



An  
Bord  
Pleanála

## Inspector's Report ABP311118-21

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<b>Development</b>	Erect a two-storey house.
<b>Location</b>	Rear of 123 Churchtown Road Lower/Accessed from Flemingstown Park, Churchtown, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D12A/0523
<b>Applicant(s)</b>	Joseph Martin
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refuse outline permission
<b>Type of Appeal</b>	First Party V Refusal
<b>Appellant(s)</b>	Joseph Martin
<b>Observer(s)</b>	1. Andrew Kenny/Helen Killane 2. Mary Bigley/John Connolly
<b>Date of Site Inspection</b>	27 <sup>th</sup> September 2021.
<b>Inspector</b>	Hugh Mannion

## **1.0 Site Location and Description**

- 1.1. The application site has a stated area of 0.0244m<sup>2</sup> which is part of the garden of 123 Churchtown Road Lower and facing onto Flemingstown Park in Churchtown, Dublin 14. Number 123 Churchtown Road Lower is in use as a doctor's surgery at ground floor level and an apartment overhead. The house fronts onto Churchtown Road Lower but has a long part two storey/part single storey extension along the inner edge of the footpath on Flemingstown Park. The front garden onto Churchtown Road Lower is given over to car parking with a little landscaping and there is a vehicular access to this parking area and a ramp access with handrail to the surgery from Flemingstown Park. The area is residential in character, semi-detached two storey houses with front and rear gardens dominate along Churchtown Road Lower. Flemingstown Park has more of a mix of house styles, gable fronted bungalows dominate but many have been significantly extended and there are a few two storey houses.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the erection of a two-storey house in the rear garden of 123 Churchtown Road Lower with access from Flemingstown Park, Churchtown, Dublin 14.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused.

1. The height and scale of the proposed house would be out of character with the pattern of development on Flemingstown Park, its position on the footpath breaks the building line and would be contrary to section 8.2.3.4 (v) of the County Development Plan.
2. Having regard to the existing use on site and the scale of the proposed development it would comprise overdevelopment of the site and be overbearing when viewed from adjoining properties, seriously injure the visual

and residential amenity of the area and the proper planning and sustainable development of the area.

3. The proposed development would endanger public safety by reason of traffic hazard and be contrary to section 8.2.4.9 of the County Development Plan.

### **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 Division stated that the application has not demonstrated that a soakaway can be provided which is 5m from foundations and 3m from property boundaries.

### **4.0 Planning History**

- 4.1. Reference D07A/0924/PL06D.2225459 permission refused for further amendments to development on site to provide two apartments and additional car parking space because the proposed development would comprise over-development of the site and serious injury to adjoining property by overlooking.
- 4.2. Reference D06A/1107 permission granted for amendments to existing house to provide extended doctor's surgery and first floor apartment with 4 parking spaces.
- 4.3. Reference D06A/0026 permission refused for amendments to doctor's surgery with duplex apartment.

### **5.0 Policy and Context**

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

#### **5.2. Section 8.2.3.4(v) Corner/Side Garden Sites**

- 5.3. 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

5.4. Section 8.2.4.9 states;

5.5. (i) General Specifications

5.6. Vehicle entrances and exits shall be designed to avoid traffic hazard for pedestrians and passing traffic. Where a new entrance onto a public road is proposed, the

Council will have regard to the road and footway layout, the traffic conditions on the road and available sightlines and will impose appropriate conditions in the interest of public safety. In general, for a single residential dwelling, the maximum width of an entrance is 3.5m. For a shared entrance for two residential dwellings, this may be increased to a maximum width of 4m. Each car parking space for a residential dwelling shall have a minimum length of 5.5m depth to ensure the parked car does not overhang onto the existing public footway and a minimum width of 3m to allow for clearance from nearby wall/steps/boundary.

- 5.7. Proper provision shall be made for sightlines at the exit from driveways in accordance with the requirements in DMURS and as appropriate to the particular road type and speed being accessed.
- 5.8. Automatic electronic gates into residential developments are not favoured and should be omitted. Electronic or automatic gates are not acceptable in terms of road safety unless the entrance is set back 6.0m from the back of the footway to avoid the roadway or footway being obstructed by a vehicle while the gate is opening. In general, outward opening gates will not be considered acceptable.

#### 5.9. **Natural Heritage Designations**

Not relevant.

#### 5.10. **EIA Screening**

- 5.11. Having regard to the nature and scale of the proposed development, its location in a built-up area where potable and wastewater services are available, I conclude that there are no potential likely significant impacts on the environment and that submission of an EIAR and carrying out of an EIA is not required.

### 6.0 **The Appeal**

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

- The existing building on site is occupied by a doctor's surgery at ground floor with an apartment overhead. The purpose of the application is to provide for a modest house which may suit someone who is downsizing.

- The site is zoned for residential development and within walking distances from Dublin bus and Luas stations. The proposed development complies with overall policy to increase residential density in areas close to such services.
- The proposed house could be subject to restrictive conditions in relation to height and overlooking of adjoining property.
- 25m<sup>2</sup> of private open space would be retained to serve the apartment on site.
- The existing building line along Flemingstown Park is set so far back as to preclude any development on the application site. The new house would read as continuing the building line of the surgery/apartment along Flemingstown Park.
- The development would be set back from the boundary with 125 Churchtown Road Lower, would have no windows on that elevation and therefore would not impact on that property.
- The parking standards set out in the plan should be seen as maximum not minimum requirements.

