



An  
Bord  
Pleanála

## Inspector's Report ABP307685-20

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<b>Development</b>	Erect a house in a side garden.
<b>Location</b>	1 Highland Grove, Cabinteely, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D20A/0213
<b>Applicant(s)</b>	
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant(s)</b>	Emelina & Paul Ellkis
<b>Observer(s)</b>	John Toomey & Others
<b>Date of Site Inspection</b>	23 <sup>rd</sup> October 2020.
<b>Inspector</b>	Hugh Mannion

## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.0175ha and comprises the side garden of 1 Highland Grove, Cabinteely, County Dublin. The site slopes down to the east and north following the topography of the area. At present the area is open to the public view and there are two decorative shrubs on it. The rear garden wall of 1 Highland Grove runs along the inside of the space and the roadside boundary runs undefined along the footpath.
- 1.2. Cabinteely is a residential suburb west of the N11 and the immediate area of the application site is characterised by two-storey semidetached houses with front and rear gardens.

## 2.0 Proposed Development

- 2.1. The proposed development comprises erection of a detached 3 storey house to the side of the existing house at 1 Highland Grove, Cabinteely, County Dublin.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse permission.

1. Excessive scale, mass and blank elevation to Highland Avenue would be visually overbearing and intrusive and would seriously injure the character and visual amenity of the area and would materially contravene the zoning objective to protect the residential amenity of the area set out in the County Development Plan.
2. The proposed development provides insufficient off street carparking and would give rise to on-street parking which would obstruct road users and give rise to traffic hazard.

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

#### 3.2.1. Planning Reports

The planner's report recommended refusal as set out in the manager's order.

#### 3.2.2. Other Technical Reports

#### 3.2.3. **Drainage Planning Section** reported no objection.

#### 3.2.4. **Irish Water** reported no objection.

### 4.0 **Planning History**

No relevant history for this site.

### 5.0 **Policy and Context**

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

5.2. The proposed development is located in an area zoned A – “to protect and or improve residential amenity” in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

5.3. Section 8.2.3.4 (v) of the County Development Plan states in relation to new houses in corner/side garden sites states;

5.4. Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)):

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- Accommodation standards for occupiers.
- Development Plan standards for existing and proposed dwellings.
- Building lines followed where appropriate.

- Car parking for existing and proposed dwellings.
- Side/gable and rear access/maintenance space.
- Private open space for existing and proposed dwellings.
- Level of visual harmony, including external finishes and colours.
- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable.
- Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.
- Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.

It is also recognised that these sites may offer the potential for the development of elderly persons accommodation of more than one unit. This would allow the elderly to remain in their community in secure and safe accommodation. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

#### **5.5. Natural Heritage Designations**

Not relevant.

#### **5.6. EIA Screening**

- 5.7. Having regard to the nature of the development comprising a single house located in a built up area zoned for residential development where public water mains and sewerage are available the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The proposed house has been designed to use the existing site contours so that it has a maximum height of 7.8m whereas the existing house at number 1 Highland Grove has a maximum height of 8m. The new house will therefore not be excessively high by comparison.
- The design deliberately differs from the neighbouring houses but has carried over the horizontal lines from the adjoining house at 1 Highland Grove where appropriate.
- The house will not be excessive in mass and scale when compared to the other houses in the area.
- The existing trees on the roadside verge will not be disturbed by the proposed development and the new house will thereby integrate visually with the wider area.
- There are several examples where the house wall functions as the site boundary.
- The proposed car parking is acceptable since the site is well served by transport facilities and community facilities. National and local policy supports reduced car parking provision in this context.

### 6.2. Planning Authority Response

- No comment.

### 6.3. Observations

- The proposed development by reason of design, roof profile and width of the house would be out of character with the area and seriously injure the amenity of the area.
- The proposed finishes are inappropriate.

- The proposed development is on a corner site and the layout will endanger road safety.
- The proposed development will overlook adjoining houses on Highland Grove and Highland Lawn.
- The site has previously been open to the public and is used as a children's play area.

#### 6.4. **Further Responses**

None

### 7.0 **Assessment**

#### 7.1. **Policy**

7.2. The site is zoned for the protection and improvement of residential amenity where housing is the primary permitted form of development. The proposed development is permitted in principle in this zoning in the County Development Plan.

#### 7.3. **Impacts on Adjoining Area**

7.4. The planning authority refused permission because the excessive scale, mass and blank elevation to Highland Avenue would be visually overbearing and intrusive and would seriously injure the character and visual amenity of the area. The applicant argued, *inter alia*, that the proposed house would be subservient in scale and mass to the nearby houses.

