



An
Bord
Pleanála

Inspector's Report ABP309369-21

Development	Single Storey Extension to the rear and side of existing Veterinary Clinic with new external elevation treatment.
Location	1a Furry Park Road, Clontarf East, Dublin 5.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB 1767/20.
Applicant	Charles Cosgrove.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellants	Darragh and Julie Mulligan.
Observers	None.
Date of Site Inspection	16 th March, 2021.
Inspector	Paul Caprani.

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1.0 Introduction

ABP309369-21 relates to a third party appeal against the decision of Dublin City Council to grant planning permission for a single storey extension to an existing veterinary clinic to the side and rear of No. 1a Furry Park Road, Clontarf East, Dublin 5. The proposal also includes the replacement of existing windows and doors to the front and side of the existing structure.

2.0 Site Location and Description

- 2.1. No. 1a Furry Park is located at the corner of the Howth Road and Furry Park Road in the north-eastern environs of Dublin City Centre in the suburban area of Clontarf/Killester approximately 5.5 kilometres north-east of the city centre. No. 1a faces westwards onto the junction between Furry Park Road and Howth Road. Howth Road is a busy radial route leading to and from the city centre. An area of open space is located to the front of the site and is segregated entrance and exit system into and out of Furry Park Road. It is provided for on roadways either side of this area of open space. No. 1a comprises of a single storey L-shaped structure located contiguous to No. 1 Furry Park Road to the immediate south which comprises of a two-storey residential dwelling. The vehicular access providing off-street parking for No. 1 also provides access to the veterinary clinic at No. 1a. There is a small landscaped side garden located to the immediate north of the veterinary clinic building. No. 209 Howth Road is located on adjacent lands to the north-east of the subject site. It comprises of a two-storey dwellinghouse. A single storey side garage is located on the south-western elevation of No. 209 which is contiguous to the common boundary between 209 and 1a Furry Park Road.
- 2.2. The existing single storey veterinary clinic at No. 1a comprises of a relatively small L-shaped building with a reception area, two additional rooms and a small toilet to the rear. A small yard area is located to the rear of the building between the existing veterinary clinic and a single storey garage associated with No. 209 Howth Road to the north-east. The existing veterinary clinic has a gross floor area of 41.6 square metres while the yard area to the rear has an area of 33.6 square metres.

3.0 Proposed Development

- 3.1. Planning permission is sought for a single storey extension to the rear of the veterinary clinic which is to encompass the entire rear yard up to the common boundary with No. 209 Howth Road. The proposed extension is to accommodate a new preparation area, a new surgery area with a separate holding area to the rear. It is not proposed to incorporate any new windows on any of the elevations. A new pedestrian entrance directly into the preparation area is proposed to be located on the north-eastern elevation of the extension. Natural illumination is to be provided via 4 new skylights in the roof. The building is to retain a height of 3.325 metres.
- 3.2. Also as part of the planning application it is proposed to incorporate new windows and doors.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Dublin City Council in its decision granted planning permission for the proposed development subject to 12 conditions.
- 4.1.2. A report from the Drainage Department stated that there was no objection to the proposed development subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works.
- 4.1.3. A report from the Transportation Planning Division states that there is no objection to the proposed development subject to two standard conditions.
- 4.1.4. A number of objections were submitted from residents residing in the vicinity of the site. The contents of these objections have been read and noted.
- 4.1.5. The planner's report notes that the veterinary clinic operates independently from the adjoining house at No. 1 Furry Park Road. It notes that the veterinary clinic is an established use on site and has been in situ for many years. The use of the structure as a veterinary clinic is open for consideration under the land use zoning objective. It is not considered that the proposed extension would overbear, overshadow or overlook adjoining property at No. 209 Howth Road. While the proposed structure would exceed the height of the side boundary of No. 1 Furry Park Road by 1.3

metres approximately this is not considered excessive and is typical of the patterns of extensions in the vicinity. The materials are also considered to be acceptable. It is noted that the single storey structure is only marginally higher (10 millimetres) than the existing apex of the structure and therefore will not have any material impact in terms of height.

