



An
Bord
Pleanála

Inspector's Report 310530-21

Development

Permission is sought for the demolition of a rear single storey return (with shared hipped roof with adjoining dwelling No. 84 Collinswood) and single storey extension, and construction of one single storey extension rear Ground Floor Level and all associated site works.

Location

85 Collinswood, Collins Avenue, Dublin 9

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3895/20

Applicant(s)

Ann Marie Curley

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party Appeal

Appellant(s)

David Beattie

Observer(s)

None

Date of Site Inspection

9th August 2021

Inspector

Susan Clarke

1.0 Site Location and Description

- 1.1. The subject site is located at No. 85 Collinswood, Collins Avenue, Dublin 9 and has a stated area of 225 sq m. The site is an existing semi-detached dwelling located in a residential area.
- 1.2. The existing property is a 2-storey dwelling (4 No. bedrooms) and has a front and rear garden. The front garden provides for one off-street car parking space and pedestrian access, while the rear garden provides amenity space and benefits from a side pedestrian access. There is a single storey return structure and single storey extension (collectively measuring circa 19 sq m) to the rear of the property comprising a utility room and sunroom.

2.0 Proposed Development

- 2.1.1. The proposed development consists of:
 - Demolition of a rear single storey return (with shared hipped roof with adjoining dwelling No. 84 Collinswood) and single storey extension (19 sq m);
 - Construction of a new rear single storey extension (20 sq m); and
 - All associated site works to facilitate the development.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission was granted on 21st May 2021 subject to 6 No. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. Basis of Planning Authority's decision.

- 3.2.3. The Planning Officer considered that the proposed development was acceptable in principle and stated that the proposal would not be overbearing or cause any privacy issues to nearby residential dwellings.

3.2.4. The Planning Authority issued a Request for Further Information (RFI) requesting that clarity be provided as to how the structural integrity of No. 84 Collinswood would be protected during the demolition of the shared roof to the existing rear single storey return.

3.2.5. On receipt of the response to the RFI (dated 26th April 2021) the Local Authority granted permission for the proposed development. Roger Cagney Chartered Engineers on behalf of the Applicant outlined in the RFI response the common elements (roof tiles or slates together with timber fixing battens) to both Nos. 84 and 85; argued that in his opinion there was no cause for concern regarding the structural integrity of the works on the boundary wall; and highlighted that he completed similar works in the area. In addition, the RFI response proposed the construction of an independent wall adjacent to the existing party wall between the two properties to further minimise any potential stability issues (see Dwg. No. 20-17-22). Furthermore, photographs of similar works undertaken to a neighbouring property were also submitted with the Response (Dwg. 21/2008/02).

3.2.6. **Other Technical Reports**

Engineering Department Drainage Division: No objection subject to conditions.

3.3. Prescribed Bodies

Irish Rail: None received.

Irish Water: None received.

3.4. Third Party Observations

One observation from David Beattie of No. 84 Collinswood, Collins Avenue, Dublin 9 was received in respect of the application. Mr Beattie has no objection to the principle of the proposed development, however raises matters in regard to legal entitlement and agreement. Mr Beattie requested that a condition be attached to the permission requiring that written confirmation be obtained from the owners of No. 84 Collinswood prior to the commencement of the development.

4.0 Planning History

4.1. **Planning Authority Reg. Ref. 2715/21:** Planning permission was refused on 28th June 2021 for the widening of the existing vehicular access and all associated site

works as the proposal was contrary to the City Development Plan's (CDP) road standards. This case has not been appealed to An Bord Pleanála.

- 4.2. Planning Authority Reg. Ref. 1767/04:** Planning permission granted (28th May 2004) for demolition of part boundary wall and existing single storey playroom extension to side and provision of a two storey extension to side, porch to front and provision of pedestrian gate to existing side boundary wall. Whilst the drawings for this application are not available online, it would appear from the development description and site inspection that this permission has been partially implemented (i.e. provision of pedestrian gate to existing side boundary wall).

