



An
Bord
Pleanála

Inspector's Report

ABP-305574-19

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| Development | Demolition of single storey, non-habitable dwelling, along with all associated landscaping & site works. |
| Location | 14, Seaview Avenue North, Seaview Avenue North, Dublin 3 D03 AE40 |
| Planning Authority | Dublin City Council North |
| Planning Authority Reg. Ref. | WEB1437/19 |
| Applicant(s) | Leticia & Sean O'Sullivan. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Odharn McCarthy & Moira Cuffe. |
| Observer(s) | None |
| Date of Site Inspection | 24/01/20. |
| Inspector | Sarah Lynch |

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.
- 1.3. 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.
- 1.4. The roof of the semi-detached bungalow is in a state of disrepair and the

2.0 Proposed Development

- 2.1. Permission is sought for demolition of the existing single storey, non-habitable dwelling.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council determined to grant permission for the demolition of the property.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report was consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- None

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

A number of submissions were received in relation to the planning application. The issues raised are outlined within the grounds of appeal.

4.0 Planning History

ABP 301027-18 Permission was refused for the following reason:

1. The development by reason of its position on the site relative to the adjoining property to the north, its proximity to the adjoining dwelling and its two storey nature, would seriously injure the residential amenities of the adjoining property and would be contrary to the proper planning and sustainable development of the area.

3227/18 – Permission was granted 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. Development Plan

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**

5.3. 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.

5.4. **EIA Screening**

5.5. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a third party appeal, the grounds of appeal have been prepared by O'Neill Town Planning on behalf of the adjoining residents. The issues raised can be summarised as follows:

- The demolition should have been agreed between both property owners.
- Both houses should remain semidetached for architectural reasons.
- The failure of the applicant to provide a replacement dwelling or timeframe for same is of concern.
- Photographs of no. 13 are misleading as the dwelling is being extended and remodelled.
- The precedent of the proposed development would encourage others to demolish their properties without any recourse.

- The proposal is a material contravention of the Development Plan.
- Dwelling was considered habitable.
- Decision of Council did nothing to protect the amenities of the appellant.
- Council failed to impose a condition to maintain the integrity of party wall in relation to demolition of property.

6.2. Applicant Response

- Applicants have spent over 3 years trying to develop the derelict property into a family home.
- Numerous applications have been submitted to DCC and have been appealed.
- The applicants have attempted to engage neighbours to no avail.
- Neighbours have commenced an unauthorised demolition of their own property.
- It was the demolition of no. 13 that forced the applicants to apply for an demolish their property.
- Demolition works of no. 13 made appeal site unstable.
- There is a live enforcement file in relation to the demolition works at no. 13.
- The party wall agreement was to facilitate the works at no. 13 and it was agreed that the builder of no. 13 would carry out the works and the cost would be split.
- Mutual agreement is not required to demolish a semi-detached dwelling.
- It is proposed to erected screening to front of house to preserve the visual integrity of the street.
- Due to demolition of no. 13, DCC advised applicants to submit an application for demolition without plans for replacement dwelling. The plans for the replacement have been submitted.
- Photographs submitted in chronological order.

6.3. **Planning Authority Response**

- None

6.4. **Observations**

- None

6.5. **Further Responses**

The appellant has responded to the response to the grounds of appeal and has discounted the items raised within the response to the ground of appeal. No new issues have been raised within this response. This response largely details the discussions and agreements made between parties in relation to the party wall.

7.0 **Assessment**

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 issues for assessment relate to impact on visual and residential amenity of area, other issues raised as the agreement for party wall reinstatement.

Impact on Visual and residential amenities

7.3. It is contended by the appellant that both properties should remain as semi-detached dwellings as this would be architecturally more suitable in this instance. The applicant has confirmed within their response to the appeal that their intention is to remain as a semi-detached dwelling and that it was the complainant who demolished their property first.

7.4. I noted at the time of site inspection that no. 13 has undergone significant development and the party wall has been rebuilt for the most part. I further note in the context of the proposed demolition that DCC has granted two no. permissions for a replacement dwelling within the appeal site. The applicant has obtained permission from the Council for both a semi detached and a detached replacement dwelling. Both applications are currently at appeal and are undecided, ref 306107 and 306035.

- 7.5. It is apparent therefore based on the applicants response to the grounds of appeal and the aforementioned applications that the applicants intention is to replace this dwelling. However, the issue pertaining to the assessment of this appeal relates solely to the demolition of the existing semi-detached dwelling.
- 7.6. I note that the applicant submitted a structural report from Donnelly Troy and Associate with the planning application and it is stated within the planner's report that demolition of the dwelling was recommended. I also note the contentions of the applicants that the property has been vacant and uninhabitable for a significant period of time.
- 7.7. The site is located in a residentially zoned area which is not within an Architectural Conservation Area and I note that the dwelling is not a Protected Structure. On this basis there are no statutory or policy provisions to prevent the demolition of this structure.
- 7.8. I note from both the applicants' submission to the appeal and the planner's report that the applicants are currently residing in a converted shed to the rear of the property with their family. This structure has the benefit of planning permission which was permitted for a temporary period whilst works were being carried out on the dwelling.
- 7.9. I am satisfied that the proposed demolition of the dwelling on site is a single element of the overall redevelopment of this site and consider it a reasonable and acceptable proposal.
- 7.10. I do not consider that the proposed demolition would impact on either the visual or residential amenities of properties in the area. I note that the adjoining property has carried out significant demolition and redevelopment of their dwelling and as such impacts on this dwelling will be limited in terms of demolition activities.
- 7.11. I consider such works as those proposed to be reasonable. The demolition of this dwelling which is in a poor state of disrepair will allow for the reuse and redevelopment of this site for a more sustainable and efficient dwelling in accordance with current building regulation standards. It is of note that the proposed development does not constitute a material contravention of the Dublin City Development Plan 2016-2022.

Party Wall

7.12. I note that the appellants are concerned about the integrity of the party wall and further note that the applicants have stated that an agreement was made between the two parties in this regard. I also note that significant demolition has occurred at the adjoining property and in this instance there is demolition on both sides of the divide. Whilst I acknowledge the issue of the part wall, this is largely a legal matter and is not one that the Board can finally determine. Section 34 (13) of the Planning and Development Act, states that the granting of permission does not entitle a person to carry out development and covers the eventuality that the development cannot be implemented for legal reasons.

8.0 Recommendation

8.1. I recommend that permission is granted subject to the following 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 neighbouring properties or of the area. 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 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 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 development shall be managed in accordance with a Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This plan shall provide details of intended demolition practice for the development, including hours of working, noise management measures and off-site disposal of demolition waste.

Reason: In the interests of public safety and residential amenity

3. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) 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 developers expense.

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

Sarah Lynch
Planning Inspector

24th January 2020