



An
Bord
Pleanála

Inspector's Report ABP-309848-21

Development	Replacement of garage with a single storey kitchen extension.
Location	233 South Circular Road.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB1013/21.
Applicants	Margaret & Nicholas Vejsbjerg.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant	Eamonn Slattery.
Observer(s)	None.
Date of Site Inspection	9 th May 2021.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by a neighbour against the decision of the planning authority to grant permission for a side kitchen extension (replacing a garage) to a 19th Century dwelling on the South Circular Road. The grounds of appeal relate mostly to party wall issues.

2.0 Site Location and Description

2.1. General area

The appeal site is on the South Circular Road in Dublin, just north of the Grand Canal and west of Donore Road. The immediate area is dominated by the former Players Cigarette Factory (now undergoing redevelopment) on the north side of the road. Opposite this is a line of terraced houses, mostly 2-storey, 2 bay, dating from the mid 19th Century to the early 20th Century.

2.2. Appeal site

The appeal site is an end of terrace house, 2 storey and 2 bay, dating from around the middle of the 19th Century and typical of the period. Most of the original features of the house, including front railings and sash windows are intact, although the gate has been widened for car access. It is on the southern side of the South Circular Road and has a substantial front and back garden, with a total site area give as 641 m², with the existing house having a floor area of 166 m². On the western side of the house is a single storey flat roofed garage structure. The terrace continues to the east, while on the western side of the house is one of a terrace of similar scaled early 20th Century red brick housing in a typical Edwardian style.

3.0 Proposed Development

The proposed development is described on the site notice as being for the replacement of the existing garage with a single storey kitchen extension to the side of the existing house, with ancillary site works. The floorspace of the proposed extension is given as 33 m².

4.0 **Planning Authority Decision**

4.1. **Decision**

The planning authority decided to grant permission subject to 8 generally standard conditions for such works.

4.2. **Planning Authority Reports**

4.2.1. Planning Reports

- The site is in Z2 residential conservation area.
- An objection is acknowledged, but it is noted that as there is an existing structure (the garage) on the site.
- No EIAR or AA issues.
- Permission recommended subject to conditions.

4.2.2. Other Technical Reports

Drainage: No objection subject to conditions.

4.3. **Prescribed Bodies**

None on file.

4.4. **Third Party Observations**

One observation on file, objecting to the proposed development from the adjoining resident.

5.0 **Planning History**

No previous permission or appeals are on file relating to the site.

6.0 Policy Context

6.1. Development Plan

The site is in a Z2 Residential conservation area, where the objective is to protect and improve the amenities of residential conservation areas. Section 16.10.12 of the Development Plan (Dublin City CDP 2016-2022) sets out policy on extensions and alterations to dwellings.

6.2. EIAR

Having regard to the nature of the proposed development and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

6.3. Natural Heritage Designations

There are no EU designated habitats on or in the vicinity of the site. The closest such habitats are the various littoral and marine SAC's and SPA's of Dublin Bay to the east.

7.0 The Appeal

7.1. Grounds of Appeal

The decision has been appealed by the resident of the adjoining dwelling to the west of the site.

- It is argued that the planning report is incorrect in its assessment that the stone boundary wall that abuts the front of the existing garage does not extend along the gable wall with no. 235.
- Photographs are attached that indicate that the boundary wall extends into the garage and that the existing garage structure is partially on this wall.

- It is argued that this infers that the proposed kitchen is within the boundary of the adjoining property.
- It is requested that the proposed kitchen extension be redesigned to be only within the confines of the applicant's property.

7.2. Applicant Response

- The applicant welcomes the Council decision and the conditions on the permission.
- It is argued that the appeal does not raise planning issues and should be dismissed for this reason.
- Title documents are attached in support of an argument that the proposed development is entirely within the applicant's ownership and control.

7.3. Planning Authority Response

The planning authority has not responded to the grounds of appeal.