## 6.2. Planning Authority Response

- The appeal does not raise new issues.

## 6.3. Observations

- The building on site has already been extended and with the additional car parking negatively impacts on the amenity of 125 and 127 Churchtown Road Lower.
- The proposed development would impact further on the residential amenity of the area and be contrary to the provision of the County Development Plan is correct.
- Higher residential density should not be at the expense of residential amenity. The application does not demonstrate that there is adequate open space for existing and proposed residential uses on site. Because it is not clear that the

house is single or two storey it is not possible to judge the impact on adjoining property.

- The site is only 10.5m wide and too restricted to accommodate a separate dwelling.
- The precedent referred to in the grounds of appeal is not applicable in the present case.
- The Churchtown Road Lower/Flemingstown Park junction is a busy junction where additional traffic would exacerbate an already dangerous situation.

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

None.

#### **7.0 Assessment**

##### **7.1. Access/Parking/traffic safety.**

7.2. Section 8.2.4.9 of the County Development Plan that vehicular entrances be a maximum of 3.5m wide and should be 5.5m deep. The submitted drawings indicate a width of about 5m but I do not consider that this point requires refusal on its own and could be subject to condition. More generally I consider that in the context of a suburban residential area where there are good transport links (bus and Luas) that car parking should be minimised.

7.3. The planning authority states that the proposed development because of its access arrangements would endanger public safety. An Observer makes a further point that the junction of Flemingstown Park and Churchtown Road Lower is unsafe and that the proposed development would exacerbate this problem.

7.4. The planning authority's transport department did not report on the application.

7.5. The speed limit on Flemingstown Park and Churchtown Road Lower is 50kph. There are footpaths on both sides of Churchtown Road Lower and on most of Flemingstown Park except for a section opposite the site where the boundary wall of number 119 Churchtown Road Lower abuts the carriageway. While I agree that there is some limitation on sightlines to the north when exiting Flemingstown Park

onto Churchtown Road Lower I do not conclude that a single modest house has the capacity to materially alter the traffic patterns or loading at this junction as to give rise to traffic hazard.

**7.6. Impacts on Adjoining Property.**

7.7. The first reason for refusal referenced section 8.2.3.4(v) of the County Development Plan in relation to development in additional houses on corner sites and side gardens and makes the point that the proposed development abutting the footpath would break the building line on Flemingstown Park and thereby result in an overbearing and incongruous development in the streetscape. This position is supported by the observations made to the Board.

7.8. Conversely the applicant makes the point that the application of the building line on Flemingstown Park up to the corner with Churchtown Road Lower would prevent any development of the site.

7.9. In my view the central problem with the application is that it fails to demonstrate the foreseeable impacts of the proposed development in a manner that would allow for a proper assessment. The application is for outline permission which does not provide the level of detail required in relation to development of a very restricted site which adjoins sensitive residential uses in an area zoned for the protection of residential amenity in the County Development Plan. It is necessary to, at a minimum, establish.

- The private open space available to the residential use on site (a first-floor apartment) and the proposed residential use and that it complies with the standards set out in section 8.2.8.2(i) for 2 bed houses at 48m<sup>2</sup> or where a smaller area is proposed a rationale for such a reduction should be set out.
- That adequate refuse management may be provided on site for the proposed new house, the existing apartment and the doctor's surgery.
- That car parking, where provided, complies with the design standards set out in the Plan and with the requirements set out in table 8.2.3 (one space per two-bed house).
- That surface water can be safely disposed of on-site to the standards required by the planning authority.



- That the location of any first-floor windows is such that they will not impact on the residential amenity of adjoining property in a manner as to seriously injure the residential amenity of that property by reason of overlooking.

7.10. In the absence of this detail in relation to development on a restricted suburban site it cannot be concluded that the proposed development would not seriously injure the amenity future residents and of property in the vicinity.

#### 7.11. **Appropriate Assessment**

7.12. 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 outline permission be refused.

## 9.0 Reasons and Considerations

The application site is part of a larger landholding which includes a doctor's surgery, residential accommodation and car parking and is located in an area zoned to protect and or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016 – 2022.

Having regard to;

- the two-storey nature of the proposed house on a restricted site adjoining sensitive residential uses,
- the lack of clarity in relation to the provision of private open space to serve the proposed house and the existing apartment on site,
- the lack of detail in relation to refuse management for the existing and proposed uses on site,
- the lack of detail in relation to the quantum/layout/specifications of on-site car parking,
- the lack of detail in relation to the height and fenestration of the proposed house,

the Board is not satisfied that the proposed development would not seriously injure the residential amenity of future residents of the proposed house and of property in the area. The proposed development would, therefore, materially contravene the zoning objective for the area set out in the current County Development Plan

and would be contrary to the proper planning and sustainable development of the area.

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Hugh Mannion  
Senior Planning Inspector

29<sup>th</sup> September 2021.