



An
Bord
Pleanála

Inspector's Report ABP 305001-19.

Development	Reinstatement and enlargement of two storey pitched roof over rear return
Location	No 3 Kingsland Parade, Portobello, Dublin 8.
Planning Authority	Dublin City Council.
P. A Reg. Ref.	2611/19.
Applicant	Anne Marie Godfrey.
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Pauline Atkinson and Maurice McConnell
Date of Site Inspection	19 th October, 2019
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. No 3 Kingsland Parade is a split-level villa style nineteenth century house originally constructed with a return within a terrace of five houses set behind narrow front gardens with granite staircases with cast iron railings to the main entrances at the upper ground floor level, on the west side of Kingsland Parade in Portobello. The house has been extended at the rear at single storey level with a flat roof and roof terrace with balustrading around its perimeter and there is a dormer window in the rear roof slope.
- 1.2. Florence Street along which there are two storey terraced houses is to the north and perpendicular to Kingsland Parade. Pedestrian gates on the frontage of Florence Street open to the rear of No 1 Kingsland Parade and a passage the east side of No 9 Florence Street between the rear garden of that property and the rear of the application site. No 9 Florence Street is a double ridged roofed dwelling with a shed structure in the rear garden. Walworth Street on which the Jewish Museum and other two storey houses are located is to the south and at the west, rear side parallel to Kingsland Parade is Victoria Street along which there are larger two storey terraced houses.
- 1.3. The house has been unoccupied and in a state of disrepair for several years and some demolition works and ground and foundation works at the rear return have taken place.

2.0 Proposed Development.

- 2.1. The application lodged with the planning authority indicates proposals for reinstatement and enlargement of a two-storey pitched roof return. The lower ground floor and extension are to be demolished and a new, larger lower ground floor and upper ground floor accommodation is to be constructed. The application also includes alterations to the internal fabric and layout to facilitate the development. Two bedrooms are shown for the lower ground floor level, opening onto a patio and a kitchen/dining space are shown for the upper ground floor with mezzanine/attic level study overhead. Replacement cladding in slate, in replacement of timber for the dormer window is also shown in the application.

2.2. Further to a request for additional information, regarding the planning status of the dormer window it was established that there is no record of planning permission since the 1990.

3.0 Planning Authority Decision

3.1. Decision

By order dated, the planning authority decided to grant permission for the proposed development subject to conditions all of which are of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer having noted and taken the issues raised in the third-party observations, indicated satisfaction with the proposed development, having remarked that the proposed recladding of the existing dormer window represents a visual improvement.

3.3. Third Party Observations

The third-party observations indicate concerns about overbearing impact, overlooking and overshadowing of their properties.

4.0 Planning History

There is no record of a planning history for the site.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2021 (CDP) according to which Kingsland Parade comes within an area subject to the zoning objective Z2: *“to protect, and/or improve amenities of residential conservation areas.”*

Guidance and standards on extensions and alterations are set out in sections 16.2.2. 16.10.12 and Appendix 17.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Pauline Atkinson of 3 Walworth Road and Maurice McConnell of No 1 Kingsland Parade on their own behalf on 30th July, 2019. Included are photographs and a copy of an extract from a document which relates to geotechnical investigations stated to have been undertaken in the area during 2007. (Reference details as to the author etc. are not provided.)
- 6.1.2. It is requested that:
- The dormer and the glazing be reduced to a scale which accords with Appendix 17.11 of the CDP to protect privacy of adjoining properties;
 - The height of the extension be reduced by 866 mm to comply with the existing and Section 16.2.2.3 of the CDP.
 - The enlargement of the existing two storey by two linear metres be reduced – to protect residential amenities.
 - The window in the extension be reduced to protect privacy of properties on Florence Street and Victoria Street.
 - The garden space is increased in size to a minimum of thirty-five square metres to provide for sufficient private open space.
 - A hydrogeological survey be conducted to ensure that no damage to adjoining properties.
 - A condition be attached with a requirement for the dwelling to be a “a single family unit”.

In the appeal submission the comments and objections of the appellant party are interspersed with extracts from the planning officer’s report. The objections can be outlined as follows:

- The dormer window and attic conversion are unauthorised development, the existing return/extensions have already been demolished and works have taken place on the site, with a commencement notice having been issued and, the proposed mezzanine attic level study is not included in the description of the proposed development.
- No shadow analysis was submitted or requested by the planning authority.
- The proposed development is 888 mm higher than the original return and it should be reduced to the original height. It dominates the house and is overdevelopment, excessive for the site. The height when viewed from No 1 Kingsland Parade would be 6.8 metres. They are on a lower ground level and their existing two storey returns are in keeping with the area whereas the proposed development destroys the existing symmetry. The proposal is contrary to Appendix 17, (in particular 17.3)
- The proposed development would set precedent for similar development which fails to comply with the Z2 zoning objective with negative impact on the architectural character of the area.
- At No 2 Kingsland Parade the structure in the rear garden is temporary only but with the proposed development in place the scope for development in the rear garden of No 2 would be limited and there would be a shadow effect along the boundary wall.
- The dormer window which is not authorised dominates instead of being subordinate to the roof slope and is in breach of the Guidelines set out in Appendix 17 (especially section 17.11) of the CDP. The development should be re-advertised. The permitted dormer at No 1 is reduced to 1.5 metres width, from the size that was proposed so the current proposal is a departure from this precedent.
- The dormer, at 4.2 metres, the extension, larger and higher than the existing extension is excessive and it is requested that the extension and window be scaled back. It would affect the residential amenities of the adjoining properties and at Nos 33 and 34 Victoria Street and five properties on Florence Street, especially No 9 Florence Street.

6.2. Applicant Response

6.2.1. A submission was received from Cahill-O'Brien on 26th August, 2019 in which it is requested that the planning authority decision to grant permission be upheld. It is requested that the applicant's further information submission be read and consulted in conjunction with the response to the appeal. It is stated that the applicant who resides in Hong Kong wishes to relocate to Ireland. Attached to the appeal submission is a statement in which specific points raised in the Appeal are refuted on a point by point basis.

6.2.2. The contents can be outlined in brief as follows:

- Some of the works come within Section 4 (1) (h) of the Planning and Development Act 2000 as amended (the Act); the demolition and replacement extension are exempt developments, the gross floor area being less than forty square metres and the private open space being in excess of twenty-five square metres. The kitchen extension does require planning permission as it abuts a boundary. The dormer comes under the Statute of Limitations of section 160.(6) of the Act.
- The house is dilapidated and has not been habitable; major interventions are made, and original features have been removed, including original boundaries and the replacement walls have no foundations.
- There is an 800 mm difference in ground level between No 1 and 3 Kingsland Parade which should be taken into account. Figure 3 in the submission is a computer-generated simulation of the view from the kitchen window at No 1 Kingsland Parade, and the existing extension is in poor condition. The ceiling height at No 2 and 3 is substandard and it is arguable that if the ceiling height in both houses is increased symmetry is achieved. The return was demolished entirely and rebuilt due to the walls' poor structural order.
- The returns to Nos 4 and 5 Kingsland Parade are similar to the return constructed at No 1 in 2010. The two metre extension proposed for the kitchen is in line with these developments.
- The gardens are in shadow in winter time but models for 21st March and September are included with the submission.

- It was decided to replace and not lower the floors as originally intended due to the high level of the foul drainage. Foundations were completed and March and there are no drainage issues.
- The proposed kitchen extension and its window is a modern contemporary element complementing the older context. Due to the narrow plots and high boundary walls overlooking of the properties on Florence and Victoria Streets is not possible.
- The applicant is willing to accept a condition for use as, “a single family unit”.
- The proposed development is of benefit to the whole terrace.

6.3. **Planning Authority Response**

6.3.1. There is no submission from the planning authority on file.

6.4. **Observations**

6.4.1. **Lynda and Michael McGreen.**

A submission from Lynda and Michael McGreen of Nos 33 and 34 Victoria Street on 12th August 2019. It contains objections to the dormer window on similar grounds to the Appellant Party. It is requested that the dormer be scaled back, reference being made to the permitted dormer at No 1 Kingsland Parade. They also submit that if it is decided that the existing dormer window can be accepted, the glazing should be opaque and reduced in size, by condition.

6.4.2. It also contains objections on similar grounds to those within the appeal to the proposed enlargement and reinstatement of the two-storey pitched roof extension. They also object on grounds of loss of original fabric, noting the residential conservation area zoning objective and the CDP requirements for extensions in section 16.2.2.3, including the requirement to be subordinate to the existing structure according to appendix 17.8.

6.4.3. It is submitted that the height would have serious negative impact on the amenities of the properties on Victoria Street, due to the scale and the degree of overlooking which would occur.

6.5. **Transportation Infrastructure Ireland (TII)**

- 6.5.1. A submission from TII received on 7th August, 2019 indicated a request for inclusion of a Section 49 Supplementary development contribution condition, unless exemptions are applicable.

