



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305344-19

#### Development

Removal of existing dormer roof and insertion of a new pitched room at higher level to create a new first floor. A single storey extension to front at ground floor level. Change of use in part from Residential to Commercial of ground floor accommodation for cosmetic treatment practice ancillary to the residence.

#### Location

16 Stillorgan Park Avenue, Stillorgan, Co. Dublin.

#### Planning Authority

Dun Laoghaire Rathdown County Council

#### Planning Authority Reg. Ref.

D19A/0233

#### Applicant(s)

Viktoria O' Keefe

#### Type of Application

Permission

#### Planning Authority Decision

Grant permission

#### Type of Appeal

Third Party

#### Appellant(s)

Donal and Carol Brady and others

**Observer(s)**

None

**Date of Site Inspection**

14<sup>th</sup> November 2019

**Inspector**

Emer Doyle

## 1.0 Site Location and Description

- 1.1. The subject site has an area of 0.1172 hectares and is located on the eastern side of Stillorgan Park Avenue, Stillorgan, Co. Dublin. The site currently accommodates a detached dormer bungalow of 297m<sup>2</sup>. The existing house is well set back from the road and is very well screened.
- 1.2. Development in the area is primarily residential in character consisting mainly of large houses on large plots.

## 2.0 Proposed Development

- 2.1. Permission is sought for the following:
  - Removal of the existing dormer roof and creation of a new first floor level of 118m<sup>2</sup> together with new roof and infill rear extensions of 17m<sup>2</sup> at ground floor level.
  - Change in use from residential to commercial of 88m<sup>2</sup> at ground floor level for cosmetic treatment practice ancillary to the residence.

Following a Further Information Request, revised notices and further information was submitted to the Planning Authority dated 15<sup>th</sup> of July 2019 which can be summarised as follows:

- The resident of the property will be operating the cosmetic treatment practice.
- The hours of operation will be between 8.30 and 18.00. The number of clients will be low, in the region of 6 people on a busy day, proposed staff will be 2, one of whom is the owner/operator.
- Drawing FI-01 indicates staff and client parking proposals.
- Revised floor plans provide clarification of the ground floor area.
- There will not be any residential or overnight facilities.
- Drawing FI-02 indicates structural and non-structural demolitions.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission granted by Planning Authority subject to 13 No. Conditions. Noteworthy conditions include the following:

**Condition 2:** The part of the house used as a cosmetic treatment practice shall not be separated from the main dwelling. In particular, it shall not be used or let independently of the main dwelling and, when no longer required for use as a cosmetic treatment practice, use of that part shall revert to use as part of the main dwelling.

**Condition 3:** The hours of operation of the cosmetic treatment practice shall be from 8.30 hours and 18.00 hours Monday to Saturday.

**Condition 4:** The house shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The planner notes that it is proposed that the owner will be living in the house and considers that this is in accordance with Policy E12 and Section 8.2.12.2. It was considered that the proposal would not seriously injure or detract from the amenities of the area and permission was recommended.

#### 3.2.2. Other Technical Reports

Transportation Section: No objection.

Drainage Section: No objection subject to conditions.

### 3.3. Prescribed Bodies

- No reports.

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

- A total of 14 No. objections were submitted to the Planning Authority. The grounds raised are similar to the grounds of appeal.

### 4.0 **Planning History**

- According to the planner's report there is no relevant recent history on the site.

### 5.0 **Policy Context**

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

The site is zoned as Objective 'A' – 'To protect and/or improve residential amenity'

Relevant sections include the following:

- Section 3.1.2.12 Policy E12: Home working/ E working.
- Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas.
- Section 8.2.12.2 Medical Surgeries/ Centres for Medical Practitioners.

#### 5.2. **Natural Heritage Designations**

- 5.2.1. The nearest Natura 2000 sites are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC c. 2.5km to the east of the site.

#### 5.3. **EIA Screening**

- 5.3.1. Having regard to the nature of the development comprising the partial change of use and extensions to an existing building and the urban location of the site, there is no real likelihood of significant effects on the environment arising from the proposed

development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

The grounds of appeal can be summarised as follows:

- Concern relating to traffic hazard and proximity to N11.
  - Negative impact on property values.
  - Area disproportionately large to proposed client numbers.
  - Concern that there may be a future change of use on the site.
  - It is considered that the proposed development is neither home working or e-working.
  - It is not considered that this practice is for medical use and is instead a beauty/cosmetic salon.

### **6.2. Applicant Response**

The response submitted on behalf of the applicant can be summarised as follows:

- The entrance to the N11 is c. 300m from the site.
- It is a well established precedent that people run businesses from their own home.
- The size of the rooms was arrived at using the natural line of the existing construction.
- Any future change of use would require planning permission.
- The treatments offered will be medical in nature.

### 6.3. **Planning Authority Response**

- The Board is referred to the previous planner's report. It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change in attitude to the proposed development.

### 6.4. **Observations**

- None.

## 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Development Plan Policy
- Traffic Safety
- Other Matters
- Appropriate Assessment

### 7.2. **Development Plan Policy**

7.2.1. Concerns have been raised by the appellant that the proposed development has been wrongly considered by the Planning Authority and the provisions of Section 3.1.2.12 Policy E12: Home Working/ E- Working and Section 8.2.12.2 Medical Surgeries/ Centres for Medical Practitioners do not apply to this case.

7.2.2. The proposal is for the development of c. 88m<sup>2</sup> of ground floor accommodation for a cosmetic treatment practice together with extensions at ground floor level and the creation of a new first floor level. I consider that the extensions proposed both at

ground floor and first floor level are acceptable and as such the main focus of this assessment will be the proposed change of use of part of the ground floor.

