



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316472-23

---

<b>Development</b>	Demolition of boundary wall and structures, construction of dwelling and all associated site works.
<b>Location</b>	233 South Circular Road, Dublin 8, D08 Y1T7.
<b>Planning Authority</b>	Dublin City Council South.
<b>Planning Authority Reg. Ref.</b>	3130/23.
<b>Applicants</b>	Matthew Enright and Karen Vejsbjerg.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission, subject to conditions.
<b>Type of Appeal</b>	Third Party V. Grant.
<b>Appellant</b>	Eamon Slattery.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> June, 2023.
<b>Inspector</b>	Terence McLellan

## 1.0 Site Location and Description

- 1.1. The appeal site refers to the single storey garage and associated plot located on the western side of 233 South Circular Road, which sits to the north of the Grand Canal and to the west of Donore Avenue. 233 South Circular Road is a mid-19<sup>th</sup> century, two storey, end of terrace dwelling, sitting in a large plot measuring approximately 640 m<sup>2</sup>. Many of the original features of the house are retained, such as sash and case windows and the front railings, although the gate has been widened to create a vehicular access for off-street parking. The appeal site has been carved out of the wider 233 South Circular Road plot and relates solely to the single storey garage and associated land to the front and rear. The development plot is narrow at the site frontage but widens towards the south.
- 1.2. The site is bounded to the north by South Circular Road and the adjacent two storey dwellings, whilst the southern boundary is marked by the rear garden ground of the dwellings on St Anne's Road. The western boundary is marked by the appellant's property at 235 South Circular Road, which the single storey garage adjoins. 235 South Circular Road is a two-storey dwelling dating from the early 20<sup>th</sup> century, which forms a terrace of three similarly scaled properties. The immediate streetscene is dominated by the former Player Wills Factory, which sits on the north side of South Circular Road and is currently being redeveloped.

## 2.0 Proposed Development

- 2.1. The proposal is for the demolition of the existing single storey garage and redevelopment to create a two-storey, two-bedroom terraced dwelling. Bin and cycle storage would be provided in the front garden, alongside an electric vehicle charging point to serve the single vehicular parking space associated with the new dwelling. A paved patio would be provided to the rear of the house alongside new landscaping.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Grant Permission for the proposed development subject to 11 conditions was issued on 30 March 2023. The conditions relate to developer contributions, retention of stone boundary wall, retention of new house as a single dwelling, transport conditions, drainage conditions, hours of construction, noise and air pollution, orderly development and construction, and street naming and numbering.

### **3.2. Planning Authority Reports**

- 3.2.1. Planning Report: The report from the Deputy Planning Officer was issued on the 27<sup>th</sup> March 2023 and forms the basis of the Council's assessment and decision.

#### **3.2.2. Other Technical Reports**

- 3.2.3. Drainage Division (27.02.2023): No objection subject to conditions regarding drainage works.
- 3.2.4. Transportation Planning (08.03.2023): No objection subject to standard transport conditions including construction management, compliance with Code of Practice, inward opening gates, and recovery of any repair costs.

### **3.3. Prescribed Bodies**

- 3.3.1. The planning application was referred to Irish Water, however no response was received.

### **3.4. Third Party Observations**

- 3.4.1. A Third Party observation was received to the planning application from Eamon Slattery at 235 South Circular Road, Dublin 8 (the appellant). The main issues raised in that submission are as follows:

- The proposal is to build against the gable wall of No. 235 and this would require the removal of the stone boundary wall which is unacceptable.

- The existing garage does not have planning permission. Removal is welcome but there is no automatic right to reattach, which would require consent. If the application is approved the only recourse would be a legal challenge.
- The provision of two storeys is alarming.
- The removal of the boundary wall threatens the foundations and overall structural integrity of No. 235.
- The proposal would prevent the installation of a kitchen extraction fan and a new window on the gable of No. 235.
- There would be an adverse loss of daylight and sunlight to the existing windows at No. 235.
- The drawings show only two cars, whilst three cars are parked at the property daily.
- There would be no access to the rear and as such, bins and bike storage would need to be provided at the front. This detracts from the appearance of the existing house.
- The proposed new house would be incongruous and would detract from the historical significance of the area and the overall character of the neighbourhood.

