



An
Bord
Pleanála

Inspector's Report ABP-301027-18

Development	Demolish house, reconstruct house
Location	14, Seaview Avenue North, Clontarf, Dublin 3
Planning Authority	Dublin City Council Nth
Planning Authority Reg. Ref.	4440/17
Applicant(s)	Sean O'Sullivan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Aisling Prior
Observer(s)	None
Date of Site Inspection	20 th June 2018
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located on the western side of Seaview Avenue North, where the street changes to The Stiles Road, in the area of Clontarf, northeast of Dublin City Centre and approx. 240m from the coast road.
- 1.2. The site comprises a semi-detached bungalow, at the end of a row of 4 semi-detached bungalows similar in style, north of which the dwelling types change to a two storey style, with the pair of semi-detached dwellings immediately to the north of the subject site being dormer in style. The building line of the bungalow is stepped forward of the building line of the two storey dwellings to the north. The rear/west of the property backs onto a service lane serving both Seaview Avenue/The Stiles Road and Saint Lawrence Road to the west.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Demolition and construction of a replacement 4 bed dwelling, bungalow in form, with a two-storey rear extension and dormer projection. The application is accompanied by a report from a structural and civil engineer setting out the rationale for demolition.
 - The footprint of the proposed bungalow follows the front and rear building line of the existing dwelling, which sits entirely forward of the dormer dwelling to the north. The replacement dwelling is wider, being built up to the northern boundary. The finished floor level of the dwelling has been reduced by 430mm below the existing floor level. The two storey rear extension is approx. 250mm above the ridgeline of the main dwelling/existing ridgeline and comprises a flat roof and is positioned to the rear of the original bungalow footprint along the northern boundary, approx. 6m beyond the rear building line of the bungalow. The dormer projection is in line with the existing ridgeline.

- The following documents have been submitted with the application: A Flood Risk Assessment and A Sunlight Daylight Analysis.

3.0 Planning Authority Decision

3.1. Decision

GRANTED, subject to 8 conditions, including the following:

C2: Section 48 Contribution

C3: First floor north and south facing high level windows shall have floor to cill heights of 1.8m.

C6: Requirements of Transport and Traffic Planning Division.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority.

3.2.2. Other Technical Reports

Engineering Drainage Division: No objection subject to condition.

Transport and Traffic Planning Division: No objection subject to condition.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

One received, which forms the basis of the grounds of appeal.

4.0 Planning History

3227/18 – Decision pending in relation to application for permission and retention for work to garage to the rear of the semi-detached bungalow.

The following applications relates to the neighbouring dormer dwelling to the north:

1174/05 - Permission granted for construction of two storey extension to side and single storey extension to rear at 15 Seaview Avenue.

2528/05 - Permission granted for window at first floor level to side elevation for already approved planning ref: 1174/05

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- Zoning objective Z1, the objective for which is ‘to protect, provide and improve residential amenities.’
- Section 16.10.12: Extensions and Alterations to Dwellings
- Appendix 17: Guidelines for Residential Extensions.

5.2. Natural Heritage Designations

The site is not located within any designated Natura 2000 site. The nearest Natura sites are the South Dublin Bay and River Tolka Estuary SPA (0040240), North Dublin Bay SAC (000206), and the North Bull Island SPA (004006), to the south and south east. The South Dublin Bay and River Tolka Estuary SPA is approx. 250m to the south of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A third party submission has been received from the neighbouring two–storey dwelling, north of the subject site. The grounds of appeal is summarised as follows:

- Kitchen area, where appellant spends a lot of time, is lit by two windows in the side elevation at ground floor level.
- The depth, two storey height, and positioning of the rear extension 2m from and south of no. 15 will affect light into the kitchen of no. 15 and is contrary to

section 16.10.12 of the development plan. The loss of light will affect the mental health of the occupant of no.15 who has a disability.

