



An
Bord
Pleanála

Inspector's Report ABP 301305-18

Development	Two storey extension to rear, associated alterations and site and landscaping works and services.
Location	No. 2 Portobello Place, Portobello, Dublin 8
Planning Authority	Dublin City Council.
P. A. Reg. Ref.	2006/18.
Applicant	Nadine O'Regan
Type of Application	Permission.
Decision	Grant Permission
Third Party Appellant 1	Harriet Shortall
Third Party Appellant 2	Roland Ramsden.
Date of Site Inspection	16 th July, 2018
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. Portobello Place is a narrow *cul de sac* comprising a terrace of two storey houses with small rear yards the rear boundaries of which adjoin the gable wall and rear side garden boundary of a two storey dwelling with a two storey return facing south onto Portobello Harbour . The rear boundaries of Nos 1 and 2 adjoin the gable wall of the No 11 Portobello Harbour whereas the rear boundaries of Nos 3 and 4 adjoin the rear side garden wall of No 11 Portobello Harbour. The ground level for the terrace is considerably lower than that of Portobello Harbour from which there is pedestrian access down several steps via a gate. Parallel pay and display and residential permit parking is available along Portobello Harbour.
- 1.2. No 2, Portobello Place the total site area of which is stated to be 57.5 square metres is to the north side of No 1 Portobello Place, which is the end of terrace unit at the southern end perpendicular to the frontage onto Portobello Harbour. No 3 Portobello Harbour adjoins which immediately adjoins the appeal site property has a small flat roofed extension at the rear. No 4 Portobello Place, is an 'L' shaped two storey dwelling at the northern end of the terrace.

2.0 Proposed Development

- 2.1. The application lodged with planning authority indicates proposals for construction of a two storey flat roofed extension in which a bathroom at first floor level and a kitchen extension is to be located at ground floor level at the rear of the house, adjacent to the northern site boundary with No 3 Portobello Place. The total stated floor area is eleven square metres with that of the existing buildings to be retained being sixty-six square metres.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 26th February, 2018, the planning authority decided to grant permission for the proposed development subject to conditions which include a requirement for permanent obscure glazing for the first-floor windows on the south and east elevations at first floor level for reasons of privacy and residential amenity.

3.2. Planning Authority Reports

- 3.2.1. The planning officer noted the benefit of the proposed extension to the occupant of the property and indicated satisfaction with the proposed development subject to inclusion of the conditions attached to the Decision Order.
- 3.2.2. The report of the Drainage Division indicates no objection to the proposed development subject to conditions.

3.3. Third Party Observations

- 3.3.1. The observations received by the planning authority indicate concerns as to obstruction of daylight and sunlight, negative visual impact, potential adverse impact on the structural integrity of adjoining properties and, noise and nuisance during the construction stage.

4.0 Planning History

- 4.1. According to the planning officer report there is no record of planning history for the application site. However, as noted in the appeal, a permission for extensions at No 1 Portobello Terrace, the adjoining house to the south side was granted by the planning authority following lodgement of the current application. (P. A. Reg. Ref. 4490/17 refers.)

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 (CDP) according to which the site location is within an area subject to the zoning objective: *to protect, provide for and improve residential amenities*".
- 5.1.2. Policies objectives and standards for alterations and extensions to dwellings are set out in Chapter 16, particularly, sections 16.2.2.23, 16.10.12 and in Appendix 17.

