



An
Bord
Pleanála

Inspector's Report ABP-300832-18

Development

Demolition of extension to the rear of the property & construction of a part single storey and part two storey extension to the rear of the house with dining terrace & planting, metal fins & obscured glass. The development includes roof lighting and landscape work to the rear of the house and sundry other minor works.

Location

24, St Kevin's Road, Portobello,
Dublin 8

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

4242/17

Applicant(s)

Julie Dineen

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Conor Horgan

Observer(s)

Paul Smith

Valerie Lawlor

Conleth Manning & Others

Date of Site Inspection

8th May 2018

Inspector

Ronan O'Connor

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1.0 Site Location and Description

1.1. On site is a two-storey red brick mid-terrace property with an existing single storey extension to the rear. There is a small back yard to the rear. The dwelling is unoccupied at present and was until recently sub-divided into two separate residential units.

2.0 Proposed Development

2.1. Demolition of extension to the rear of the property & construction of a part single storey and part two storey extension to the rear of the house with dining terrace & planting, metal fins & obscured glass. The development includes roof lighting and landscape work to the rear of the house and sundry other minor works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Grant permission. There are no conditions of particular note.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Proposed extension is acceptable.
- Proposed terrace will add significant amenity value to the property.
- Recommends that permission is granted.

3.2.2. Other Technical Reports

Drainage – No objection

3.3. **Prescribed Bodies**

3.3.1. None

3.4. **Third Party Observations**

3.4.1. Two no. objections were received during at planning application stage. The issues raised are covered in the Grounds of Appeal.

4.0 **Planning History**

4.1.1. None.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The site is located in an area that is zoned Objective Z2 (To protect and improve the amenities of residential conservation areas) under the provisions of the Dublin City Development Plan 2016-2022. Under this land use zoning objective, residential development is a permissible use.

5.1.2. Relevant sections of the Development Plan include:

- Policy CHC4 – To protect the special interest and character of all Dublin's Conservation Areas
- Paragraph 16.10.12 of the Plan relates to extensions to residential properties.
- Appendix 17 of the Plan provides guidance on residential extensions.

5.2. **Natural Heritage Designations**

5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

The Third Party Grounds of Appeal are summarised as follows:

- Other two-storey extensions in the area were granted on the basis that some replaced existing two storey extensions/were similar to neighbouring sites/first floor element accommodated bathroom/storage areas/planning reports asserted the proposals would have a minimal impact on amenity.
- Development is radically different to adjoining dwellings.
- No details of screening is submitted/no conditions attached by the planning authority in relation to screening.
- The documentation submitted is inadequate and misleading/extension and position of rear door at No. 25 is shown incorrectly on plans/window to the side of the extension facing proposed development is not shown/attempt to underestimate adverse impact of proposal.
- Would set an adverse precedent/will impact on surrounding residential amenity as a result of loss of privacy/overlooking/noise. It will have an overbearing effect on neighbouring properties.
- Stated aim of the Z2 zoning is to 'protect the amenities of residential conservation areas'/proposal is contrary to this zoning.
- No methodology set out in the submitted 'Solar Analysis/no author identified/does not assess skylight and daylight impacts/no comment from the applicant or the planning authority on sunlight and daylight conditions as a result of the proposal.
- Serious errors in the Solar Analysis document including inaccuracies in baseline data/impact of the screening structures have not been assessed.
- Impact on Vertical Sky Component (VSC) of appellant's ground floor windows has not been assessed.
- The planning report does not include any assessment or critical analysis of the proposed development and does not follow guidance as set out in the Development Management Guidelines for Planning Authorities (2007).

- Does not comply with Development Plan policy including zoning objective and guidance relating to Conservation Areas.
- No established precedent/scale of the extension at first floor level is excessive/would alter the form and function of the dwelling/bulk scale and massing is excessive/adverse visual impact /does not comply with Development Plan guidance on extensions.
- Cited permissions on Reginald Street and Bloomfield Park are not directly comparable/need to consider the subject proposal in its own particular circumstances.
- ABP attached a condition to permission at No. 23 Portobello Road requiring that the small outdoor area should not be used a balcony area.
- Would impact on living area and rear garden space of appellant's property.
- Use of the proposed dining area could generate significant levels of noise.
- Impact on the structure integrity of appellant's dwelling.

