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Bord  
Pleanála

## Inspector's Report ABP 312698-22.

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<b>Development</b>	Demolition of carport, construction of a two storey, two bed detached house and external alterations.
<b>Location</b>	No 39 Finsbury Park, Churchtown, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>P. A. Reg. Ref.</b>	D21A / 1025.
<b>Applicant</b>	Martin and Eithne Moral.
<b>Type of Application</b>	Permission
<b>Decision</b>	Grant Permission
<b>Appellant</b>	Concerned Residents, Finsbury Park./ Third Party
<b>Observer(s)</b>	Rodney and Sylvia Cody, Tim and Anne Geraghty, John Hall and Brid Horan John Stokes <a href="#">Click here to enter text.</a>
<b>Date of Site Inspection</b>	25 <sup>th</sup> March, 2022
<b>Inspector</b>	Jane Dennehy

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## **1.0 Site Location and Description**

- 1.1. The application site has a stated area of four hundred and eight square metres and is formed from a side garden at No 39 Finsbury Park a corner site property overlooking public open space in an established residential area. To the west and southwest side, the site boundary adjoins rear gardens at Nos 36, 37 and 38 Finsbury Park which are two storey detached houses facing toward the south west.

## **2.0 Proposed Development**

- 2.1. The application lodged with the planning authority indicates proposals for subdivision of the site plot of the existing dwelling along with demolition of a garage structure at the side and lowering of the ground level within the site. Construction of a contemporary style, flat roofed, two storey dwelling with a stated floor area of 119 square metres is proposed. The footprint is stepped forward of the front building line of the original dwelling which in turn is stepped forward of the adjoining dwelling. One on-site parking space with access via a new vehicular entrance at the site frontage adjacent to the boundary to be formed with the existing property are shown on the plans. The space to the side of the entrance is laid out in lawn and the dwelling has a patio and green space at the side and rear.

## **3.0 Planning Authority Decision**

- 3.1. By order the planning authority decided to grant permission for the proposed development subject to conditions of a standard nature.

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

- 3.2.1. A report from the Transportation Division dated 23<sup>rd</sup> December, 2021 note the planning history and indicates a recommendation that two on site car spaces be required with a revised layout which could be addressed by condition. The report on the prior proposal had indicated no objection to development with provision for two car spaces subject to conditions for amendment. (P. A. Reg. Reg. 18/0041 refers. (See planning history in section 4 below.

- 3.2.2. The report of the Drainage Division indicates no objection subject to conditions.
- 3.2.3. The report of the planning officer in which the recommendations in the technical reports and observations of third parties are noted, indicates a recommendation for a grant of permission. It is stated that the requirement for two spaces recommended in the transportation report could be set aside and one space would be acceptable having regard to section 8.2.3 of the CDP in respect of infill development. The height, levels, footprint and separation distances from boundaries are noted and the development deemed acceptable in terms of visual impact in the streetscape and the amenities of adjoining properties

### 3.3. **Third Party Observations**

- 3.3.1. Submissions were lodged by fourteen parties in which issues raised include observations as to:

- Appropriate and compatible dwelling design for the location

- Inappropriate and incompatible dwelling design, including that of lower ground level accommodation, for the location.

- Substandard overdevelopment

- Adverse impact on residential amenities of adjoining properties

- Encroachment of building lines

- Insufficient and substandard private open space provision

- Poor attainable residential amenity for future occupants

- Undesirable precedent for further similar infill development.

## 4.0 **Planning History**

**P. A. Reg. Ref. D17A/0374:** Permission was refused for a detached two storey house in the side garden.

**P. A. Reg. Ref. 18A/0041:** The planning authority decision to refuse permission was upheld following appeal based on the following reason:

*It is considered that the proposed dwelling by reason of its contemporary design and its location forward of the existing building line would appear visually obtrusive and incongruous when viewed from surrounding properties and the street, and would therefore have a negative impact on the character of the area, and, having regard to the inadequate depth of the proposed dwelling's rear garden would be contrary to the provisions of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and would represent overdevelopment of the site and result in a substandard level of residential amenity for future occupants of the proposed dwelling. The proposed development would therefore seriously injure the residential and visual amenities of the area would therefore be contrary to the proper planning and sustainable development of the area.*

## **5.0 Policy Context**

### **5.1. Development Plan**

The operative development plan is *the Dun Laoghaire Rathdown County Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective A; 'to protect and or improve residential amenity'.*

According to section 8.2.3.4 (v) and (vii) new infill developments should respect height and massing of existing development and should retain the physical character of the area including features such as boundary walls, pillars, gates gateways, trees landscaping and fencing or railings.

According to section 21.3.4 it is policy to encourage densification of existing suburbs by infill housing where it protects the character of the area.