- The sunlight daylight analysis submitted by the applicant is flawed as it does not assess the ground level windows.
- The appellant has submitted their own sunlight daylight analysis which examines the sunlight access to the kitchen windows, vertical sky component, sky line and average daylight factor, all of which fall below recommended levels as a result of the development.
- Two storey element of the extension will significantly impact upon the residential amenity of no. 15.
- The design is out of context with the character of the area and the amenity of the adjoining property. Section 16.2.1 and 16.2.2 of the development plan is referenced in this regard.
- Position of the two-storey extension at the boundary with no. 15 will be overbearing when viewed from the kitchen windows of no.15.
- The two storey element which is 0.5m higher than the existing ridge level is not subordinate in design terms, contrary to the development plan.
- If the footprint of the extension was repositioned south it would not impact on no.13 in such a severe manner as it does on no. 15. Alternatively a single storey extension would be more in keeping.

6.2. Applicant Response

The applicant's response to the grounds of appeal is summarised hereunder

- The form, extent and scale of the adjacent properties has informed the design process from the outset.
- The proposal was assessed against the BRE guidance document 'Site Layout Planning for Sunlight and Daylight'.
- Where the proposed extension aligns with the boundary of no. 15, it has been kept as short and as low as possible.

- The two windows serving the kitchen of no. 15 are not the only source of daylight and sunlight to this area, it forming part of a large open-plan area served by a multitude of glazed elements.
- Planning permission to no. 15 permitted a utility and bathroom at the southern elevation/boundary with the appeal site. The internal layout was amended with this area becoming an open plan kitchen area, with the kitchen being where the utility/bathroom was originally proposed and this steps down to the extension to the rear comprise a living and work space area.
- The western most element of the extension to no.14 does not extend beyond or affect the western most element of the extension to no. 15 which benefits from significant glazing and a westerly aspect.
- The existing overall height of no. 15 is significantly greater than that of no. 14, rising 2.46m above the parapet level of no. 14 and 2.7m above the existing ridgeline of no. 14.
- An existing shed built to the side of no. 15 limits sunlight to the side windows in question as does the angle of the existing extension to no. 15.
- The application should be assessed on planning merits and not the medical condition of the appellant.
- The ARC Daylight Sunlight Analysis submitted as part of the appellant's submission has not been undertaken based on detailed survey and topographical surveys which the applicant has used in their sunlight and daylight analysis. The planning drawings for no. 15 differ to the as built form in terms of height and footprint, as surveyed by a specialist surveyed employed at the outset by the applicant.
- The applicant has reassessed the impact on the side windows in accordance with the BRE guidance and finds that post construction both windows will receive appropriate levels of sunlight. The discrepancies with the appellant's consultant's analysis appears to be an inaccurate baseline in terms of the height of the windows. The results of the vertical sky component, no sky line and average daylight factor also differ significantly. The combined window areas of the other windows serving the open plan area have not been taken

into account. The methodology of the appellant's consultants (ARC) is not clear overall.

- The appellant's extension is built up to the northern boundary of the site/southern boundary of no. 16. While the applicant is proposing a similar position for their extension, given the footprint of the existing dwelling sits forward of no. 15, the extent of the extension proposed will not impact significantly on no. 15 in the way no.15's extension impacts on no.16.
- The applicant's capacity to develop their site should not be comprised by side windows (originally designed to serve a utility and bathroom as per the planning application for that extension) facing onto the shared boundary/into their property.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

One received, the grounds of which forms the basis of the grounds of appeal.

6.5. **Further Responses**

The appellant has responded to the applicant's response to the grounds of appeal as follows:

- The appellant has not changed the layout of the dwelling since purchasing it in 2008.
- The extension should be repositioned toward the southern boundary with the adjoining bungalow.
- The extension to no. 15 is not open plan – there is a set of steps down to the living area from the kitchen. While the spaces are connected they are not typically open plan.
- The kitchen is not lit by four skylights.

- The windows serving the kitchen are critical to the appellant's enjoyment of her kitchen.
- An Bord Pleanála granted permission for an extension to the rear of no. 13 Seaview Avenue, with a condition that it be set back by 1m from the northern boundary and reduced the ridge height to 3.5m above ground level.
- ARC have reviewed the revised sunlight-daylight analysis submitted by the applicant. Drawings were based on the drawings by the applicant in their planning application. Light from the dining room adjoining the kitchen was considered.
- The daylight in the kitchen fall below 5% as is, therefore general rule of thumb that if daylight is reduced by one fifth the occupants will notice.
- ARC stands over their report, software used and methodology. The construction of a two storey structure, where there was previously none, at such close proximity of opposing south-facing ground floor windows within an existing building is likely to result in an adverse impact on sunlight and daylight access within the relevant room.