6.0 The Appeals

6.1. Harriet Shortall, No 3 Portobello Place.

- 6.1.1. An appeal was received from Ms Shortall, occupant of the adjoining property to the north side of the appeal site on her own behalf on 23rd March, 2018. According to the appeal:
- There are anomalies in the assessment of the current application and the assessment of the application under P. A. Reg. Ref. 4490/17 for development at No 1 Portobello Place. (This is the adjoining property which adjoins Portobello Harbour and is immediately to the south side of the appeal site.) There in consistencies in the application of the zoning objective, Section 16.10.12 and Appendix 17 of the CDP.
 - The proposed development at No 2 Portobello Place was taken into consideration in the assessment of the application under P. A. Reg. Ref. 4490/17 but this was not reciprocated in the assessment of the proposed development. A 1.6 metre brick screen wall at first floor level at No 1 is replaced, by condition by an opaque glass screen application under P. A. Reg. Ref. 4490/17 whereas a two storey extension which would have far greater negative impact is permitted according to the decision to grant permission for the current proposal. The planning officer who assessed the application under P. A. Reg. Ref. 4490/17 indicated concern about potential

precedent but potential precedent is disregarded in the assessment of the current proposal for Number 2 Portobello Place.

- In view of the north south aspect and, the height and extent of the proposed extension there would be a seriously negative impact on the amenities of Ms Shortall's property. The proposed extension would be visually obtrusive and would partially block access to daylight and sunlight at Ms Shortall's property and the adjoining properties.

6.2. Appeal by Roland Ramsden, No 4 Portobello Place.

6.2.1. An appeal was received from Feargall Kenny, Architect on behalf of Roland Ramsden on 26th March, 2018. It includes a description of the site location along with an outline of and extracts from relevant development plan provisions. It is argued that the proposed development is not in accordance with section 16.10.12 of the CDP and, correspondingly affects residential amenities of adjoining properties and does not accord with the Z1 zoning objective. According to the appeal:

- There is very little access to sunlight and daylight at Portobello Place due to the lower ground level at Portobello Harbour, the narrow width of the pedestrian passage to the front and, the small size of the rear yards the depth to the boundary with No 11 Portobello Harbour is less than four metres. At the appellant's property, No. 4, there is, 'just a slit' between the side of No 11 Harbour and the rear walls for Nos 1-3 Portobello Place. Sunlight access via the slit is restricted to a few hours a day and it would be diminished by the proposed two storey extension which will overshadow properties to the north.
- The proposed two storey extension would be visually obtrusive in views from the appellant's property.
- The proposed development is seriously deficient and constitutes overdevelopment regarding site coverage and private open space provision in that:

The site coverage exceeds development plan standards. It would be ten square metres or 82.6 % of the total site area of 57.5 square metres whereas the indicative range in the CDP for Z1 zoned lands is 45 to 50 %.

Rear private open space would be deficient having regard to the standards in section 16.2.2.3 of the CDP which provides for sixty to seventy square metres for houses in the city. The house, inclusive of the proposed extension is a two bed, four bed space dwelling for which minimum of forty square metres private open space would be required at 10 square metres per bed space. This is considerably less than the recommended sixty to seventy square metres. Even at 5% per bed space, allowing for the inner-city location, provision for an area of twenty square metres would be required.

- A condition to exclude the brick faced screen to overcome obstruction of daylight and sunlight to adjoining properties, was included with the decision to grant permission under P. A. Reg. Ref. 490/17 for the single storey extension to the property at No 1 Portobello Place. Under P. A. Reg. Ref. 4490/17 for the extension to the property at No 1 Portobello Place a roof garden was accepted in substitution for lack of private open space, (at four square metres) at ground floor level.
- The permitted single storey extension at the rear of No 1 Portobello Place is to the south side of the backyard, at a remove from the party boundary with No 2 and is limited in height to 4.6 metres with the translucent screen on top. 1.6 metres. The proposed extension to No 2 is 5.13 metres high, has no opacity and located on the party boundary with No 3, diminishing sunlight and daylight to houses to the north.
- The appeal submission includes, with reference to the recommendations in *Good Practice Guidance for Site Layout Planning for Daylight and Sunlight*, (BRE 1998) a Figure indicating a section in which overshadowing at the equinoxes at the No 3 Portobello Place and at No 4, the appellant's property, with the proposed extension *in situ* to illustrate substantial decrease in diffused skylight to the windows of the two houses.
- Undesirable Precedent for similar development would be set if the decision to grant permission for the proposed development is upheld.

