



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306107-19

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<b>Development</b>	Demolition of single-storey dwelling and construction of detached dwelling comprising single-storey plus dormer
<b>Location</b>	14, Seaview Avenue North, Clontarf, Dublin 3, D03 AE40
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	4026/19
<b>Applicant(s)</b>	Leticia Maza.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Odhran McCarthy & Moira Cuffe.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	24/01/20.
<b>Inspector</b>	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. Construction of a replacement 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 observations were received and can be summarised as follows:

- Proposal is overbearing and will result in a loss of light and aspect.
- Two applications for the same site should not be accepted.
- Details should be provided in relation to party wall.
- Proposed dwelling will have negative impact on existing dwelling and streetscape.
- A reasonable timeframe should be set for the proposed works.
- Existing ridgeline should be maintained.

## 4.0 Planning History

Current appeals under consideration:

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

**ABP 306035** Appeal for the replacement of dwelling with a semi-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 submitted by Odhran McCarthy and Moira Cuffe, the issues raised can be summarised as follows:

- No objection to demolition of property.
- Permission should not have been granted without the consent of both landowners.
- Concerns regarding how the exposed party wall would be protected.
- The proposed box dormers were permitted by DCC and rooflights removed from the appellants development.
- DCC permitted the applicants to raise the ridge height in a previous application for permission.
- DCC have been indifferent to the concerns of the appellants.
- Design is unsympathetic.
- Proposal should be amended to reduce height to protect no. 15's kitchen light.

### **6.2. Applicant Response**

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

- Appellants property has recently been remodelled and has altered the original semi-detached bungalow.
- Structural engineers report has stated that the bungalow is in a very poor condition.
- No. 13 demolished and rebuilt the party wall when carrying out works to their property.

- Party wall did not extend above the ceiling to attic.
- Applicants have no objection to a condition requiring the party wall to be weathered and finished.
- The architectural presentation of the semi-detached pair has been changed with the re-development of the appellants dwelling.
- The proposed dwelling is modest in scale, and well integrated.

#### 6.4. **Planning Authority Response**

- None

#### 6.5. **Observations**

- None

#### 6.6. **Further Responses**

A submission was received in response to the applicant's response to the grounds of appeal, no new issues were raised.

### 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:

- Party wall details
- Design
- Appropriate Assessment
- Other Matters

#### **Party Wall details**

- 7.2. It is contended by the appellant that when carrying out works to their development the applicant requested that the appellants construct a solid party wall in order to permit the applicant to dig deeper foundations to accommodate the extension. This was carried out. The appellants have outlined two main issues in relation to the party wall, firstly they are concerned that no details have been included within the application in relation to how the wall is to be finished and weathered. The second issue is that the applicant has not sought the consent of the appellants prior to making the planning application and DCC have permitted the development in the absence of the appellants' consent.
- 7.3. It is of note that the applicant has responded to the grounds of appeal and has stated that the party wall will be finished to the required standard as part of the development. I consider that this element of the appeal can be adequately dealt with by way of condition.
- 7.4. Secondly, with regard to the issue of consent in relation to works to a party wall, it is important to note that 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.

### **Design**

- 7.5. It is contended by the appellant that the proposed dwelling is of poor design and does not integrate with the pattern of development in the vicinity. I note that there are a number of single storey semi-detached pairs to the south of the appeal site. However, none of these properties are included on the record of Protected Structures and the surrounding area is not a designated Architectural Conservation Area. In the absence of such designations there is no impediment to the separation of this semi-detached pair of cottages.
- 7.6. It is proposed to construct a detached, 3 bedroom dwelling of modest scale within this site. The proposed design appears as a modern interpretation of a vernacular cottage in terms of its height, layout and proportions. I note that the appellants take exception to the proposed box dormers within the front elevation, however I consider that overall proportions, design and finishes proposed in relation to these features are acceptable.

- 7.7. I consider the proposed dwelling integrates within the streetscape whereby there is a mix of two storey and single storey residential properties of different time periods including commercial properties directly opposite the appeal site. There is therefore no consistent or dominant type of building within this streetscape and as such the proposal does not dominate views from any direction within the vicinity.
- 7.8. The appellant within the grounds of appeal refers to the access to light from the kitchen of no. 15 to the north of the appeal site. It is of note that the proposed development is set back from no. 15 to the north of the appeal site and does not impact on this development in any way, in terms of overlooking or overshadowing. Furthermore, I note that the proposal is also set back within the site to a greater extent from the development to the south and therefore impacts on residential amenity in relation to the appellants dwelling do not arise.
- 7.9. Overall, whilst I acknowledge the concerns of the appellant in relation to design, I consider the proposed dwelling to be acceptable in this regard and do not consider that the proposal would give rise to any visual impacts within the vicinity of the appeal site.

### **Appropriate Assessment**

- 7.10. 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.

### **Other Matters**

- 7.11. I note that the appellants have drawn comparisons with the way in which the proposed development has been determined by DCC and the way in which their own planning application was dealt with by the Council, the Board cannot adjudicate on such matters.

## **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 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. Prior to the commencement of development, details of materials and finishes to the existing party wall shall be submitted to and approved in writing with the Local Authority.

**Reason:** In the interest of visual amenity and orderly development.

4. 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.

5. 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.

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. 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.

9. 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.

10. 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.

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Sarah Lynch

Planning Inspector

12<sup>th</sup> January 2020