- 4.1.6. With regard to car parking reference is made to the transportation planning division's report which notes that in accordance with development plan standards 2 car parking spaces are required per consulting room. As the subject site can provide for the parking of two off-street vehicles this is deemed to be acceptable. On the basis of the above the planner's report recommends that planning permission be granted for the proposed development.

5.0 Planning History

- 5.1. No history files are attached. Details of two planning applications are contained in a pouch to the rear of the file. One of these files (Reg. Ref. 2502/20 relates to a development on Charlemont Street, Dublin 2 and is in no way relevant to the current application and appeal before the Board).
- 5.2. Under application 2858/17 planning permission was refused for the widening of the existing vehicular entrance to assist access onto No. 1a Furry Park Road together with associated works. Permission was refused on the basis that the widening of the vehicle entrance will be greatly in excess of the maximum permitted width and would set a precedent for excessively wide domestic entrances.
- 5.3. Reference is also made in the planner's report to Reg. Ref. 2502/20 (this appears to be the incorrect reference) which related to a grant of planning permission for the erection of a first floor bedroom and bathroom 24 metres in size to the side of the existing two-storey semi-detached dwelling at No. 209 Howth Road, Dublin 5.

6.0 Grounds of Appeal

- 6.1. The decision was the subject of a third party appeal by the occupants of No. 1 Furry Park Road, the adjoining house to the south. It is stated that when the appellants bought the house the veterinary clinic was not permitted to operate for more than 3

hours per day Monday to Saturday inclusive. The veterinary clinic is located in a wholly residential area where it is the objective to provide and improve residential amenities. The proposal is therefore contrary to the zoning. The site is located in a busy area with many schools in the vicinity and the proposal will exacerbate traffic problems.

- 6.2. It is contended that the proposal will be run by a larger chain of veterinary practices. It is stated that a total of 13 veterinary practices operate across the city. However, in the case of other practices the proposal does not involve a shared access to the clinic.
- 6.3. The proposal will give rise to more noise as a result of traffic to and from the clinic and also from animals using the clinic.
- 6.4. While Dublin City Council has included a condition requiring that the clinic's operational hours remain the same at 3 hours a day, (Condition No. 4) it is suggested that this is likely to change having regard to the intentions of the future owners. There is a concern that the new owners will roll out the Killester practice on the same commercial basis as other practices throughout the city.
- 6.5. It is considered that the proposal to accommodate numerous holding pens will be a major factor in contributing to the intensification of the operation and consequential traffic management parking and negative impact to the residential amenity. It is suggested that the new operator will operate as a large commercial venture and not operate as a local vet. It is suggested that post development the residential unit on site will become the ancillary unit and the veterinary clinic with a larger floor area would become the principle unit on site.
- 6.6. It is likely that the proposed development will generate significantly greater volumes of traffic to and from the site.
- 6.7. It is also stated that building the proprietary works were undertaken during the Level 5 lockdown restrictions which was in breach of Covid-19 measures.
- 6.8. It is stated that there has been a history of parking disputes which has required resolution by An Garda Síochána. This included people visiting the veterinary clinic and parking on residents' driveways.

- 6.9. The number of animals kept in holding pens are a significant noise concern particularly as one of the residents of No. 1 Furry Park Road works and operates from home.
- 6.10. Concerns are also expressed in relation to safety and security on the basis that the flat roof development would provide easy access to the appellants' home. The existing _____ serves as a huge security to the appellants' property. It was also stated that the removal of the bushes would have a material impact on the appellants' residential amenity.
- 6.11. Three windows of the appellants' property look directly onto the flat roof of the veterinary practice. If these lights were on during the evening and night-time it could severely impact on the residential amenity and the right to enjoyment of sleep.
- 6.12. In conclusion therefore it is argued that the scale, use and detail of the proposed development are in contravention of the residential zoning of the area and will impact on the amenity and enjoyment of the appellants' dwelling.