6.3. **Applicant Response**

There is no submission on file from the applicant.

6.4. **Planning Authority Response**

There is no submission on file from the planning authority.

6.5. **Further Responses**

- 6.5.1. A further submission was received from Feargall Kenny, Architect on behalf of Mr. Ramsden, the second third party appellant in which it is stated that it is considered that Ms. Shortall in her appeal has made a compelling case against the proposed development on grounds of detrimental impact on residential amenities and undesirable precedent for similar development.

7.0 **Assessment**

- 7.1. The issue central to the determination of a decision taking into the two appeals into account and considered below is as to impact of the proposed development on the residential amenities and value of adjoining properties to the north side of the appeal site and as to potential precedent for similar development.
- 7.2. It is agreed that the proposed two storey extension abutting the side boundary of No 3 Portobello Place to the north would be visually obtrusive and overbearing and, given the location to the south side, would overshadow and would obstruct access to daylight at the rear of that property and to a lesser extent, the rear east facing ground floor window, at No 4 Portobello Place, the L shaped dwelling at the northern end of the terrace. Given existing limited scope for access to sunlight from the south due to the enclosure of the small plot sizes and short depths at the rear to the adjoining property at No 11 Portobello Harbour the application site does not have capacity to accept two storey extension due to visual obtrusiveness and overbearing impact and obstruction of sunlight and daylight. Favourable consideration of such a proposal would also set an undesirable precedent for similar development at the adjoining properties.

7.3. The remarks made in the appeal of Mr. Ramsden as to the serious deficiencies in site coverage and private open space provision having regard to development plan standards are acknowledged and considered reasonable. Notwithstanding the excessive site coverage and deficient private open space provision should the upper floor be omitted, any adverse impact on the amenities of adjoining properties of a single storey extension on the same footprint would be marginal. Furthermore, the additional habitable internal space would enhance the attainable standard of residential amenities for the future occupants and sustainability of the dwelling. However, it is considered that a requirement for such a major modification by way of compliance with a condition would represent, in effect, a development that is a significant material departure that which permission was sought. As such, the required modification would not be amenable to resolution by condition having regard to the recommendations in *Development Management: Guidelines for Planning Authorities*, issued by DOEHLG in 2007.

7.4. The observations in the appeal as to inconsistencies in the assessment and determination of the decisions on the proposed development subject to the application and appeal and the proposed development of an extension at the rear of No 1 Portobello Place considered by the planning authority Under P. A. Reg. Ref. 490/17. The points made in the appeals are considered both reasonable and understandable.

7.5. **Appropriate Assessment.**

7.5.1. Having regard to the scale and nature of the proposed development and to the serviced central business district location, no Appropriate Assessment issues arise. 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. In view of the foregoing, it has been concluded and is recommended that the appeals should be upheld and that the decision of the planning authority should be overturned. Draft Reasons and Considerations follow:

9.0 Reasons and Considerations

It is considered that by reason of:

- the position and footprint of the proposed two storey extension abutting the party boundary with the property to the north;
- the limited separation distance between the rear building line of the existing and adjoining houses on Portobello Place and the boundary with No 11 Portobello Harbour and,
- the restricted size and daylight and sunlight access from the south to the rear of these properties especially the property at No 3 Portobello Place,

the proposed two storey extension would be overbearing, visually obtrusive, and would obstruct and would diminish access to sunlight and daylight at the rear of the adjoining property to the north side of the application site to an undue degree and would constitute overdevelopment. As a result, the proposed development would seriously injure the residential amenities of the adjoining properties, would materially contravene the zoning objective Z1: *to protect, provide for and improve residential amenities* set out in the Dublin City Development Plan, 2016-2022 for the area, would set undesirable precedent for similar development and, would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy.
Senior Planning Inspector
16th July, 2018.