



An  
Bord  
Pleanála

## Inspector's Report ABP-307128-20

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<b>Development</b>	Two-storey detached, one-bedroom house, one car parking space and associated site works.
<b>Location</b>	Hawthorn Manor and Newtown Park, Blackrock, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D20A/0066
<b>Applicant(s)</b>	Evan McLoughlin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Evan McLoughlin
<b>Observers</b>	Michael O'Boyle on behalf of 'The Residents of Hawthorn Manor'
<b>Date of Site Inspection</b>	23 <sup>rd</sup> June 2020
<b>Inspector</b>	Paul O'Brien

## 1.0 Site Location and Description

- 1.1. The subject site comprises an existing area of public open space with a stated area of 0.008 hectares located to the east of the junction of Hawthorn Manor and Newtown Park, to the south of Blackrock, Co. Dublin. Hawthorn Manor is a small residential development of 20 houses located on a meandering cul-de-sac; houses in the form of terraces and semi-detached units. A large area of open space is located to the north western corner of this development and the subject site provides an additional area.
- 1.2. Decorative pillars and railings provide for the vehicular access to the site with separate openings on either side for pedestrian access. Large mature trees also flank the entrance to this residential area. The site is located to the eastern side of the pedestrian footpath within the development. A parking space/ layby is provided to the west of the footpath – probably for visitor parking. A two-storey semi-detached house, 1 Saint Margaret's Mews, is located to the east of the subject site, separated by a painted block wall. The site is small at 0.008 hectares – 17.5 m long and a maximum of 4.9 m wide.
- 1.3. The surrounding area is characterised by residential development. The 'Wishing Well' public house, retail/ commercial units and a Dunnes Stores unit are located to the east of the subject site. Bus services are available on Newtown Park, though frequency is low.

## 2.0 Proposed Development

- 2.1. The proposed development consists of:
  - The construction of a two-storey, detached house on zoned lands to the corner of Hawthorn Manor and Newtown Park. The proposed house to provide for one bedroom and a total stated floor area of 50 sq m.
  - One car parking space directly accessing Newtown Park.
  - All associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to refuse permission for two reasons as follows:

1. 'The proposal, by reason of its scale and siting relative to the adjoining property to the east, would result in significant overshadowing impacts which will severely compromise the residential amenity of this dwelling's principal area of amenity space. The proposed development would, therefore, be seriously injurious to the residential amenities of the area and would depreciate the value of adjoining properties in the area and, if permitted, would set an undesirable precedent for similar development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area'.

2. 'Having regard to the restricted and constrained nature of the subject site which currently forms a small pocket of amenity space associated with the existing residential development of Hawthorn Manor, the proposal fails to provide secluded private open space for the proposed dwelling is therefore contrary to Section 8.2.8.4(i) of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022 in relation to 'Private Open Space for Houses'. The proposal fails to comply with the recommended standards set out in 'Quality Housing for Sustainable Communities; Quality house for Sustainable Communities' (DOEHLG, 2007). The proposed development would result in a substandard level of amenity for future occupants and if permitted, would create an undesirable precedent for similar development. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area'.

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

#### **3.2.1. Planning Report**

The Planning Report reflects the decision to refuse permission. Issues raised in the Planning Authority Case Officer's report include lack of clarity over legal interest in the lands, compliance with development plan standards in relation to room/ floor area sizes, open space provision and impact on neighbouring residential amenity. Concern was raised about the proposed parking space and it was noted that the

Drainage Department were not satisfied with the proposed surface water drainage. Drafting issues in relation to the submitted elevational/ floor plan drawings were also identified.

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

**Municipal Services Department – Drainage Planning:** Further information requested in relation to surface water drainage.

**Transportation Planning:** No objection subject to recommended conditions.

### 3.2.3. **Prescribed Bodies Report**

**Irish Water:** No objection subject to conditions.

## 3.3. **Objections/ Submission**

3.3.1. A submission on behalf of 'The Residents of Hawthorn Manor' with petition attached, raises the following issues:

- The proposal intrudes onto an area of public open space in Hawthorn Manor and this issue has been raised in other planning applications/ appeal in the past.
- Site is not suitable for development.
- Potential loss of trees that have been planted by Dun Laoghaire-Rathdown County Council.
- The site is too small for this house which does not comply with the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 or National Guidance. Issues raised include room sizes, floor area, internal layout, lack of internal light and non-compliance with Part M of the Building Regulations.
- The proposed house would overshadow adjoining houses and there was potential loss of privacy through overlooking.
- Concern raised about the location of a soil vent pipe and the pitch of roof at 60 degrees is steeper than the 45 degrees of neighbouring houses.
- The proposed parking space/ vehicular access is a matter of concern through its location adjacent to the existing residential development access.
- The submitted drawings are not accurate and do not clearly detail the development.