## 4.0 Planning History

4.1. **ABP-309848-21 / PA Reg. Ref. WEB1013/21:** Permission was granted by the Board in May 2021, which upheld an earlier Dublin City Council Decision to grant planning permission for the replacement of the existing garage with a single storey kitchen extension.

4.1.1. It should be noted that the Board imposed a condition on this consent, placing a limit of two on-site car parking spaces.

## **5.0 Policy Context**

### **5.1. Dublin City Development Plan 2022-2028**

- 5.1.1. The Dublin City Development Plan 2022 – 2028 (CDP), categorises the site as zone ‘Z2 – Residential Neighbourhoods (Conservation Areas)’. The stated objective for these areas is ‘to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.’.
- 5.1.2. Chapter 11: Built Heritage and Archaeology of the CDP contains policy BHA9 – Conservation Areas. This policy aims to protect the special interest and character of all of Dublin’s conservation areas, including those under Z2 zoning objectives. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- 5.1.3. Section 15.13.3: Infill/Side Garden Housing, states that the development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands and sets out a full list of criteria to be used in assessing this type of development.

### **5.2. The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area (adopted June 2019)**

- 5.2.1. This strategy provides a framework for development at regional level. The RSES promotes the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint.

### **5.3. National Planning Framework**

- 5.3.1. The government published the National Planning Framework (NPF) in February 2018. Objective 3a is to deliver 40% of all new homes nationally, within the built-up footprint of existing settlements. Objective 11 is to prioritise development that can encourage more people to live or work in existing settlements. Objective 35 is to increase residential density in settlements and makes specific reference to infill development.

#### **5.4. Natural Heritage Designations**

- 5.4.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and the South Dublin Bay SAC (Site Code 000210). The Grand Canal sits to the south of the site and is designated as a Proposed Natural Heritage Area.

#### **5.5. EIA Screening**

- 5.5.1. 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**

- 6.1.1. A third-party appeal against the decision of Dublin City Council to grant planning permission for the proposed development has been lodged by Eamon Slattery of 235 South Circular Road, Dublin 8. The grounds of appeal can be summarised as follows:
- The removal of the boundary wall poses a threat to the structural integrity of 235 South Circular Road and it is unclear how this can be removed without causing structural damage.
  - It is unclear which parts of the new structure would be attached to 235 South Circular Road, with or without contact, and this has implications for noise insulation.
  - The proposed two storey dwelling would result in a loss of daylight to the interior of 235 South Circular Road.
  - Grass in the front garden has been replaced with 'grasscrete' and there is no record of this obtaining planning permission.

- The dwelling would be over utilised as three cars are parked on site daily and it is unrealistic to continue this arrangement as well as providing bin storage, cycle parking and vehicle charging in the front garden.
- The parking arrangements are hazardous to pedestrians and road users.

## 6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- Issues relating to the boundary wall are not planning matters. Only the portion within the garage would be removed and this would be conducted in the presence of a chartered structural engineer.
- The issue of attachment with or without contact is not a planning matter however it is confirmed that the new dwelling is designed to be structurally independent from 235 South Circular Road with a 50mm gap which would prevent connection to the existing dwelling and satisfy acoustic requirements.
- The existing windows at 235 South Circular Road have been modelled and no adverse daylight impacts are expected.
- Landscaping has been previously improved to provide a permeable parking surface to better utilise the space and this was exempted development.
- The development does not seek an intensification of the use of the front garden as the applicant lives with their parents. The current front garden caters for three cars at maximum and the provision of bike storage to the front would encourage sustainable transport.

## 6.3. Planning Authority Response

6.3.1. The Planning Authority responded on the 23<sup>rd</sup> May 2023, requesting that a condition be applied to secure the payment of a Section 48 development contribution.