7.5. The County Development Plan takes a relatively positive view of developments in side gardens and permission has previously been granted in the side garden of 38 Highland Avenue on the corner opposite the present application site. The Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009) makes the point that side gardens can provide smaller infill opportunity sites and, all else being equal, encourages their development so as to make better use of existing public infrastructure and community facilities.

7.6. In the present case the proposed site is narrower than the adjoining houses/sites at about 6.5m at its southern end and widens to a maximum of about 8.4m at its

northern end. The infill house at 38 Highland Avenue is not a precedent since that site was substantially larger and at the end of a cul de sac. Each of the rows of houses within the Highland development terminate at a side garden with an element of open space (this is a not comment on the ownership status of these spaces) which has a certain rhythm and provides a visual termination point at the end of each row of houses. Some of these side gardens are large enough to accommodate an additional house but I agree with the planning authority that this is not the case in the present application.

- 7.7. The site has a significant slope towards the public road/footpath. The applicant comments that this change in levels has been accommodated within the design of the proposed house and that some of the horizontal lines have been carried over from the existing house on site to the proposed house.
- 7.8. I agree that there is no need to replicate the existing house styles in the immediate area and the development plan specifically references the acceptability of more modernist design in particular circumstances. Nonetheless the narrowness of the site requires the house to be three storeys to achieve a reasonable floor area and rather than bookending the existing houses the house drops and will be a visually weak turning point.
- 7.9. The County Development Plan when setting out the criteria for considering houses in side gardens makes the point that gable walls as site corner boundaries are not acceptable. The applicant makes the point that in other location side boundaries have been permitted. In this instance I agree with the planning authority that a boundary wall on the inside of the footpath would be unacceptably incongruous with the pattern of development in the area.
- 7.10. Having regard to the zoning objective of the site which is protect and or improve residential amenity, to the limited size of the application site I conclude that the proposed development would be over-development of a restricted side garden which will appear cramped within its context and would contravene the residential zoning objective for the area set out in the County Development Plan.

**7.11. Adjoining Property.**

7.12. The rear first floor windows are 8m off the boundary with the side garden of 28 Highland Lawn. The second floor north facing/rear window is about 9m off the boundary. This distance does not meet the development plan standards of 22m separation distances between opposing rear windows and would negatively impact on the existing amenity of 28 Highland Lawn.

**7.13. Private Open Space**

7.14. The County Development Plan requires the provision of 60m<sup>2</sup> private open space per 3 bed house. I estimate that the rear garden of the proposed house is about 40m<sup>2</sup> and that the remaining area of rear garden for the existing house is about 57m<sup>2</sup>. While in other circumstances these shortfalls may be acceptable, in the present case they support the conclusion that the proposed development comprises overdevelopment of an unacceptably restricted site.

**7.15. Parking/Traffic Safety.**

7.16. The planning authority's second refusal reason referenced insufficient parking provision and the proposed development thereby giving rise to on-street parking and consequent traffic hazard. The planning authority's Transport Planning section did not report of the application. Table 8.2.3 of the County Development Plan requires the provision of two spaces per 3 bed house. However the County Development Plan requires that parking spaces be 2.4m wide and 4.8m deep but the site is so narrow and shallow that despite being shown on the site layout I conclude that the proposed development cannot accommodate two car spaces without compromising the public footpath and perhaps traffic safety when cars are manoeuvring on the corner of Highland Grove and Highland Avenue.

7.17. On the other hand, in principle, I do not consider that on-street parking in a residential cul de sac in an area well served by public transport would give to traffic hazard. Accordingly, I recommend that if the Board is minded to grant permission that a condition limiting on-site car parking provision to a single space.

**7.18. Appropriate Assessment Screening**

7.19. Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, I am satisfied that



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 recommend that permission be refused.

## **9.0 Reasons and Considerations**

9.1. The proposed development is in an area zoned to protect and/or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016-2022. The application site comprises a narrow side garden which functions in part as public open space. The proposed development by reason of its excessive scale, mass and position on the boundary of the public footpath would comprise overdevelopment of a restricted site and would be visually incongruous and out of character with the pattern of development in the area. The proposed development would, therefore, seriously injure the visual and residential amenity of the area and contravene the zoning objective set out in the County Development Plan and the proper planning and sustainable development of the area.

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Hugh Mannion  
Senior Planning Inspector

5<sup>th</sup> November 2020