## 4.0 Planning History

### 4.1. Subject site:

**P.A. Ref. D19A/0490** refers to an August 2019 decision to refuse permission for a new build two-storey, two-bedroom dwelling house and associated site works including one car parking space at zoned residential area, on the same site as the subject appeal. Reasons for refusal included:

1. The proposal, by reason of its scale and siting relative to the adjoining property to the east, would result in significant overlooking and overshadowing impacts which will severely compromise the residential amenity of this dwelling's principal area of amenity space. The proposed development would, therefore, be seriously injurious to the residential amenities of the area and would depreciate the value of the adjoining properties in the area and, if permitted, would set an undesirable precedent for similar development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the restricted and constrained nature of the subject site which currently forms a small pocket of amenity space associated with the existing residential development of Hawthorn Manor, the proposal fails to provide secluded private open space for the proposed dwelling is therefore contrary to Section 8.2.8.4 (i) of the Dun Laoghaire-Rathdown County Development Plan, 2016-2022 in relation to 'Private Open Space for Houses'. The proposal also fails to comply with the minimum recommended standards for dwelling and bedrooms sizes as set out in the 'Quality Housing for Sustainable Communities; Quality House for Sustainable Communities' (DOEHLG, 2007). The proposed development would result in a substandard level of amenity for future occupants and if permitted, would create an undesirable precedent for similar development. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

**P.A. Ref. 87A/76** refers to a Dublin County Council decision to grant permission for 19 houses on lands here and includes the demolition of an existing house.

Permission was subsequently modified by **P.A. Ref. 87A/1131**, referring to layout and different house types.

## 4.2. Other Relevant Sites

**P.A. Ref. D04A/0901/ ABP. Ref. PL06D.209387** refers to a February 2005 decision to refuse permission for two, two-storey, three-bedroom houses on site adjoining Hawthorn Manor. This refers to the existing open space to the north western side of Hawthorn Manor. Reasons for refusal included:

1. It is considered that the proposed development would result in an unacceptable intrusion on the established open space provision of Hawthorn Manor and would contravene materially a condition attached to an existing permission for development namely, condition number 10 attached to the permission granted by the planning authority under planning register reference number D87A/1131.
2. The proposed development would be inappropriately sited and visually harmful to the design layout of the established residential character of Fleurville. The proposed development would, therefore, conflict with the objective of the planning authority, as set out in the current Development Plan for the area, to protect and/or improve residential amenity and be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1. Under the **Dun Laoghaire-Rathdown County Development Plan 2016 – 2022**, the subject site is zoned A, 'To protect and/ or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.

5.1.2. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development' and the following are relevant to the subject development:

**Section 8.2.3.4 (v)** refers to Corner/Side Garden Sites. Such proposals shall be considered in relation to a range of criteria including having regard to the size, design, layout and relationship with existing dwelling and immediately adjacent dwellings.

**Section 8.2.3.1** refers to the objective of the Council to achieve high standards of design and layout and to foster and create high quality, secure and attractive places for living.

**Section 8.2.3.5** refers to the general requirements for residential development including habitable room sizes.

**Section 8.2.8.4 (i)** sets out the private open space requirements for private houses. 'For 1 or 2 bedroom houses a figure of 48 sq.m. may be acceptable in cases where it can be demonstrated that good quality usable open space can be provided on site'. Narrow strips of space along the side of dwellings shall not be included in the calculation. There is provision for a relaxation of the standard where an innovative design response is provided on site.

**Section 8.2.8.4 (ii)** refers to separation distances and the standard garden depth of 11 metres and in certain circumstance 7 m depths may be acceptable for single storey dwellings.

**Section 8.2.4.9** refers to vehicular entrances and hard standing areas and that maximum width for entrance to single houses is circa 3.5 m.

## 5.2. National Guidance

### 5.2.1. Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (DoEHLG, 2009)

The Guidelines promote higher densities in appropriate locations. A number of urban design criteria are set out, for the consideration of planning applications and appeals. Increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Development in residential areas where the character is established by density and/ or architectural design, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings in addition to the protection of established character, and the need to provide residential infill.

### 5.2.2. **Quality Housing for Sustainable Communities (DoEHLG, 2007).**

Includes recommended standards for houses.

### 5.3. **Natural Heritage Designations**

None.

