



An
Bord
Pleanála

Inspector's Report ABP-306035-19

Development	Demolition of dwelling and construction of semi-detached, 3-bedroomed dwelling.
Location	14, Seaview Avenue North, Dublin 3.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4025/19
Applicant(s)	Leticia & 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	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.

2.0 Proposed Development

- 2.1. Permission is sought for the following development:
 - Demolition of dwelling.
 - Construction of replacement semi-detached dwelling.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. Dublin City Council determined to grant permission.

3.3. Planning Authority Reports

3.3.1. Planning Reports

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

3.3.2. Other Technical Reports

- Drainage Division- No objection subject to conditions.
- Roads & Traffic Planning Division - No objection subject to conditions

3.4. Prescribed Bodies

None

3.5. Third Party Observations

A number of submissions were received. The issues raised can be summarised as follows:

- Scale & height of proposal is overbearing and will result in loss of light.
- The applicant has submitted 2 no. applications for the site, this is unacceptable.
- Details should be provided as to how the party wall and roof will be protected.
- A reasonable timeframe should be set for the proposed works.

4.0 Planning History

Current appeals under consideration:

ABP 305574 Appeal in relation to the demolition of the existing dwelling.

ABP 306107 Appeal in relation to the demolition of existing dwelling and construction of a detached dwelling.

Decided:

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
- Section 17.3 Residential Amenity Issues
- Section 17.4 Privacy
- Section 17.6 Daylight and Sunlight
- QH22 – New houses to be in keeping with character of existing
- 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

The grounds of appeal have been prepared by Armstrong planning on behalf of Ms. Aisling Prior, the issues raised can be summarised as follows:

- The appellant had to commission her own light study.
- The current proposal only sets back the proposed development by 1 metre from the boundary.
- ABP considered the previous scheme sufficient to refuse permission, this revised proposal will still impact the availability of light to no. 15 and does not address the previous reasons for refusal.
- The loss of light will be significantly detrimental to the occupant who is disabled.
- The proposed extension should be moved to the south of the existing dwelling as it would not have the same impact on no. 13.
- The alternative application in relation to a detached dwelling which has been submitted is more preferable.
- Alternatively a single storey rear projection would be more appropriate.

6.2. Applicant Response

Simon Clear has prepared a response to the grounds of appeal on behalf of the applicant and is summarised as follows:

- The medical condition described in the grounds of appeal should not be taken into consideration in the assessment of the appeal.
- The appellants dwelling is significantly greater in scale than that of the applicants and extends further to the rear.
- Overlooking is afforded from the appellants upper window over the applicants' garden.
- The appellants kitchen windows are screened and shaded by bushes and the boundary wall.

- No loss of light will occur to these windows.
- Westerly sunlight is blocked by the appellants own property.
- Subtended angle from the kitchen window is not near 60⁰ and therefore skylight would not be affected.
- Ability to conduct a commercial business should not be a consideration in this appeal.
- The applicant has significantly modified the design to reduce any impact on the neighbouring property.
- The proposed development will allow for a private courtyard to be developed within the appeal site.
- The appellants house is set at a higher level that the appeal site.

6.3. **Planning Authority Response**

- None

6.4. **Observations**

- None

7.0 **Assessment**

7.1. The proposed development is located in an area zoned Z1 within the Dublin City Development Plan 2016-2022. The principle of a replacement house is accepted within this zoning objective. I have reviewed the plans and particulars submitted with the appeal and am satisfied that the issues for consideration before the Board are solely in relation to those outlined within the grounds of appeal. No other substantive issues arise. The issues for consideration are as follows:

- Loss of light
- Appropriate Assessment

7.2. It is contended by the appellant who resides at no. 15 Seaview Avenue North which is situated directly north of the appeal site that the proposed two storey extension will

result in a significant loss of light to her kitchen window in which she spends a significant amount of time. Whilst I acknowledge that the appellant contends that this loss of light will impact upon her health, from which she already suffers, I can not comment on this particular issue and will direct my assessment of the development solely on the loss, if any, to residential amenity in relation to the contended loss of light.

- 7.3. It is proposed to construct a replacement dwelling within the appeal site which will comprise a second floor to accommodate 2 no. bedrooms, office, bathroom. I note that a previous application for a similar development ABP ref 301027, was refused by the Board on the basis of loss of light to no. 15. This proposal also comprised a two storey element close to the boundary with no. 15 and was a full height flat roof development.
- 7.4. It is important to note that the proposed development which is the subject of this appeal has been redesigned in order to mitigate and reduce any loss of light to no. 15. The proposal incorporates a hipped roof in place of the previous flat roof within the northern elevation which steps this element of the proposal back from the boundary of no. 15 by 3.5 metres at the ridge height.
- 7.5. The stepping back of this roof profile will significantly improve access to daylight during daytime hours. It is important to note that the southern kitchen windows of the appellants dwelling currently face onto a 2 metre wall, the northern elevation of the proposed development will extend above this wall, albeit c. 1.2 m from the boundary wall, by c. 900mm. It will then slope significantly away from the boundary with no. 15.
- 7.6. Whilst I acknowledge that there will undoubtedly be a change to the light available to these kitchen windows at no. 15. I do not consider, given the presence of the existing boundary wall and the proposed hipped roof profile of no. 14, that the loss of light would be so significant as to warrant a refusal.
- 7.7. It is important to note the key tenants of the National Planning Framework seek to consolidate development within urban areas and seeks the optimal use of brownfield sites within cities. In order to recycle such brownfield sites and adapt development to modern living arrangements, extensions to the footprint of older dwellings will be required and a degree of flexibility is required in the assessment of overshadowing and overlooking in urban settings.

7.8. I therefore consider that on balance the proposed development is an improvement over that previously permitted and provides for the optimal use of this site in the context of protecting the residential amenities to both no. 15 and no. 13 Seaview Avenue.

Appropriate Assessment

7.9. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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.

8.0 Recommendation

8.1. I recommend 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. Access and parking arrangements shall comply with the requirements of the planning authority for such works. Full details of the proposed footpath and kerb to be dished shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of public health and traffic safety.

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. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

6. 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.

7. The construction of the development shall be managed in accordance with a Construction 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 construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

8. 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.

9. 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.

Sarah Lynch

Planning Inspector

12th February 2020