## 6.4. Observations

6.4.1. No observations were received in respect of the appeal.

## 6.5. Further Responses

6.5.1. None.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Boundary Wall and Attachment
- Amenity
- Previous Works
- Layout and Traffic/Access
- Other Planning Issues
- Appropriate Assessment

## 7.2. Boundary Wall and Attachment

- 7.2.1. The primary issue raised by the appellant relates to the stone boundary wall which extends along much of the property boundary between the appeal site and 235 South Circular Road. The existing garage is built above this boundary wall. In responding to the objection regarding the removal of the stone boundary wall, Dublin City Council imposed a condition, (Condition 3 of the Dublin City Council planning permission), requiring the retention of the stone boundary wall to the front and rear of the proposed dwelling, allowing demolition/removal solely on the footprint of the new structure. I am satisfied that this is an appropriate and reasonable position to take on the matter when considering it against Policy BHA9 of the CDP which seeks the retention of buildings and features that contribute to the overall character and integrity of the conservation area. Should the Board decide to grant permission, this condition should be attached.
- 7.2.2. The issue of whether the removal of sections of the stone boundary wall would have an impact on the structural integrity of 235 South Circular Road has been fully



considered, as have the issues raised regarding potential reattachment of the new dwelling to the gable wall of said property. In both instances I am satisfied that these are civil matters to be resolved between the parties, having regard to the provisions of S.34(13) of the Planning and Development Act 2000.

### **7.3. Amenity**

- 7.3.1. Concerns have been raised that there would be a loss of daylight to two windows at 235 South Circular Road. The two windows in question serve a staircase and circulation space. One is a skylight window located on the side roof plane of the rear return facing the appeal site. The other window is a small fanlight located just under the eaves on the rear wall of the main dwellinghouse, adjacent to the rear return.
- 7.3.2. Whilst there would be some overshadowing of these windows in the morning hours, the location of the windows and the orientation of the site is such that they will remain well-lit throughout the day. Furthermore, neither of these windows serve habitable living space and as such I do not consider that there would be any significant amenity impacts in terms of a loss of daylight.

### **7.4. Previous Works**

- 7.4.1. The appellant has raised concerns that changes have been made to the front garden of No. 233 without planning consent. This includes changing grass to 'grasscrete'. The applicant has indicated that this was undertaken as exempted development. In any event, it does not have any bearing on the Boards determination of the appeal.

### **7.5. Layout and Traffic/Access**

- 7.5.1. The appellant contends that the front garden would be over-utilised as a result of the existing car parking arrangements and the provision of new facilities such as cycle parking and bin storage. Further concerns have been raised that the current parking arrangement is unsafe because of vehicle movements required to provide access and egress for all vehicles on site. At the time of my inspection only one car was parked on site. The appellant states that three cars are parked on site daily and this is confirmed in the applicant's supporting documentation. Dublin City Council's Transportation Division raised no objections to the development.
- 7.5.2. A new enclosure for bins and cycles would be provided on the driveway in front of the new dwelling. The plans submitted detail one vehicle parked within the curtilage of the

new dwelling (within the red line plan) and one within the remaining garden ground of 233 South Circular Road (outside the red line plan). I am satisfied that there is adequate room within the curtilage of the new dwelling to accommodate a vehicle, in addition to the cycle/bin/charging point enclosure.

- 7.5.3. I have considered the matter of parking capacity and potential hazards to pedestrians and road users. I note from both the appellant and the applicant that three vehicles park on site and this appears to be a longstanding, existing arrangement. It is not possible to enter and exit the site in a forward gear and this necessitates reversing onto the highway, however, this would be the case even if the number of cars parked on the site were reduced. Both capacity and access/egress arrangements are well established on the site. The development does not propose an intensification of parking and the access/egress arrangements would remain unchanged. I am therefore satisfied that there would be no over-utilisation of the front garden and there would be no significant hazard to pedestrians or other road users as a result of the proposed development.

#### **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, it is concluded that no appropriate assessment issues arise as the proposed development would not 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 planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

### **9.0 Reasons and Considerations**

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2022-2028 and the layout, design 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 residential, visual, pedestrian or traffic amenities of the

area or of property in the vicinity and would comply with the provisions of the Development Plan. 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, 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The existing stone boundary wall shall be retained to the front and rear of the new dwelling hereby permitted.</p> <p><b>Reason:</b> In the interest proper planning and the amenities of the conservation area.</p>
3.	<p>Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>

5.	<p>The proposed dwelling shall be retained and occupied as a single residential unit and let or otherwise transferred or conveyed unless permitted by way of a separate planning application.</p> <p><b>Reason:</b> To restrict the use of the dwelling in the interest of residential amenity.</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, and mitigation measures against flood risk, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>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.</p> <p><b>Reason:</b> 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.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought

to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Terence McLellan  
Senior Planning Inspector

7 July 2023