7.0 Appeal Responses

- 7.1. The Planning Authority have not submitted a response to the grounds of appeal.
- 7.2. A response was received on behalf of the applicant by RW Nolan and Associates, Chartered Planning and Property Advisers. The response is summarised below.
- 7.2.1. It states that the business is currently and will continue to be operated in full compliance with the planning permission and attached conditions granted by the Planning Authority. The applicant's other businesses also operate in full compliance with the permission issued.
- 7.2.2. The proposed development is very modest consisting of an additional treatment room and extending the existing preparation room and incorporating alterations to the existing bathroom. No changes are proposed to the number of consultation rooms. The proposed layout does not create any intensification of use but will result in a reduction of time spent at the premises by the general public. The existing structure is no longer fit for purpose. The proposal will provide a higher quality working environment for staff in providing veterinary services to the local population. The existing area to the rear of the building currently accommodates _____ and

the removal of this structure will have a positive impact on the surrounding area. There is an established use on site which will continue to operate should planning permission not be forthcoming. Therefore, any issues in respect of zoning is irrelevant.

- 7.2.3. The proposed extension to the vet practice does not propose any change to the current parking arrangement and therefore there will be no adverse impact on existing residential amenity. There will be two to three staff at the practice at maximum and the staff are encouraged to walk and cycle or take public transport in order to reduce traffic movements. The practice is located within an existing residential community and provides an important service to the area. It is anticipated that many customers will arrive for their appointments by foot.
- 7.2.4. The supposed builder operating on site during Level 5 lockdown was merely at the premises to remove some equipment to be stored in another premises.
- 7.2.5. In terms of noise pollution it is reiterated that it is not intended to intensify the use and the practice is already established at this location.
- 7.2.6. In terms of safety and security it is stated that the existing structure is a small flat roofed structure and the proposal is for an extension to same. As such, it is not considered that the proposal would have any impact on security or increase the likelihood of illegal activity at this location.
- 7.2.7. The applicant will retain and protect the existing trees on site as required by conditions. Shrubbery on site will be retained where appropriate while maintaining the property. Any criminal damage recorded at the appellants' property is in way related to the veterinary practice.
- 7.2.8. The proposal to incorporate rooflights is considered to be good practice when designing the building in order to reduce dependency on electric lighting. The veterinary service will close at 7 each day and therefore will not result in any light pollution/light disturbance after this hour.
- 7.2.9. It is reiterated that the existing veterinary practice has an established right of way which is shared with the residential dwelling at No. 1 Furry Park Road. No changes are proposed in the access arrangements. It is not considered that the applicant has demonstrated that the proposed development will have any negative impact on the existing residential amenity of the area.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The subject site is governed by the zoning objective Z1. Veterinary surgery is a use which is open for consideration under this land use zoning objective.
- 8.2. There are no other references or policies contained in the development plan in respect of veterinary surgeries.

8.3. Natural Heritage Designations

- 8.3.1. The subject site is not located within or contiguous to a designated Natura 2000 site. The nearest designated Natura 2000 sites are the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206) which are located 2 kilometres to the east of the subject site.

9.0 EIA Screening

On the basis of the information on file, which I consider adequate in order to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and that an environmental impact assessment is not required.

10.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal. I consider the critical issues in determining the current application and appeal before the Board are as follows:

- Impact on Residential Amenity
- Traffic Issues
- Other Issues

10.1. Impact on Residential Amenity

- 10.1.1. The grounds of appeal argue that the proposed development will significantly and adversely impact on the amenity of adjoining residents particularly the appellants dwelling which is located on the contiguous site to the south. The concern that the proposed development will impact on the residential amenities of the area is primarily predicated on the view that the proposal in this instance represents an intensification of use. It is argued in the grounds of appeal that the existing veterinary enterprise on site will be transformed into a larger veterinary practice on the basis that it is being taken over by a commercial chain of veterinary practices which are currently operating throughout the Dublin area.
- 10.1.2. It would appear from the drawings submitted that what is proposed in this instance is a reconfiguration and enlargement of the existing enterprise. The internal layout of the original practice comprised of four rooms together with a toilet. Under the current application it appears that the reception and consultation room are to remain essentially the same size. A larger preparation room is to be provided to the rear together with a new holding area for pets and animals. The proposal also incorporates a surgery area similar to the existing room to the rear of the premises. It appears therefore that an enlargement of the existing practice together with a reconfiguration of the rooms is proposed under the current application. It does not appear from the drawings submitted that any significant intensification of use will occur in terms of providing multiple consultation rooms, multiple holding areas and multiple surgery rooms so as more pets/animals can be treated simultaneously within the premises. It cannot be concluded on the basis of the extension of the proposal by c.33 metres that this will necessarily result in an intensification of use with more patrons visiting the surgery. As the applicant states in his response to the grounds of appeal the proposed development is to be undertaken to approve the quality of service and that the preparation room is being enlarged to as to ensure that observations of animals can take place in the appropriate setting. It appears therefore that the extension of the practice is not to facilitate an intensification of the business but rather to provide a more appropriate working environment for staff and for patrons visiting the clinic.