7.0 **Assessment**

- 7.1.1. The proposals for the existing dormer window are first considered below followed by the proposals for the reinstatement and enlargement of the two-storey return, new glower ground floor bedroom, and hydrogeology. Finally, Environmental Impact assessment and appropriate assessment are addressed.
- 7.1.2. **Dormer Window to Rear.** There is acceptance by the planning authority that while the existing dormer window is unauthorised development which was carried out prior to 1990 and this is agreed by the applicant's agent, who in the written submissions advises that its retention is sought. (Proposals for its retention are not included in the descriptions on the notices for the application.) As such it is not open to the planning authority to commence enforcement proceedings in respect of it. The inclusion in the application for replacement slate cladding which together with the slate roof is a significant enhancement to the visual amenities in views from the public realm. As the dormer window itself is unauthorised the applicant could be requested to publish revised notices to include the retention of the dormer window so that this matter can be addressed in conjunction with the proposal for the replacement cladding prior to determination of the decision.
- 7.1.3. There is limited scope for overlooking from the dormer window over the rear gardens of the properties on Florence Street, owing to the extant boundary walls and, the proposed return. At attic level it does overlook the rear yards and gardens of properties on Florence Street. The dormer window does not give rise to direct back-to-back overlooking or the rear facades and gardens of the houses at Nos 33 and 34 Victoria Street which are positioned to the south west of the application site and at least thirty metres from the dormer window.

- 7.1.4. **Reinstatement and enlargement of two storey return and ground floor bedroom.** The reinstatement and enlargement of the two-storey return is to be constructed with a half hip roof over an eaves height which exceeds that of the adjoining property at No 2 Kingsland Parade. It is considered acceptable subject to a modification by way of reduction on one metres in depth to reduce the extent of blank elevation at two storey level at the boundary with No 2 Kingsland Parade. This would facilitate an increase access to daylight and sunlight at the upper floor rear façade of No 2 Kingsland Parade and reduce any perception of overlooking of surrounding properties from the substantive glazing proposed for the rear elevation. The reduction in depth, and consequently, that of the proposed kitchen space does not unduly reduce the utility and amenity potential of the open upper floor living accommodation in entirety and can be addressed by condition.
- 7.1.5. It is considered that the lower ground floor extension, providing for additional bedroom accommodation within the dwelling, having regard to the limited height relative to that of the party wall with the adjoining property would not adversely affect the amenities of adjoining properties.
- 7.1.6. It is agreed with the appellant party that the private open space provision that would be retained at the site is limited. The amenity potential is somewhat restricted due to the site coverage and configuration of the existing and proposed development; however, it is an inner-city location and it is considered that the outdoor utility and sitting out space that is proposed can be accepted in this instance where delivery of a good quality dwelling can be delivered.
- 7.1.7. **Hydrogeology.** With regard to potential hydrogeological implications, the high-water table known within the Portobello area has been acknowledged by the applicant's agent and it is recommended that the statements that no issues have arisen in the sources of site preparatory and foundation works be accepted. The source of the documentation provided with the appeal in which reference is made to investigative work undertaken in 2007 has not been included in the appeal.

7.2. **Environmental Impact Assessment.**

Having regard to the minor nature of the proposed development and its location in a serviced inner urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for

environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.3. **Appropriate Assessment.**

Having regard to the scale and nature of the proposed development and to the serviced inner urban 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.

7.4. The note of TII regarding the application of supplementary development contribution conditions is noted and it can be confirmed that the proposed development is exempt from payment.

8.0 **Recommendation**

8.1. In view of the foregoing, it is recommended that permission be granted subject to the inclusion of a condition with a requirement for a reduction in the depth of the upper floor kitchen element of the return proposed reinstatement and enlargement. Draft Reasons and Considerations and Conditions follow:

9.0 **Reasons and Considerations**

It is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities or architectural character of the area, would not seriously injure the residential amenities of properties in the area, would not endanger public health and would be in accordance with the zoning objective: *“Z2“to protect, and/or improve amenities of residential conservation areas”*

for the area In the Dublin City Development Plan, 2016-2022, 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 interest of clarity.

2. The depth of the proposed upper floor of the two storey return to be reinstated shall be reduced in depth by a minimum distance of one metre so that it does not exceed a maximum of 4.28 metres beyond the existing rear building line of the house. Prior to the commencement of the development, shall be submit and agree in writing with the planning authority revised floor, section and elevation plans.

Reason: In the interest of clarity, and to protect the residential amenities of adjoining properties and the visual amenities of the area.

3. The development shall be occupied as a single dwelling only and shall not be subdivided or converted to multiple dwelling units without a prior grant of planning permission.

Reason: In the interest of clarity and the residential amenities of the area.

4. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenity.

5. Details of the materials, colours and textures of all the external finishes including the roof cladding which shall be in slate be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

6. Water supply and drainage arrangements, including the attenuation and 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.

7. The applicant shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of clarity.

8. All necessary measures shall be taken to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the site works.

Reason: In the interest of public amenity orderly development and traffic safety.

Jane Dennehy
Senior Planning Inspector
21st October, 2019.