## **6.0 The Appeal**

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

- 6.1.1. An appeal was lodged by Armstrong Planning on behalf of the residents at Nos 36, 37 and 38 Finsbury Park in which it is submitted that the current proposal does not

address the issues evident from the prior planning history the current application being for a third proposal. According to the appeal:

- The wedge-shaped site configuration and its unusable areas render it unsuitable for development.
- The rear garden depth at 3.1 metres is shorter than 3.6 metres deemed inadequate for the previous proposal. It is contrary to section 82.8.3 (ii) of the CDP which allows for a reduction to a depth of seven metres for rear garden subject to protection of privacy and residential amenities at adjoining properties. The proximity of the rear boundary is contrary to the established layout and pattern of development.
- The front building line at 2.75 metres forward of the adjoining property is unacceptable, the forward projection of the previous proposal being 3.7 metres. The staggered building line on the cul de sac provides that No 39 and No 42 retain suitable rear garden depths relative to the layout at Nos 27-38 to the south and west. The proposed dwelling is adjacent to the boundaries with narrower separation distances. The effect is unsympathetic to the established development and is adverse in visual impact. Overbearing impact on Nos.36, 37 and 38 would occur. There would be a blank façade facing these properties and potential light pollution which results in negative impact.
- Criteria for corner site development in section 8.2.3.4 (v) in the CDP are not satisfied in the design and standards for building lines, external finishes private open space which are inappropriate and substandard for proposed and existing dwellings. Dwellings are larger five bed houses whereas the proposed dwelling is 'squeezed in' on the awkward shaped site and too close to adjoining properties
- The dwelling is substandard due to the lower ground level, reliance on two north facing windows for bedrooms, overlooking of private open space ad adjoining properties and poor levels of amenity potential
- Contemporary design is out of keeping with the area, is incongruous, visually obtrusive and jarring in the established streetscape

## 6.2. Applicant Response

A submission was lodged by the applicant's agent in response to the appeal and observer submissions and it includes an account of the planning history and context according to which:

- The appeal grounds were all addressed by the planning officer who favourably considered the proposal in his assessment. The significantly redesigned proposal, taking prior feedback into account which has evolved is fully in accordance with the Dun Laoghaire Rathdown County Development Plan. Diagrams are included in Appendix A.
- The main garden is to the side of the house and the appellant in commenting on the depth of the garden fails to take this into account. Diagram 3 in appendix to the appeal shows the area which should be included in the calculation. The variation in ground levels should have been taken into account with regard to proximity to the boundary. Only the separation distance from the boundary for the first floor which is fifteen metres to the nearest house is to be considered.
- Total useable private open space is 116 square metres whereas for a two-bed house 48 square metres is required. The gardens have been carefully designed in merging level differences and with regard to orientation. The private open space is considerably higher in quality than other permitted developments on irregular shaped gardens of short depth or triangular spares. Details of the example developments are provided.
- Following advice and recommendations received at pre planning consultations, revisions to the footprint to front and rear and the setback at first floor level were included and recognised as positive regarding relationship with adjoining properties. The increase in separation distances outweighs setbacks at the front. There are several precedents for infill with projections forward of the building line. Three examples are provided.
- The proposed dwelling is high quality and does not affect residential amenities. There are inaccuracies in the photographs and artists impressions used to support the case as to overlooking, visual impact and intrusiveness to

the third-party properties. The dwelling is visible from upper floor levels but is modest. There is no right to a view at these properties although there is to daylight, sunlight and privacy. There is no potential overshadowing.

Overbearing impact on the other hand is not acceptable but this is not at issue due to the lower level of the ground floor in conjunction with sightlines and separation from boundaries, the small upper floor footprint, materials and colours and sedum roof which is aesthetically positive. The planning officer states the overbearing impact and overshadowing would not occur.

- Site area is increased from 347 to 408 square metres, the frontage is twenty metres, plot ratio 0.29 and coverage is 20.9% and the dwelling has a smaller footprint. These figures are lower than other precedent examples, eight of which are provided. Furthermore, the site is more spacious than would appear in views from the street due to the levels and angle of the houses at the rear. It is a subdivision of a particularly large site of 857 square metres in an area of low density whereas it is the express intention of the local authority to encourage densification of the existing suburbs.
- Contemporary design has been welcomed by the local authority. Precedent examples are provided. The elevation features of the existing and proposed houses were reassessed with it being concluded that the flat roof is the only major departure which is sympathetic to the house and the site and avoids dominance of other properties.
- The level of amenity for future occupants was addressed in the lower ground level within the design so that privacy is improved and overlooking to be prevented. The main garden at the side will benefit from south and west sunlight and raised beds allowing for flexibility in use of the garden. It is a sunny outdoor space off the living space. All bedrooms in the existing row of houses have north facing bedrooms.
- The proposed development is fully in accordance with the zoning objective 'A'.