6.2. Applicant Response

6.2.1. The applicant's response to the Third Party Appeal is summarised below. Included in the response is a Sunlight & Daylight Impact Analysis report prepared by ARC and dated March 2018.

- Applicant's property currently contains two flats with cooking, dining and sleeping accommodation on each level.
- Current accommodation does not offer good quality residential amenity /development adds little floor area but would greatly improve the amenity of the house.
- Existing amenity space does not meet current development plan standard/proposal would result in approximately 29 sq. m of amenity space.
- This type of development is becoming more common in urban areas/the principle of outdoor terraces at first or second floor level has been endorsed by the City Council and by ABP.

- ABP granted permission for a terrace of four new houses in Ranelagh with elevated roof gardens (ABP 207218).
- Other permissions are comparable (1340/99, 226505, 245975, 2734/16, 3592/16, 3926/16).
- Author and methodology has been set out in the Solar Report/Findings of the Solar Report are referred to in more detail in the architects report.
- Revised analysis of the impact has been commissioned by the applicant to respond to concerns of appellants/shows only a marginal and imperceptible impact on the appellant's property.
- Any inaccuracies in the drawings are minor and would only have a negligible impact on the results of the solar analysis/revised analysis in on the basis of information in the grounds of appeal /development faces south/already structures that impact daylight and sunlight.
- Will have no impact on structure stability of appellant's property/current condition of the rear wall of No. 24 is of concern.
- Precedent of single storey and two storey extensions has long been established/ask the Board to examine photographic evidence of this / proposed development is less substantial than these/would result in a reduction of site coverage.
- Screening will minimise overlooking.
- Noise or disturbance would be comparable with that arising from use of the limited ground floor outdoor space.
- Z2 Zoning objectives fully respected/Note that a Z2 Residential Conservation Area is not the same as an Architectural Conservation Area/Development accords with the principles of the Development Plan/Development Plan leaves room for different approaches/In line with guidance from the Urban Design Manual (2009).
- Currently restoring property from single dwelling house from two derelict flats.
- Committed to preserving the architectural heritage of the area/original layout unknown/committed to restoring front of property/hard to see architectural merit

to the rear/have worked with architect to maximise amenity while protecting neighbours light.

- A two-storey extension would have more impact on neighbouring properties.
- No light report submitted by the appellant's or observer to support assertions in relation to light.
- Wish to improve the rear garden.
- Examples of roof terraces in inner city London (photographs enclosed).
- Space is not large enough to accommodate large parties.

6.3. Planning Authority Response

6.3.1. None.

6.4. Observations

6.4.1. 3 No. observations have been received from (i) Paul Smith, (ii) Valerie Lawlor and (iii) Conleth Manning & Others (11 signatories in total).

- Scale and mass will reduce daylight/sunlight.
- Overlooking/ Impact on privacy.
- Disturbance/ Noise impacts.
- Living quarters above is out of character.
- Many other extensions which don't impact amenity.
- Extension is overbearing.
- Possible to achieve light to the garden with an alternative.
- Would set a precedent for other such extensions.