- 10.1.3. It is also clear and unambiguous from the Planning Authority's grant of planning permission that the hours of operation will remain the same under the current application. Condition No. 4 of the Planning Authority's grant of planning permission states that the operational hours of the proposed veterinary clinic shall be the same as the operation hours of the existing veterinary clinic unless a grant of separate planning permission is obtained. Details submitted with the applicant's response to the grounds of appeal indicate that the surgery is open for two 1½ hour periods throughout the day (9.30 a.m. to 11.00 a.m. and 5.30 p.m. to 7.00 p.m.). No intensification of use will occur in terms of operating hours.
- 10.1.4. Finally, in relation to this matter the grounds of appeal suggest that a grant of planning permission for the enlargement of the clinic will result in the adjoining dwelling on site becoming the ancillary use with the veterinary clinic becoming the dominant use within the overall site. I would not accept this argument on the basis that the gross floor area of the dwellinghouse is 130 square metres whereas the proposed surgery is a little over 50% of the floor area of the dwellinghouse.
- 10.1.5. On the above basis therefore I do not consider that an intensification of use will result from the proposed development and therefore there would be no material adverse impacts over and above that associated with the existing clinic operating on site.
- 10.1.6. The grounds of appeal also suggest that the proposed development is contrary to the land use zoning objective relating to the site which seeks to protect and improve residential amenities. Veterinary surgeries are open for consideration under the current land use zoning matrix. There is an established veterinary use on the subject site and this is a material consideration in adjudicating on the application. I have argued above that the proposed extension to the existing commercial enterprise will not result in any material intensification of use and on this basis, I would conclude that the established use on site including the extension thereof would not be contrary to the zoning objectives pertaining to the site.
- 10.1.7. With regard to the issue of noise the grounds of appeal suggest that noise issues will become more problematic as a result of the expansion of the development of the site. I have argued above that the proposed development will not result in any material intensification of use and as such it is unlikely that there will be any

significant increase in the numbers of animals or pets being treated on the subject site which could potentially give rise to excessive noise. I again reiterate that the surgery hours (3 hours per day) are required to be adhered to as per Condition No. 4. It is clear and unambiguous that any extension to these hours would be the subject of a separate planning application and would be determined in accordance with the proper planning and sustainable development of the area. The proposed development will not in my view give rise to increased levels of noise which could materially affect the residential amenities of the area over and above that associated with the existing established use on site.

10.1.8. With regard to the incorporation of rooflights it is reasonable that some level of natural internal lighting be incorporated into any design. The incorporation of rooflights will eliminate the potential of overlooking to a much greater extent than windows incorporated into the side elevations. I am satisfied therefore that the incorporation of rooflights will in no way give rise to overlooking issues of adjoining properties. Furthermore, to suggest that the incorporation of four rooflights on a structure to the rear of the appellants' dwellinghouse could in some way give rise to excessive levels of light pollution or light disturbance within an existing urban area in the vicinity of a busy roadway with artificial street lighting and artificial illumination of adjoining dwellinghouses in the vicinity is in my view untenable. The additional light disturbance derived from the proposed development which ceases operations at 7.00 in the evening will have a negligible impact on adjoining residential amenity in terms of light disturbance or light pollution.