- 7.2.3. The Planning Authority has a policy as set out in Section 8.2.12.2 of the Development Plan where small scale medical practices are considered on their own merits in residential areas. According to the policy, applications should involve professional medical activities carried out by the resident of the building. They should only have one to two principals (i.e. doctor/ dentist/ physiotherapist owning the business) with a maximum of one to two employees. The operation of these premises shall not have negative impacts on the residential amenities of the area and parking and access arrangements shall be as per the Transportation Sections requirements. Medical practices in residential areas should normally be additions to the existing residential use and be subordinate to it in most cases. The living accommodation should comprise a minimum of c. 45% of the overall building floor area. Similar to childcare facilities in residential areas - small scale medical practices should ideally be in larger detached houses on their own grounds and with suitable and convenient access for those arriving by car, foot or public transport.
- 7.2.4. The existing house taken together with the proposed extensions and alterations is very large in size and the living accommodation would be considerably in excess of 45% of the overall building floor area. The existing house comprises of a large detached house on a well screened site and it is not considered that there would be negative impacts on the residential amenities of the area.
- 7.2.5. It is stated in the response to the further information request that the resident of the property would be operating the proposed cosmetic treatment practice. It is proposed that the business will serve one client appointment at a time and will require a maximum of two car parking spaces for clients. Proposed staff numbers will be two, one of whom is the owner/ operator.
- 7.2.6. I note that the appellants consider that the proposed development is not a medical practice and is a beauty/cosmetic salon. The appeal response states that the treatments to be offered will be medical in nature.
- 7.2.7. I am of the view that the proposed cosmetic treatment practice would be compatible with the criteria outlined in Section 8.2.12.2 of the Plan and it's impacts would be similar to the other uses outlined in this section such as a small scale medical,



dentistry or physiotherapy practice. I note that whilst the specific use of 'cosmetic treatment practice' is not included in the types of uses 'open for consideration' set out for Zoning Objective A 'To protect or improve residential amenity', similar uses with similar impacts such as doctor and dentist are, and I am of the view that the proposed change of use would be acceptable at this location. I note that the numbers of clients and staff are small and c. 80% of the proposed development would be owner occupied living accommodation. The site is well screened from the public road and there would be minimal visual impact in the area. It is proposed that only one client would be treated at a time and all car parking could be accommodated on this large site. I note that the Transportation Section has no objection to the proposed development.

- 7.2.8. In conclusion, I consider that the proposed change of use is an appropriate use for this location and is in accordance with the policy set out in Section 8.2.12.2 of the Development Plan.

### **7.3. Traffic Safety**

- 7.3.1. Two concerns have been raised in relation to traffic safety - firstly in relation to the proximity of the site to the N11 and the impact of additional traffic at an already busy Stillorgan Park Avenue and secondly in relation to the safety of children playing on the road. It is stated that 'Stillorgan Park is the major artery connecting Dun Laoghaire with Stillorgan and on to Dundrum. This important corridor has been the subject of significant investment by DLRCC in recent years.'
- 7.3.2. The appeal response notes that the traffic hazard referred to is 300m from the property and that 'this is a simple business run by our client from her house.' Furthermore, it is stated that 'children playing on roads is not encouraged and would not be the norm in estates in this area.'
- 7.3.3. I note from the information submitted with the application that the proposed development will treat in the region of 6 clients on a busy day and have two staff, one of whom is the owner/operator.

- 7.3.4. There are a total of 6 No. parking spaces on the site at present and this will not change although I note that a different layout is proposed for car parking. There will not be any car parking on the public road outside the house.
- 7.3.5. I am satisfied that the car parking proposed can be accommodated within the confines of the site and is sufficient for the type of development proposed. I consider that traffic speed is likely to be low having regard to the nature of the roads in the area and the proximity of the development to a roundabout. Having regard to the low numbers of clients and staff, I consider that the proposed development will have minimal impact on the carrying capacity of the N11 or on traffic safety in the area.

#### **7.4. Other Matters**

- 7.4.1. I note that the appellants express concern in relation to the size of the rooms compared to other typical beauty rooms, the precedent the proposed development would have for other commercial development in the area and any proposals for a future change of use.
- 7.4.2. I note that any proposals for future change of use would need a planning application. Any other commercial development in the area would need to be assessed against the criteria set out in the Development Plan and any other relevant criteria. In relation to the room sizes, I note that they are generous, but the house is also generously sized. I also note from the drawings submitted with the application and the appeal response that the size of the rooms was arrived at using the natural line of the existing construction.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development 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.

## 8.0 Recommendation

- 8.1. I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In light of this and the assessment above, I recommend that permission be granted for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Dun Laoghaire- Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 on the 15<sup>th</sup> day of July 2019, 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 part of the house to be used as a cosmetic treatment practice shall be ancillary to the use of the main house and shall not be sold or let as an independent unit. The practice shall be operated by the owner of the dwelling in accordance with the information submitted with the application. When no longer required for use as a cosmetic treatment practice, the structure shall be incorporated back into the main dwelling and shall revert to use as living accommodation associated with same.

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

3. The hours of operation of the cosmetic treatment practice shall be between 0830 and 1800 Mondays to Saturdays inclusive. Any changes to these times shall be subject to a new planning application.

**Reason:** In the interest of the proper planning and sustainable development of the area.

4. Details including samples of the materials, colours and textures of all the external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. Water supply and drainage arrangements, including the 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.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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 property in the vicinity.

7. 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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Emer Doyle

Planning Inspector

21<sup>st</sup> November 2019