6.5. Further Responses

6.5.1. A further response was received from the Third Party appellant, responding to the First Party submission, and this is summarised below:

- Baseline sunlight and daylight conditions are already sub-par – any reduction is sufficient to warrant refusal.
- Inaccuracies in the drawings result in more than a minor impact on daylight/sunlight results.
- Solar report should not be given credence by the Board.
- Sunlight & Daylight Impact Analysis not based does not indicate scale or accuracy of drawings on which it is based/appellant's property was not surveyed.
- No other permitted extensions on St. Kevin's Road provided for living accommodation at first floor level nor did they include outdoor terraces that are as readily and easily accessed.
- Refers to previous permissions referenced by the applicant in the First Party Submission (3166/09 -18 St. Kevin's Road, 5397/08 – 21 St. Kevin's Road, 5312/08 – 14 St. Kevin's Road, 1613/08 – 6 St. Kevin's Road, 6451/07 – 15 St. Kevin's Road).
- Other permissions which included roof terraces are not directly comparable to this proposal.
- Proposal would set a precedent/no planning history for some two-storey extensions along St. Kevin's Road.
- No planning permission for its current use as two self-contained flats/existing standard of accommodation should not carry any weight.
- The provision of open space should not be the only criteria applied when assessing the proposal.
- Reconfiguration of space with living arrangement with outdoor living room will have an adverse impact on adjoining properties.
- Provision of a single storey extension only provides the opportunity to light the ground floor through roof/sky lights.

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Residential Amenity
- Design and impact on the character of the conservation area
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The site is zoned 'Z2' under the Dublin City Development Plan, 2016-2022. The stated objective for 'Z2' zoned land is "to protect and/or improve the amenities of residential conservation areas". The principle of residential development is generally acceptable on 'Z2' zoned land, subject to safeguards.

7.3. Residential Amenity

7.3.1. There are a number of immediately adjoining properties, 25 St. Kevin's Road to the west (occupied by the Third Party appellant) and 23 St. Kevin's Road to the east (occupied by an observer on the appeal). To the south, No.'s 24 and 25 Portobello Road share a boundary with the appeal site.

7.3.2. In relation to daylight/sunlight impacts the applicant has submitted a report entitled 'Solar Analysis' at application stage, which contains a shadow analysis and considers the impacts on No. 25 and No. 24 St. Kevin's Road. A more detailed report entitled 'Sunlight & Daylight Access Impact Analysis', which was submitted in the First Party Response to the appeal, considers the impact on No. 25 St. Kevin's Road. The report concludes that the proposed development will have an 'imperceptible' impact on daylight and sunlight access to the ground floor living area windows.

7.3.3. In relation to the appellant's property at No. 25 St. Kevin's Road, I note that this property has a single storey rear extension which is served by a south facing window

and an east facing window, facing towards the appeal site. At ground floor level there is also a glazed door serving a living/kitchen area which faces south. At first floor level there are two south facing rear windows, a partially obscured bathroom window closest to the appeal site, and a clear glazed bedroom window.

- 7.3.4. In relation to the living room door, the daylight and sunlight report notes that sunlight and daylight levels will decrease but are within the parameters set out in the BRE Guidelines.
- 7.3.5. I note the floor area served by the rear extension is served by two windows, one facing south and one facing east. The submitted daylight and sunlight report notes that there is slightly improved access to sunlight and daylight to the east facing window following the development, as a result of the reduced scale of the ground floor extension, over and above existing. The glazed door is also facing south and will continue to receive daylight and sunlight from a southern orientation. There are impacts on morning sun to the bathroom, however this is not a habitable room as defined in the BRE Guidelines and as such impacts on same are not considered.
- 7.3.6. I note that errors in the drawings, including misrepresentation of the rear elevation of the appellant's property, have been highlighted by the appellant, and the appellant argues that the daylight and sunlight results are therefore invalid. However, the more detailed Sunlight & Daylight Access Impact Analysis report submitted with the appeal has ensured that the adjoining windows at No. 25 St. Kevin's Road are accurately represented and I am satisfied that this is the case.
- 7.3.7. No. 23 this property has an existing single storey extension, with a sloped roof, the ridge height of which extends above the single storey extension on the appeal property. The window closest to the appeal site is a fully opaque glazed window serving a bathroom. I do not consider that there will be any material impact on the daylight and sunlight levels to this property.
- 7.3.8. In relation to the visual impact of the proposal, I do not consider that the proposal, in and of itself, will be overbearing in nature when viewed from No. 25, as the two-storey element is limited in depth to 1.25m on the boundary, the terrace and screening element has a depth of 1m, with the remainder of the terrace and screening set in at least 1.9m from the boundary. When viewed from No. 23 the

visual impact is limited by the ridge of the existing single storey extension to the rear of No. 23.