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The site is subject to land use zoning "Z1" (Sustainable Residential Neighbourhoods) which has the objective "to protect, provide and improve residential amenities". Within Z1 zones 'Residential' is a permissible use.
- 5.1.2. The policy regarding extensions and alterations to dwellings is set out in Sections 16.2.2.3 and 16.10.12 and Appendix 17 of the CDP. In general, applications for planning permission to extend dwellings will only be granted where the planning authority is satisfied the proposal will: (1) not have an adverse impact on the scale and character of the dwelling, and (2) not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A Third-Party Appeal has been lodged by David Beattie of No. 84 Collinswood, Collins Avenue, Dublin 9. The grounds of appeal can be summarised as follows:

- (1) Contrary to the Local Authority's Planner's Report which assumes that agreement with the occupants of No. 84 Collinswood was issued as part of the RFI Response, no such agreement was issued with the RFI.
- (2) The application is invalid by failing to include reference to alterations to No. 84 Collinswood in the description of the development and in obtaining consent of the owners to make the application.
- (3) The application should be refused based on the impact to No. 84 Collinswood.

6.2. Planning Authority Response

None.

6.3. First Party Response to Third Party Appeal

First Party Response to Third Party Appeal received outside of the applicable response period.

6.4. Further Responses

None.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submission received in relation to the planning application and Third-Party Appeal, and inspected the site, and having regard to relevant local/regional/policies and guidance, I consider that the main issues on this appeal are as follows:

1. Principle of Development
2. Legal and Procedural Issues
3. Appropriate Assessment.

7.1. Principle of Development

The proposed development comprises the demolition of a rear single storey return (with shared hipped roof with adjoining dwelling No. 84 Collinswood) and single storey extension and construction of a new rear single storey extension. The subject

development complies with the site's land use zoning (Z1) and the relevant residential development management standards. I note that the Appellant did not oppose the principle of the development in the observation (dated 14th January 2021) submitted to the Planning Authority. I concur with the Planning Authority that the development is not overbearing nor will not cause any significant overlooking. Therefore, in my opinion, the development would not adversely impact on the area's residential amenity including that of No. 84 Collinswood and is acceptable in principle.

7.2. Legal and Procedural Issues

The crux of this appeal relates to legal and entitlement and agreement. The Appellant correctly outlines that Section 34(13) of the *Planning and Development Act 2000 (as amended)* states: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*" As such, should the Board be minded to grant permission for the development, it is the Applicant's responsibility to ensure sufficient legal interest exists to implement the permission. The suggestion by the Appellant that the attachment of a condition requiring that written confirmation be obtained from the owners of No. 84 Collinswood prior to the commencement of the development would in my opinion be *ultra vires*.

As outlined above, Roger Cagney Chartered Engineers on behalf of the Applicant outlined details in the RFI Response of how the proposed works could be undertaken without undermining the structural integrity of the boundary wall. The Response also included for the construction of an independent wall adjacent to the existing party wall between the two properties to further minimise any potential stability issues (Dwg. No. 20-17-22). I consider that sufficient evidence has been submitted to demonstrate that the proposed works are acceptable.

In terms of the validity of the application, I am satisfied that the Applicant has provided sufficient legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. As stated above, this is a matter to be resolved between the parties, having regard to the provisions of Section 34(13) of the *Planning and Development Acts 2000 (as amended)*.

7.3. Appropriate Assessment

Having regard to the nature and scale of the proposed development, the residential land use zoning of the site, and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

I recommend that planning permission be granted subject to the conditions outlined below.

9.0 Reasons and Considerations

Having regard to the site's residential land use zoning, and the nature and scale of the proposed development, it is considered that subject to the compliance with the conditions set out below, that the development would not adversely injure the residential amenity of the area or of the 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 26th April 2021, 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.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Susan Clarke

Planning Inspector

16th August 2021