## 6.0 **The Appeal**

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

The grounds of the appeal can be summarised as follows:

- The design of house has regard to the character of houses in the area – similar ridge line and scaled to match no. 1 and 2 St. Margaret's Mews. Regard is had to existing building lines in the area.
- Proposed house is set back by 300 mm on all sides.
- Overshadowing has been considered in the proposal.
- Queries why the Planning Authority accepted the application and then raises the issue of landownership.
- Open space is provided to the north west corner of the existing residential development. More than the minimum required open space is provided.
- The original proposal was for 19 houses and only 17 were constructed.
- States that the County Council and local residents attempted to rezone the land and take them over as open space. Queries the holding of a plebiscite.
- References similar developments in the area.
- Total of 34.4 sq m of private amenity is provided. This includes a terrace of 5.15 sq m. Is willing to sacrifice the parking space so as to increase the amount of open space.
- The reasons for refusal did not reference any specific shortfall in standards.
- The development is suitable for a range of people.
- The development has regard to the existing housing shortage in the area.



## 6.2. **Planning Authority Response**

6.2.1. The grounds of appeal do not raise any new matters, so no additional comment is made by the Planning Authority.

## 6.3. **Observations**

6.3.1. An observation by Michael O'Boyle on behalf of 'The Residents of Hawthorn Manor', raises the following issues:

- The proposal intrudes onto an area of public open space in Hawthorn Manor and this issue has been raised in other planning applications/ appeal in the past. This area is designated open space.
- Potential loss of trees that have been planted by Dun Laoghaire-Rathdown County Council.
- The site is too small for this house which does not comply with the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 or National Guidance. Issues raised in the observation include room sizes, floor area, internal layout, lack of internal light and non-compliance with Part M of the Building Regulations.
- The proposed house would overshadow adjoining houses and there was potential loss of privacy through overlooking.
- Concern raised about the location of a soil vent pipe and the pitch of roof at 60 degrees is steeper than the 45 degrees of neighbouring houses.
- The proposed parking space/ vehicular access is a matter of concern through its location adjacent to an existing access.
- Procedural issues in relation to submitted drawings etc.

## 7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Principle of Development.

- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Car Parking
- Other Issues
- Appropriate Assessment Screening

## 7.2. Principle of Development

7.2.1. The site is zoned 'A' in the current Dun Laoghaire-Rathdown County Development Plan and the site is therefore suitable for residential development. The applicant states that he owns the land and is therefore eligible to make the application/ subsequent appeal.

7.2.2. I note that measurements indicated on the submitted plans may not be accurate, however sufficient information is provided on file to enable a full assessment of the appeal.

## 7.3. Design and Impact on the Character of the Area

7.3.1. The subject site is very unusual in that it is small at a stated area of 0.08 hectares and from the site visit it was evident that it forms part of the open space provision for Hawthorn Manor. I have had full regard to national guidance and the need to provide for suitable housing where sites are available. I do not consider this site to be suitable for infill development and will elaborate on this in the following sections of this report.

7.3.2. The proposal is described as a house, however the layout (internal and external), and private amenity space provision are not what would be expected for a house. I note that the majority of houses in Hawthorn Park are provided with generous private amenity space and that is not the case here. The appeal indicates that a total of 34.4 sq m of open space can be provided. That may be so, but only if every square millimetre is included and I would suggest that only circa 20 sq m of useable private amenity is available for future residents. Section 8.2.8.4 (i) of the county development plan requires a minimum of 48 sq m of private amenity space for a one/ two-bedroom house, the proposed development does not demonstrate compliance with this standard.

- 7.3.3. I appreciate that the applicant has designed the house to have similar ridge height and eaves etc. as the houses to the east to attempt visual integration, but the width of the house at 4.15 m/ internal width at 3.55 m indicates a substandard unit that is located on a site that is not suitable for residential development. The applicant has proposed a two-storey unit in an attempt to meet minimum standards, however I am not satisfied that this has been achieved. Taking the living room as an example of concern, the 'Quality Housing for Sustainable Communities' guidelines recommend a 'minimum unobstructed living room' width of 3.3 metres for a one-bedroom unit. I have measured the internal width at 3.55 m, however the stairs to the upper level, door to the side of the house and indicative furniture locations reduce the actual area such that the unobstructed area does not meet the required 3.3 m width. Whilst the applicant may consider that they have met minimum standards, the layout indicates otherwise.
- 7.3.4. Viewed from the front/ south, the house will appear very narrow compared to the adjoining site to the east, 1 Saint Margaret's Mews, and existing houses in the area. The separation between the proposal and the existing house to the east is only 500 mm between roof gables. The proposed bay window is probably an attempt at increasing the floor area, however the narrow width of this and proximity to the front door presents a very squashed appearance to the front of the house. The first-floor balcony and lack of windows to the front upper level also provides for a house that is out of character with the area. No rear garden is proposed and the applicant's proposal for a minimum of 300 mm separation on all sides is totally inadequate. I note the steep roof pitch on the proposed house, which is very evident from the side/ east/ west elevations, again this is an attempt by the applicant to ensure integration with the existing adjacent houses.
- 7.3.5. Despite the restricted size of the house and the site, the development of a house here will be highly visible and will change the character of this corner site. I consider that the proposed house will represent overdevelopment of a totally inadequate site for a such a proposal.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. I have already referred to concerns regarding the internal layout and poor quality of space afforded to future occupants. The proposed house will not be provided with

