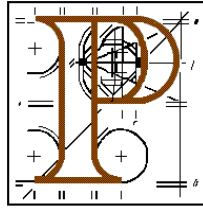


An Bord Pleanála



Inspector's Report

Appeal Reference No. PL29N.246325

Development: Construction of single storey bin store on part of existing open space at Portside Court, East Wall, Dublin 3.

Planning Application

Planning Authority: Dublin City Council

Planning Authority Reg. Ref.: 2414/15

Applicant: Portside Management Co. Ltd.

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Portside Management Co. Ltd.

Type of Appeal: 1st Party

Observers: Lisa Collins

Doreen McNamee

Date of Site Inspection: 17/06/2016

Inspector: L. Dockery

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site, which has a stated area of 29 square metres, is located within the Portside Court residential development, off West Road, East Wall, Dublin 3. This is a well maintained, gated development comprising primarily terraced dwellings.
- 1.2 The subject site comprises an area of open space, close to the entrance of the development. Properties fronting onto West Road, which are not part of this development, are located to the west/north-west of the subject site.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development, as per the submitted public notices, comprises the construction of a new bin store on part of existing open space.
- 2.2 The stated area of the proposed new build is 18 square metres. The proposed store has stated dimensions of 4.8m x 6m with double galvanised outward opening gates on the southern elevation. This is a flat-roof structure of stated height 2.8 metres. The roof will be finished as a green roof 'Sedum Blanket' while the elevations will have 'Pyracantha' planting to provide screening and deter graffiti and vandalism. The subject store will accommodate six bins of measurement 1.3m wide, 1.2m deep and 1.2m high.
- 2.3 A Method Statement has been included with the application stating that a private contractor will be appointed to collect bins, with weekly collection. The collector will take the bins from the storage area and return them to it. The storage area will be locked with only residents having keys. There will be weekly cleaning of the storage area and an emergency service will operate 24-7 where any issues will be dealt with

3.0 PLANNING AUTHORITY'S DECISION

3.1 Permission GRANTED, subject to 9 conditions.

3.2 Condition No. 3 states:

Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to and agreed in writing by the Planning Authority and such works shall be fully implemented prior to the occupation of the buildings:

(a) The bin store shall be relocated so that it is a minimum of 5m for the boundary wall with no. 15 West Road

(b) The no. of bins located in the bin store shall be increased to 7.

Reason: In the interest of residential amenity and proper planning.

3.3 Further Information was requested by the Planning Authority in relation to the relocation of the bin store significantly further internal to the scheme due to concerns relating to its location immediately adjacent to the rear gardens of the dwellings not located in the subject site; together with confirmation that a single bin store is adequate for the storage requirements of 38 dwellings.

4.0 TECHNICAL REPORTS

Planner's Report

The Planner's Report reflects the decision of the Planning Authority

Engineering Department- Drainage Division

No objections, subject to conditions

5.0 APPEAL GROUNDS

5.1 The grounds of the first party appeal may be summarised as follows:

- Appeal against Condition No. 3(a)
- High density development of 38 dwellings, primarily two bed with communal frontages and small paved rear garden areas
- Since first occupied, householders left rubbish in tagged bags for collection from outside the gate- disposal method was a great source of aggravation to both Portside Court residents and residents of adjoining roads as rubbish was scattered by seagulls and illegal dumping was taking place
- In 2015, Portside management company decided to construct a purpose built bin store with criteria including non-interference with limited open areas; separation between rear walls of 15-17 West Road and proposed bin store; and close proximity to entrance
- Requirement of condition 3(a) for a minimum separation distance of 5 metre separation distance is not achievable as the owner of No. 5 Portside Court is not prepared to allow any further encroachment over that which was applied for- concerns with shadowing and impacts on daylight
- Since making the planning application, it is now the case that tagged bag system will end in July 2016, which leaves for two alternatives either (i) provide individual bins per household- as there are no front gardens these bins would have to be brought through the terraced houses- collection would be from outside gate at public open space on West Road and residents would have to bring their bins to this point, with collection only on alternate weeks- nightmare scenario with management having little control over bin positioning, taking in empty bins etc or (ii) the proposed bin store and commercial service with bins brought

in bags to the store, accessed by residents only- bins would be emptied weekly, taken from store to truck and returned- the facility would be managed and monitored by OSPM Estate Management including all cleaning

- Their opinion that the latter solution is the surest way of avoiding the concerns raised by adjoining residents