7.4. Observations

None on file.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Preliminary issues
- Principle of development
- Amenities
- Traffic and access
- Conservation issues
- Other planning issues
- Appropriate assessment

8.1. Preliminary issues

The applicant has argued that the appeal should be dismissed as it does not raise planning issues. I concur that the primary issue raised is a civil matter between the parties, but there is an arguable case that the applicant cannot build as submitted without the permission of the adjoining landowner, so I do not recommend that the appeal be dismissed for this reason.

I note that S.34(13) of the Act as amended states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*' I consider the question of whether the boundary wall, which has been incorporated into the existing garage belongs to the applicant or appellant is solely a civil matter between the parties. I am satisfied that the applicant has demonstrated sufficient standing to make the application as it stands.

8.2. Principle of development

The appeal site is within a Z2 zoned area and there are related policies on such extensions in Section 16.10.12 of the Development Plan. The dwelling is a very nicely preserved example of a domestic house of the period and is part of a terrace that significantly enhances to overall streetscape and amenities of the area. The side garage is well maintained but somewhat incongruous and I would consider its replacement with an appropriately scaled extension as consistent with the objectives of a Z2 area, subject to normal planning considerations for amenity and with specific regard to ensuring the protection of historic fabric, even if the dwelling is not a protected structure.

8.3. Amenities

The proposed development would significantly improve the internal amenities of the main house. As it is on the footprint of an existing garage, I do not consider that it would result in overshadowing or loss of light to any adjoining properties or have any other negative impact on the amenities of nearby properties.

8.4. Traffic and access

The proposed development would result in the loss of the garage parking space, although I note that the dwelling has space in the front for at least two cars, so there would not seem to be a potential impact on parking on the area. The loss of the garage would reduce potential cycle parking for the dwelling, although having regard to the other benefits of the proposed development and the relatively easy access to the house and the rear, this would not be a significant issue.

8.5. Conservation issues

The dwelling is not a protected structure and is not listed on the NIAH but is an attractive and well preserved example of a terraced dwelling of the mid-19th Century, with many original features still visible. The proposed extension is modest in design and scale and I would consider it an improvement on the garage, so it would not negatively impact on the visual amenities of the area. As the building is not a protected structure and the works would not significantly impact on the main building I do not consider that a condition requiring specific conservation or recording measures is necessary.

8.6. Other planning issues

The area is fully served with a public water supply and foul sewer and there are no indications from the file documentation that there would be an issue with Irish Water granting a connection.

There are no indications on file that the site is in or close to a flood area.

The proposed development is not subject to any development contributions due to its scale and its replacement of an existing structure.

I do not consider that there are any other planning issues raised in this appeal.

8.7. Appropriate assessment

There are no EU designated habitats in the immediate vicinity of the site. The site is about 5 km west of the closest Natura 2000 site in Dublin Bay. It is likely that surface water drains directly to the bay, to the South Dublin Bay and River Tolka

Estuary SPA and SAC, side codes 004024 and 000210, possibly via the canal, but certainly using the city drainage system. The site is fully served by the public sewer and water system, and the proposed change of use would not substantively increase drainage or run-off, so there are no pathways for pollution or any other possible direct or indirect impact on the conservation interests of those designated sites.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider 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. 004024 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

I recommend that the proposed extension be granted permission for the reasons and considerations set out below, subject to the conditions in section 11 below.

10.0 Reasons and Considerations

Having regard to the Z2 residential conservation objective for the site in the Dublin City Development Plan 2016 – 2022, the existing pattern of development in the area, and the nature, scale and design 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 property in the vicinity or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 conditions

require details to be agreed with the planning authority the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed extension 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. No more than two car parking spaces shall be provided within the curtilage. Appropriate protected cycle parking shall be provided within the curtilage.

Reason: In the interest of orderly development.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. 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.

5. 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 noise management measures and off-site disposal of construction/demolition waste and shall include provision of measures to

prevent any damage to external fabric or the foundations of adjoining properties.

Reason: In the interests of public safety and residential amenity.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

Philip Davis

Planning Inspector

10th May 2021