### 6.3. Planning Authority Response

The planning authority in a letter dated 7<sup>th</sup> January, 2022 indicate confirmation of its assessment and decision and reasoning for refusal of permission



## 6.4. Observations

6.4.1. Observer submissions were lodged by the following parties.

Rodney and Sylvia Cody,

Tim and Anne Geraghty,

John Stokes and

John Hall and Brid Horan

6.4.2. The issues raised in the submissions are that the proposed development does not overcome the reasons for refusal of permission for the previous proposal. Concerns raised are that of:

Unsuitable site configuration with insufficient private open space depth for the rear garden and lack of separation distance for the dwelling footprint from boundaries

Excessive scale and mass and overbearing impact on adjoining properties

Overlooking of adjoining properties

Light pollution to adjoining properties

Inappropriate and incompatible design and dwelling form for the location with adverse visual impact.

## 7.0 Assessment

7.1. The subdivided wedge or shaped site in configuration and in size lacks sufficient capacity to accept a detached dwelling with compatibility with the surrounding development in which sufficient private open space and can be achieved. The dwelling is reliant on the lawn space to the side of the driveway and entrance overlooking the access road along with the narrow areas and patio to the side and rear of get dwelling behind the front building line. Contrary to the case made by the applicant's agent it is considered the lawn area at the front does not constitute private open space serving the dwelling and the areas to the side due to size and configuration do not provide for sufficient private space both in quality of private

amenity potential and quantum and depth to the party boundaries with adjoining properties.

- 7.2. As such the layout is substandard and out of character with the established pattern and character of development and in terms of amenity potential for future occupants. Furthermore, the area to the site and rear as pointed out by the third parties is seriously deficient having regard to the CDP standards that allow for reduction in depth at the rear from eleven to seven metres subject to certain qualitative standards being achieved.
- 7.3. With regard to the dwelling itself, it is noted that the upper floor bedrooms are single aspect north facing rooms and it is noted that there is a pleasing outlook toward the public open space. While undesirable, refusal of permission would be unwarranted on this basis alone, modifications providing for improvements in this regard may be feasible.
- 7.4. Given the relatively low density and homogeneity in dwelling type and the established pattern and layout and the footprint at the rear and side so close to the boundaries with the rear gardens of adjoining properties and consequently to the rear facades of the adjoining properties. This represents a significant departure and change from the perspective of impact on amenities at adjoining properties and the concerns indicated by third parties in this regard are understandable. However, it is not accepted that undue overlooking could occur, subject to sufficiency in height and quality of boundary treatment or that undue light pollution from the upper floor landing window facing west would occur.
- 7.5. From the perspective of effects on visual amenities, the contemporary design and form for the proposed dwelling by itself is positive but it is considered an incompatible insertion at the end of the row of detached houses along the cul de sac. The site location is highly prominent in views on approach into the estate from the internal access road off Churchtown Road Upper. There is considerable homogeneity in the design and character of the existing dwellings and the layout along the cul de sac and to its rear which is that of relatively low density two storey, detached houses with front and rear gardens.
- 7.6. The proposed dwelling would be visually obtrusive and incongruous at the prominent location at the corner and would fail to complement or integrate with the existing

development. Of note is the upper floor profile and above eaves height large projecting box form window and vertical shape window in the front elevation which would be very dominant features in views from the roadways detracting from the established streetscape character. This impact from the fenestration detail at upper floor level would be exacerbated by the considerable projection forward of the front building line the bring the mass closer to the street frontage than its neighbours.

7.7. In view of the foregoing, it is concluded that the proposed development is unacceptable from the perspective of failure to provide for satisfactory attainable qualitative standards for the future occupants, negative impact on the amenities of adjoining residential properties and adverse impact on the visual amenities and established character and pattern of development in the area.

#### 7.8. **Environmental Impact Assessment Screening**

Having regard to the nature of the proposed development and its location in a serviced inner suburban area removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### 7.9. **Appropriate Assessment Screening.**

Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld based on the reasons and considerations which follow.

### 9.0 **Reasons and Considerations**

It is considered that the proposed development, by reason of the limited size and wedge shaped configuration of the site, the projection forward of the front building line of the adjoining property, the contemporary form and design and above eaves

height glazing features, the serious deficiency in private open space provision behind the front building line in quality and quantum having regard to the limited separation distance to the boundaries to the rear, would constitute overdevelopment, with substandard amenity potential for the future occupants, and which would be visually obtrusive, incongruous and out of character with the established pattern and character of development and in the area. As a result, the proposed development would seriously injure the visual amenities of the area and the amenities of residential properties and would be contrary to the proper planning and sustainable development of the area.

**Jane Dennehy**  
Senior Planning Inspector  
12<sup>th</sup> May, 2022