adequate private amenity space. In addition to the lack of quantity of useable open space, the quality is also poor. The applicant has proposed the omission of the car parking space in order to increase the open space, however the location of this to the front of the house and secured by low railings ensures that this is not private amenity space and is inadequate for a development such as this. In summary the proposed house would provide for a poor level of amenity for future occupants and would set a poor precedent for similar development.

7.4.2. Overlooking leading to a loss of privacy from the first-floor level is not foreseen, though the existing hedgerow on the northern boundary may not provide sufficient screening for the existing occupants of 1 Hawthorn Manor. I note the submitted details regarding overshadowing/ sun path. I am not sure if this has been submitted by a suitably qualified person, however what is submitted is confusing and indicates the location of the sun at 15.02 for 12 months of the year. Normally details for the 21<sup>st</sup> of January, March, June and September are provided and for morning, midday, afternoon and evening. For most months, at 15.02, there will be shadow on 1 Hawthorn Manor, however this will be to the front garden. Throughout the year in the late afternoon/ evening there will be shadow on 1 Saint Margaret's Mews to the east of the subject site. Generally, there is an acceptance that such may occur in an urban area, however there must be an expectation that a living next to an area of open space, that issues of overshadowing would not arise.

7.4.3. I note that the Planning Authority in their first reason for refusal referred to the overshadowing of the private amenity space. This is likely to be the case, but this is primarily due to the layout and lack of open space to be provided.

## 7.5. Car Parking

7.5.1. The applicant has proposed the provision of a single car parking space but has also proposed the replacement of this with open space in order to meet the private amenity space requirements. The Dun Laoghaire-Rathdown Transportation Planning Section have reported no objection to this development subject to standard conditions.

7.5.2. The provision of the car parking space will require the removal of a dashed block wall and a revised front boundary that is not fully detailed though includes brick pillars. I would be concerned about the access/ exit to and from this parking space.

The existing house to the east, 1 Saint Margaret's Mews, has a front boundary wall that is in excess of the standard low wall. Whilst this may be acceptable, it does impinge on eastward sightlines when exiting the proposed site and gives rise to safety conflict with pedestrians/ cyclists and vehicular road users. Similarly, I would be concerned that sightlines to the west are insufficient due to the existing/ proposed pillars and trees.

## **7.6. Other Issues**

- 7.6.1. Irish Water have reported no objection to this development. The Municipal Services Department – Drainage Planning requested further information in relation to surface water drainage. Considering the size of the site and lack of ‘green space’, I would be concerned that surface water cannot be treated on site.
- 7.6.2. Whilst not direct planning issues, the provision of a 300 mm separation between the boundary and the house on the northern and eastern sides does not allow for suitable access for maintenance which in turn may lead to ‘problem areas’ around the house. I have already referred to the poor quality of private amenity space but I also note that in an attempt to provide for quantity of space, the quality is very poor and this is further indicated by the layout/ width of the pathway serving the house and the lack of hard standing connection between the house and the car parking space.
- 7.6.3. I have noted the concerns raised in the submitted observation. The issue of landownership has been raised and it appears from the submitted information that the applicant has legal entitlement over these lands. I do accept that the site has functioned as public open space for a period of time and there is likely to be an expectation that this will remain the case.

## **7.7. Appropriate Assessment Screening**

- 7.7.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

## 8.0 Recommendation

- 8.1. I recommend that permission be refused for the following reason and considerations as set out below.

## 9.0 Reasons and Considerations

1. Having regard to the restricted nature and prominent location of this corner site and the established pattern of development in the surrounding neighbourhood, it is considered that the proposed development by reason of its scale, form and design would constitute overdevelopment of a limited site area and would be out of character with existing development in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of its inadequate qualitative and quantitative provision of private amenity space, would conflict with the provisions of the current Development Plan for the area and with the minimum standards recommended in the "Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities" published by the Department of the Environment, Heritage and Local Government in December, 2009 and would constitute an excessive density of development on this restricted site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. It is considered that the traffic movements generated by the proposed development and the restricted sightlines in both directions, would endanger public safety by reason of traffic hazard and would lead to conflict between road users, that is, vehicular traffic, pedestrians and cyclists.

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Paul O'Brien  
Planning Inspector

15<sup>th</sup> July 2020