change in orientation of the house from the rear in the proposed development. In addition to the adverse impact on residential amenity and the character of the adjoining house the negative impact renders the proposal to be it is contrary to rather than in accordance with the zoning objective.
- The objection to the location of the proposed new access close to the appellant's house and rear garden and the likelihood of light, noise by vehicles and by parking day and night. This would disturb the appellants, is insensitive and is not neighbourly in this regard. The access size, parking, and garage size and design are more achievable at off house development in rural areas than a suburban residential area.
- The proposed development adversely affects the residential amenities and depreciates the value of the appellant's property. A reduced size garage structure positioned away from the house and boundary with the appellant's property may be acceptable.

## 7.0 **Assessment**

- 7.1. There are multiple elements to the proposed development. The application and appeal can be considered below under the following sub headings.

Extension.

Reversal of site layout and entrance to dwelling.

Boundary Treatment.

Relocation of the Vehicular Entrance.

The Detached Garage.

Environmental Impact Assessment Screening

Appropriate Assessment.

## **7.2. Extension.**

7.2.1. The single storey extension, to the side across which the canopy to the front of the house extends is at the maximum in width that can be carried in proportion to the original house. However, notwithstanding the overall larger mass relative to the adjoining house in the pair, especially above parapet level, the site has the capacity to accept the roof profile over the extension to the existing dwelling in the gable end is substituted for the original hipped roof profile, due to the corner site location at the junction and the deep setback from the site frontage.

## **7.3. Reversal of site layout and entrance to dwelling.**

7.3.1. The applicant intends to reverse the orientation of the dwelling so that the entrance and surface parking is to the north side along with the garage structure. In effect, the site layout is also reversed with the front garden facing onto Upper Churchtown Road becoming the rear private open space and the rear garden functioning as a front curtilage inclusive of curtilage parking and garage parking and storage. It is agreed with the appellant that this site configuration would have the effect of diminishing the privacy and amenity potential of the rear private open space, and therefore, the attainable residential amenities of the adjoining property in the semi-detached pair. Therefore, while visually, the presentation to Upper Churchtown Road in the streetscape may be acceptable the proposed site layout and reversal of the dwelling layout is unacceptable.

## **7.4. Boundary Treatment.**

7.4.1. The boundary wall to replace the existing hedge planting which is overgrown, is a structure that is excessive in height, and over conspicuous in views along the streetscape especially over the considerable frontage along corner site location. It would result in a gated effect, over- enclosure of the site and poor amenity potential within the public realm especially given the prominent location at the junction on Upper Churchtown Road with Landscape Avenue and Beaumont Avenue It is recommended that if permission is granted, the height should be reduced to a maximum of one metre, in the interest of the visual and residential amenities of the area.

## **7.5. Relocation of the Vehicular Entrance.**

- 7.5.1. It is considered that the proposed new entrance location is reasonable and more suitable than the existing entrance from the perspective of vehicular safety on access and egress from the site and from the perspective of traffic safety on the road. For the layout and density of suburban residential development such as development along Landscape Park and Upper Churchtown Road, the proposed location on the frontage is reasonable.
- 7.5.2. However, as discussed above in para 7.3.1, the proposed reversal of function in the site layout whereby the driveway and off street parking is within the original rear private open space with the front curtilage functioning as the rear garden area is unacceptable due to adverse impact on the residential amenities of the adjoining property, In terms of turning movements and demand for parking on site and on street, trip generation and turning movements would be reasonable provided that it is being limited to that which would be associated with the residential use of the dwelling,. It is noted that the Transportation Department has reviewed the proposal and considers it to be in accordance with minimum standards in design and acceptable.

## **7.6. The Detached Garage.**

- 7.6.1. It is agreed with the appellant and observer party that the detached garage structure is very large in footprint at 15.35 metres X 6.5 metres. An external covered area and two vehicular garage doors and two pedestrian entrance doors are included in the construction. It is considered that the proposed garage is of a scale and design that is suitable for commercial use instead of use ancillary to the residential use of the dwelling. This is considerably in excess of what might be anticipated for the subject dwelling having regard to the established plot sizes layout and density of development in the area, notwithstanding the prior subdivision of the original plot for No 8 Upper Churchtown Road.
- 7.6.2. The applicant's agent has indicated that it is intended for two cars and separately in the submissions made on the applicant's behalf there is reference to gym use and as to a necessity for headroom to accommodate gym equipment. It is noted that on the site at the end of the entrance driveway directly adjacent to the main entrance into the house on the north elevation provision is also made for two carparking spaces.,

The section of the structure allocated to gym use is an area twelve square metres, (4 x 3 metres.) The floor plan shows subdivision to provide for an area allocated as a storage room which is 16.8 square metres in area and the remaining area (garage is 54.3 square metres in area) In addition the applicant intends to construct a shed (2000 x 10000 mm in area ) also for storage purposes on the site, also adjacent to the entrance.

#### **7.7. Environmental Impact Assessment Screening.**

- 7.7.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.8. Appropriate Assessment Screening.**

- 7.8.1. Having regard to the small-scale nature of the proposed development and, to the serviced inner urban location, no Appropriate Assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

- 8.1. In summary and in conclusion, it is considered that:

The proposed dwelling upgrade and extensions, including the roof profile is acceptable, particularly in streetscape views. However, the boundary wall height on the site frontage is excessive and negative in visual impact, in the streetscape. A reduction in height is desirable, for reasons of visual amenities;

The proposed reversal of the original established site layout for the site and for the plots of the semi-detached dwellings in the area whereby the original rear garden is designated as a front curtilage with a driveway and designated on site carparking for two cars adjacent to the boundary with the rear garden of the adjoining property in the semi-detached pair is unacceptable. It would adversely affect the privacy and would seriously injure the residential

amenities of the adjoining property its rear private open space by reason of intrusiveness by reason of noise disturbance and light overspill.

Furthermore, the proposed garage structure, which is of a scale appropriate for commercial use is considerable in size and, is supplemented by the proposal for a separate shed structure on the site is excessive for use ancillary to the enjoyment of residential use of the dwelling. It would have a capacity and potential for an intensity of use appropriate for commercial use. It would seriously injure the residential amenities of property in the vicinity and would be contrary to the zoning objective 'A': "*To protect, and or improve residential amenity.*"

- 8.2. It is therefore recommended that the planning authority decision be overturned, and that permission be refused based on the draft reasons set out below.

## 9.0 Reasons and Considerations

Having regard to the Dun Laoghaire Rathdown County Council Development Plan, 2015-2022 according to which the site location is within an area subject to the zoning objective A: *to protect and improve residential amenity;*

- to the established pattern, character layout and scale of development in the area
- to the site size and configuration and to the proposed site layout providing for reversal of the front and rear of the dwelling and rear private open space and front curtilage, driveway, on-site parking and,
- to the footprint, size and capacity of the proposed garage structure;

it is considered that, the proposed development would seriously injure the residential amenities of adjoining properties, would depreciate property value in the vicinity, would be contrary to the development objective of the Dun Laoghaire Rathdown County Council Development Plan, 2015-2022 and to the proper planning and sustainable development of the area.

**Jane Dennehy**  
**Senior Planning Inspector**  
**10<sup>th</sup> February, 2019**