6.0 RESPONSES

6.1 A response was received from the planning authority which states that they have no further comment to make.

7.0 OBSERVATIONS

7.1 The two observations received are similar in nature and may be summarised as follows:

- Object to the removal or amendment of condition 3a of the decision to grant permission
- As residents of West Road, they are fully committed to help find a solution that will accommodate both residents of Portside Court and themselves
- Fully in favour with grant of permission that issued
- The provision of the bin store a minimum of 5 metres from the rear boundary of No. 15 West Road, though it does not serve them at all, will provide a solution to litter/waste disposal issue at front of Portside Court- for this reason they did not lodge an appeal and feel that this decision reflects a suitable compromise on a difficult issue
- Having the bin store in its original position, 1 metre from the rear boundary wall will severely impact on the residential amenity of the row of houses outlined (namely No.s 10,13,15 and 16 West Road) in terms of noise, smell and public health issues including flies and vermin

8.0 PLANNING HISTORY

No recent planning history

9.0 DEVELOPMENT PLAN

The Dublin City Development Plan 2011-2017 is the operative County Development Plan for the area.

Zoning

The site is located within 'Zone 1' the objective for which is "to protect, provide and improve residential amenities".

10.0 ASSESSMENT

10.0.1 I have examined all the documentation before me, including the Planner's Report of the Planning Authority, the appeal submission and responses and have visited the site and its environs. This is an appeal against Condition No. 3 of the decision to grant permission, which issued from the planning authority. In this regard, I consider it is appropriate that the appeal should be confined to Condition No. 3 only and I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and that it would be appropriate to use the provisions of Section 139 of the 2000 Act in this case.

10.0.2 Condition No. 3 states:

Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to and agreed in writing by the Planning Authority and such works shall be fully implemented prior to the occupation of the buildings:

(c) The bin store shall be relocated so that it is a minimum of 5m for the boundary wall with no. 15 West Road

(d) The no. of bins located in the bins store shall be increased to 7.

Reason: In the interest of residential amenity and proper planning.

10.0.3 The grounds of appeal have been outlined above. Having reviewed all of the information before me and having carried out an inspection of the site and its environs, I acknowledge that there are a number of different parties, each with their own varying concerns. I concur with the first party that this general area would appear to be the optimum location for such a store. It would appear to be the least usable area of public open space, located in close proximity to the access gates. In addition, the provision of a store such as that proposed would appear to be a superior option in this instance to the provision of individual bins to individual properties. I note the observations received from some of the residents of West Road and concur with their opinion that the subject bin store will be of no direct benefit to them, serving the residents of Portside Court only. Therefore I would be of the opinion that having a mere 1 metre separation distance between the proposed store and the rear boundary of No. 15 West Road is not appropriate. I also acknowledge the concerns of the owner of No. 5 Portside Court, who is not prepared to have any further encroachment on the open space nearer his property.

10.0.4 Having taken on board all of the information, I consider that a degree of compromise is required in this instance. I consider that the planning authority were correct in applying such a condition, however I consider that the separation distance stipulated should be amended. I consider that the wording of the condition should be altered insofar as the bin store should be relocated so that it is a minimum of 4m from the boundary wall with No. 15 West Road. This would increase the separation distance from that originally proposed from the boundary with No. 15 West Road while at the same time, not passing the rear building line of No. 5 Portside Court. It is my opinion that such a relocation would not have negative impacts on the amenities that No. 5 Portside Court currently enjoy. Overshadowing or loss of light would not be issues due to the height and separation distances involved.

10.0.5 I concur with the planning authority in relation to Condition No. 3(b) and consider that it should be UPHELD.

10.0.6 Having regard to all the above, I consider that the wording of Condition No. 3 should be AMENDED.

11.0 CONCLUSIONS AND RECOMMENDATIONS

11.1 Having regard to the nature of the conditions the subject of the appeal and based on the reasons and considerations set out below, I am satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and recommend that the said Council be directed under subsection (1) of Section 139 of the Planning and Development Act, 2000 to AMEND Condition No. 3 so that it shall be as follows for the reason and considerations set out:

REASONS AND CONSIDERATIONS

Having regard to the provisions of the provisions of the Dublin City Development Plan 2011-2017 and to the nature, form, 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 adversely affect the residential or visual amenities of the area, would not lead to the depreciation of property values and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

Condition No. 3

Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to and agreed in writing by the Planning Authority and such works shall be fully implemented prior to the occupation of the buildings:

- (a) The bin store shall be relocated so that it is a minimum of 4m for the boundary wall with no. 15 West Road
- (b) The no. of bins located in the bin store shall be increased to 7.

REASON: In the interest of residential amenity and proper planning and sustainable development.

L. Dockery

Planning Inspector

20th June 2016