- 7.3.9. However the use of the flat roof as a terrace is not appropriate, in my view, and would result in an adverse impact on the residential amenity of adjoining properties.
- 7.3.10. There does not appear to be any other roof terraces to the rear of properties on this side of St. Kevin's Road. The applicant, in the appeal submission, has pointed to examples of other roof terraces at 15 Bloomfield Park and 23A Bloomfield Avenue, and has provided an aerial view of same. These properties are located approximately 60m to the east of the appeal site.
- 7.3.11. In relation to 23A Bloomfield Avenue, I note that this was granted by the planning authority (single storey extension with roof terrace to rear – Ref 1340/99). In relation to 15 Bloomfield Park, I note that this roof terrace was granted on appeal by ABP, following a refusal by the planning authority (Appeal Reference 226505). The Inspector, when recommending a grant of permission, makes reference to the terrace at 23A Bloomfield Avenue.
- 7.3.12. I do not consider that these permissions cited above would necessarily set a precedent for roof terraces on St. Kevin's Avenue, however, given the site specific context of the properties cited above. There is no roof terraces to the rear of any of the properties of St. Kevin's Avenue, which, to my mind, is a result of the relationship of these properties to each other, where roof terraces would result in a significant loss of amenity to adjacent properties, as a result of actual and perceived overlooking, and as a result of noise disturbance.
- 7.3.13. Of more relevance to this appeal, in my view, is the recent permission at No. 23 Portobello Road, which backs onto the appeal property, granted by ABP (Reference 246041). Condition No. 7 of the Board Order restricts the use of the flat roof area to the rear for use as an emergency exit and for maintenance purposes only for reasons of residential amenity. It is my view that a similar condition should be imposed in this instance.

7.4. Design and impact on the character of the conservation area

- 7.4.1. It is an objective of the Z2 Zoning to protect them from unsuitable development that would have a negative impact on their amenity or architectural quality.

- 7.4.2. The overall bulk, scale and mass of the extensions are appropriate and are subordinate to the existing dwelling. The opaque screening and other screening elements, while contemporary in appearance, do not detract from the character of the building nor detract from the visual amenity of the conservation area. There is an example of similar screening to the rear at No. 23 Portobello Road.
- 7.4.3. The single storey rear extension will not be visible from the streetscape and therefore its visual impact is limited accordingly.
- 7.4.4. The use of the flat roof as a terrace however, as well as impacting on residential amenity as discussed above, would also detract from the character of the conservation area, which is currently defined by terraced properties, in close proximity to each other, with the design and layout of each respecting the constraints of each individual site. The introduction of a roof terrace would detract from this mutually beneficial nature of development, and would set an undesirable precedent for future development, in which the carefully preserved relationship between properties would be altered for the worse.
- 7.4.5. In conclusion, while the built form is acceptable in terms of design and appearance, and has a limited impact on the conservation area, the use of the terrace should be limited for maintenance and emergency exit purposes only, and should the Board be minded to grant, a condition requiring same should be imposed on any permission.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, extensions to an existing property, within a serviced area and separation distance to the nearest 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 the conservation objectives of any European site.

8.0 **Recommendation**

- 8.1. Grant permission for the reasons and considerations below.

9.0 Reasons and Considerations

Having regard to the zoning objective for the site, the pattern of development in the vicinity and the policies of the current Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of the area. 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 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.

Reason: In the interests of clarity.

2. The roof above the rear ground floor extension shall not be used as a balcony or roof terrace, and it shall not be accessed except as an emergency exit and for maintenance purposes.

Reason: To protect the residential amenities of adjoining properties.

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

4. 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.

Reason: In the interest of public health.

Rónán O'Connor
Planning Inspector

15th June 2018