10.2. **Traffic Issues**

10.2.1. The grounds of appeal express significant concerns in relation to potential adverse impacts arising from traffic to and from the subject site. The Board will note that there is one vehicular access point serving No. 1 Furry Park Road and the adjoining veterinary clinic. This shared access provides off-street car parking for both premises. I have argued above that the proposed development will not result in a material intensification of use and on this basis the Board are requested to accept that there will be no significant or material increase in trip generation to and from the veterinary clinic. The development plan stipulates that in the case of medical/veterinary clinics in Area 2, two car parking spaces shall be provided per consulting room. It is clear from the plans and particulars submitted with the

application that the proposed development seeks to incorporate one consultation room only and therefore a maximum of 2 car parking vehicles should be provided to serve the clinic. The proposed development complies with these requirements as there is ample space to accommodate two off-street car parking spaces in this instance. The issue of the shared access is a legacy issue and the appellant in this instance is not disputing any legal right of way or wayleave over the existing access to serve the clinic.

10.2.2. The Board will note that a previous application was submitted in order to incorporate a wider vehicular access to serve both the residential and commercial unit on site. However, this was refused by Dublin City Council under Reg. Ref. 2858/17 on the basis that it would result in an excessively wide domestic entrance which would set an undesirable precedent. As it is not considered that the proposed development will result in significant or material increases in traffic generation, I do not consider it appropriate to refuse planning permission on the basis of traffic and road safety issues.

10.3. **Other Issues**

10.3.1. Concerns are expressed in relation to security issues primarily on the basis that the extension of the flat roof structure could provide a security threat to the appellants' dwelling. In relation to this issue I would request the Board to note that there currently is a single storey structure on the subject site which is adjacent to the appellants' dwelling. Furthermore, a similar argument could be made in respect of any single storey extension/shed in any of the dwellings surrounding the subject site. It is not in my view appropriate to refuse planning permission for the proposed development on the basis that it represents a security threat to the appellants' dwelling.

10.3.2. With regard to the issue of landscaping whether or not the applicant wishes to remove, replace or replenish planting within the curtilage of a site is a matter for the applicant.

11.0 Conclusions and Recommendation

Arising from my assessment above therefore I consider that the Board should uphold the decision of the Planning Authority in this instance and grant planning permission for the proposed development.

12.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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.

13.0 Reasons and Considerations

Having regard to the established veterinary clinic on site and the relatively minor nature of the proposed extension, it is considered that subject to conditions set out below, the proposed development would not seriously injure the residential amenities of the area, would not be prejudicial to public health and would generally 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.

14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 the 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 operational hours of the proposed veterinary clinic shall be the same as the existing operation hours associated with the veterinary clinic. Any alterations to the opening hours of the veterinary clinic shall be the subject of a separate planning permission.

Reason: In the interest of the protection of residential 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 applicant or developer shall enter into water and/or wastewater connection agreements with Irish Water prior to the commencement of development.

Reason: In the interest of orderly development.

5. Site development and building works shall be carried out only between the hours of 0700 to 18.00 hours Mondays to Fridays, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviations 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 property in the vicinity.

6. The site development works and construction works shall be carried out in a manner as to ensure that the adjoining streets are kept clear from debris, soil and other materials if the need arises for cleaning works to be carried out on the adjoining public road, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure the adjoining roadways are kept in a clean and safe condition during the construction works in the interest of orderly development.

7. The flat roof of the proposed development shall not be used for recreational purposes and shall be accessible for maintenance purpose only.

Reason: In the interest of the protection of residential amenity.

8. No advertisement or advertisement structure shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

9. All trees shown to be retained on site shall be adequately protected during the period of construction. Such measures to include protection fence beyond the branch spread. Details shall be agreed with the planning authority prior to the commencement of development. Any trees damaged that are required to be replaced shall be replaced within one year of the completion of the development.

Reason: In the interest of amenity, ecology and sustainable development.

10. The developer shall pay to the planning authority a financial contribution of €2,726 (two thousand seven hundred and twenty-six euro) 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 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. The application of any indexation required by this condition 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.

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.

Paul Caprani,
Senior Planning Inspector.

28th April, 2021.