7.0 Assessment

Zoning

- 7.1. The subject site is located within zoning objective Z1, the objective for which is '*to protect, provide and improve residential amenities*'. I consider the development as proposed to be acceptable in principle.
- 7.2. The primary issue for assessment relates to design and impact on visual and residential amenity of area.

Design and Impact on Amenity of the Area

- 7.3. The grounds of appeal has raised concerns in relation to the height, scale and overbearing form of the proposed extension. The main concern raised is in relation to loss of light to the kitchen area, which is served by two ground floor side windows facing onto the boundary with the applicant's site. The appellant's sunlight/daylight consultants (in a further response to the appeal) state the construction of a two

storey structure, where there was previously none, at such close proximity of opposing south-facing ground floor windows within an existing building is likely to result in an adverse impact on sunlight and daylight access within the relevant room.

- 7.4. The applicant states they have taken into account the site context. The scale and form of the extension is in keeping with the traditional bungalow style which is being replaced to the front of the site. The applicant states they have taken account of the neighbouring properties, including no. 15 and its two side windows facing the appeal site. The two storey extension has been located to minimise impact. The applicant states there will be no significant loss of sunlight, contrary to appellant's sunlight-daylight analysis. The applicant is of the view that their capacity to develop their site should not be comprised by side windows, originally designed to serve a utility and bathroom, facing onto the shared boundary and into their property.
- 7.5. The applicant proposes to demolish and replace on the same footprint an existing bungalow dwelling, with the footprint extended to the northern boundary. It is proposed to lower the finished floor level of the original bungalow and add a two storey extension to the rear/side along the northern boundary with the neighbouring property, as well as a first floor element within the rear roof plane of the bungalow. The rear two storey element of the extension is approx. 6m beyond the rear building line of the original bungalow and does not extend beyond the rear building line of the dwelling to its north (no. 15). Given ground levels, its overall height is also lower than that of the dwelling to the north. The dormer insertion proximate to the southern boundary sits below the ridgeline and is not visible from the streetscape. In my opinion the bungalow and associated extensions are sensitively designed in terms of their scale and massing relative to the adjoining and neighbouring properties and the rear elements do not dominate or detract from the form of the bungalow as viewed from the street. I consider further hereunder the impact of the development on the residential amenity of the adjoining properties.
- 7.6. One of the main issues raised in the grounds of appeal is in relation to access to light to the kitchen area of the dwelling to the north of the appeal site, no. 15, which is served by two ground level side windows. As noted upon site inspection, the kitchen forms part of an open plan area, with steps down from the kitchen to the rear section which has large windows to the rear garden of that dwelling and is also served by a large rooflight. The extent of the two storey building line is to a point just beyond the

two side kitchen windows, with the rear section of the extension to no. 15 not impacted upon. While there is contradictory evidence presented in relation to daylight and the BRE guidelines, it is clear to me that an extension to the rear of no. 14/side of no.15 will impact these two side ground level windows and the question in my view is whether the impact can be considered to be significant.

- 7.7. It is reasonable to expect in an urban context some loss of light to side windows in any dwelling where those windows are onto the side boundary of the neighbouring dwelling. It is also reasonable to expect that the small bungalow in question will need to be extended in scale to accommodate modern living requirements for a growing family. While there will be inevitable loss of light/outlook to the side windows in no. 15, it must be acknowledged that these windows are to the side of the dwelling, they are not the main windows to the living area, and they serve a kitchen area which is part of an open plan area well served by windows and a rooflight. The windows in question are already impacted upon by their proximity to the boundary fence of the property, which includes planting in between the windows. I am of the view that the impact of the proposed development is not so significant in terms of loss of light or overbearance as to warrant a reduction in height or relocation of the proposed extension. The development as proposed is designed in a manner which is in keeping with the other bungalows along this section of street and the positioning of the two storey block closer to the dormer dwelling to the north is appropriate and its relocation closer to the adjoining bungalow as suggested in the grounds of appeal would in my view be inappropriate. The development as proposed is in my view acceptable in terms of its height, scale and proximity to the northern boundary.
- 7.8. I note the upper floor window in the side elevation of no. 15, which may be partially impacted, is a second window to an existing bedroom, which was added to the original design of this dwelling and the main light to this bedroom was originally served by a window to the rear elevation, which remains. Any impact in my view is not significant.
- 7.9. With regard to the dormer projection within the rear roof plane which is positioned close to the southern boundary, I note that the adjoining bungalow has a significant single storey extension to the rear and the private garden area associated with this dwelling is located on the other side of this extension along the southern boundary. I

do not therefore consider that the introduction of this dormer will impact on the privacy or amenity of the adjoining bungalow.

Other Matters

- 7.10. The grounds of appeal makes reference to An Bord Pleanála decision on an extension to the rear of no. 13 Seaview Avenue, where a condition was attached that it be set back by 1m from the northern boundary and the ridge height reduced to 3.5m above ground level. Each application is assessed on its own merits and with regard to its specific site context. Notwithstanding this, I note this application differs given the dwelling to the north of this site is dormer/two storey in form and not a bungalow. Furthermore the finished floor level and constraints also differ when considering the height of the proposal relative to a neighbouring dormer/two storey building versus a bungalow.
- 7.11. It was a condition of the permission to require the high level windows on the north and south elevations to be 1.8m above floor level. I note that this is proposed by the applicant in any event, as per the application drawings, therefore a condition requiring this is not in my view necessary.

Appropriate Assessment

- 7.12. The nearest Natura 2000 site is approx. 250m to the south of the site, the South Dublin Bay and River Tolka Estuary SPA (0040240). Also in close proximity to the site is the North Dublin Bay SAC (000206), and the North Bull Island SPA (004006), which are located to the south and south east and separated from the subject site. There are limited relevant pathways between the development and the aforementioned sites.
- 7.13. The conservation objectives for the South Dublin Bay and River Tolka SPA are to maintain or restore the favourable conservation status of habitats and species of community interest, including Light Bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern and Arctic Tern and the wetlands which support them.
- 7.14. The conservation objectives for the North Dublin Bay SAC are to maintain or restore the favourable conservation status of habitats and species of community interest, including Mudflats and sandflats not covered by seawater at low tide, Annual

vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes), Fixed coastal dunes with herbaceous vegetation, Humid dune slacks, *Petalophyllum ralfsii*.

- 7.15. The conservation objectives for the North Bull Island Bay SPA are to maintain or restore the favourable conservation status of habitats and species of community interest, including Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Black-headed Gull and the wetlands which support them.
- 7.16. The site itself is of low biodiversity value. The applicant proposes a soakaway (where feasible) in the rear garden of the proposed dwelling and permeable paving is to be utilised for the driveway. The applicant must apply separately to any planning permission to Dublin City Council for a connection to the surface water network and in doing so must comply with the requirements of Dublin City Council in this regard, including compliance with the Greater Dublin Regional Code of Practice for Drainage works, whereby all new developments must incorporate SUDS. The applicant is proposing to utilise permeable paving and a soakaway, where possible, in this instance which will discharge to the surface water network. Any discharge will therefore have addressed the issue of potential pollutants given best practice systems in place.
- 7.17. I am satisfied that standard construction management practices would be sufficient to avoid an indirect effect on water quality during construction. I consider that adequate attenuation is proposed within the site during the operational phase and therefore the potential for impact on the water quality within the designated sites is remote. In addition, the proposal for connection to the public foul network would mitigate any potential for impacts from wastewater.
- 7.18. It is reasonable to conclude that on the basis of the information on the file, which I consider to be adequate in order to issue a screening determination that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 0040240 (South Dublin Bay and River Tolka Estuary SPA), No. 000210 (South Dublin Bay SAC), No

000206 (North Dublin Bay SAC), No. 004006 (North Bull Island SPA) or any other European Site, in view of the site's conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. It is recommended that permission is granted, subject to conditions.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the, 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 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity.

3. The development shall comply with the following requirements of the

planning authority:

(a) The driveway entrance shall not have outward opening gates.

(b) The footpath and kerb shall be dished and a new entrance provided to the requirements of the planning authority.

(c) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of the proper planning and sustainable development of the area.

4. 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.

5. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation 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 such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

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

7. The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

Una O'Neill
Senior Planning Inspector

25th June 2018