



An
Bord
Pleanála

Inspector's Report ABP 310752-21.

Development	Demolition of single storey flat roof extension at rear and construction of a free-standing single storey home office with corrugated metal clad and glazed mono-pitched roof.
Location	No 25 St Kevin's Road, Portobello, Dublin 8.
Planning Authority	Dublin City Council.
P.A. Reg. Ref.	2601/21
Applicant	Conor Horgan.
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Julie Dineen
Date of Site Inspection	11 th November, 2021.
Inspector	Jane Dennehy.

1.0 Site Location and Description

- 1.1. The application site which has a stated area of 91.35 square metres is that of a nineteenth century mid-terrace two storey house with a rear single storey extension. It is located on the south side, towards the western end of St. Kevin's Road and the front door opens directly on the footpath edge. There is a small rear garden at the rear and the rear boundary adjoins the rear boundaries of properties facing onto Portobello Road. Most of the properties on Portobello Road are terraced villa style nineteenth century houses and several of these properties like several properties on St Kevin's Road have been extended at single and two storey level to the rear.
- 1.2. The adjoining property to the east side at No 24 St Kevin's Road (Appellant property) was boarded up and unoccupied at the time of inspection some construction works having been commenced but had ceased further to which the property was boarded up. The planning authority decision to grant of permission for demolition of a rear extension and for construction of a part single storey and part two storey extension to the rear and an external terrace and landscaping was upheld following appeal (P. A. Reg. Ref. 4242/17 and PL 300832 refer. (Images are not available.)
- 1.3. To the west side of the application site there is a similar mid terrace two storey property which has also been extended at single storey level to the rear.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for Demolition of the existing rear single storey flat roof extension, the stated floor area of which is seven square metres and, for and construction of a free-standing single storey home office structure at the end of the rear garden. It is to have a corrugated metal clad and glazed mono-pitched roof. The total stated floor area of the proposed structure is thirteen square metres, and it is to span the width of the rear garden which is 5.3 metres but will be slightly offset from the boundaries. The footprint of the proposed extension would also have a projection forward of the rear building line of circa 3.57 metres.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 8th June, 2021 the planning authority decided to grant permission for the proposed development subject to six conditions of a standard nature

3.2. Planning Authority Reports

- 3.2.1. The Planning Officer notes that there is precedent for similar development in the vicinity and indicates satisfaction with the proposed development.
- 3.2.2. A Third-Party Observation was lodged by the adjoining property owner, the Appellant party who contends that the proposal constitutes overdevelopment and would have negative impact on her property.

4.0 Planning History

There is no record of planning history for the site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site is within an area subject to the zoning objective: Z2: *“to protect, and/or improve amenities of residential conservation areas.”*
- 5.1.2. Policy Objective CHC4 and Section 11.1.5.4 provides for protection of the special interest and character of Conservation Areas with works being required to enhance and contribute positively to the distinctiveness, character and setting of the environs.
- 5.1.3. Policies, objectives and standards for extensions and alterations to dwellings are set out in Section 16.10.12 and Appendix 17.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was lodged by Doyle Kent on behalf of the Appellant, Julie Dineen of No 24 St Kevin's Road the property adjoining the east side of the application site property. It is a similar two storey mid terrace property to the application site property at No 25 St Kevin's Road. As stated under (1) above, the property at which some works had taken place, was boarded and inaccessible at the time of inspection.
- 6.1.2. It is requested that permission be refused. According to the appeal submission which includes images and drawings:
- In designing the development at the Appellant Property for which permission was granted, the architect had due regard to potential impacts on adjoining properties.
 - Extensions have been constructed at several properties on St. Kevin's Road in the vicinity. Details of grants of permission at six properties are provided. The rear extensions on St Kevin's Road are on small plots and are all modest in scale, form height and in provision of remaining private open space. ff
 - The proposed development is a "*free standing single storey home office*" (as described in the statutory notices) at the rear of the property is not an extension to the house. However, the proposal was assessed as a habitable extension to an existing dwelling.
 - There is no precedent which can be taken in that there is no record of permitted stand-alone development at properties on St. Kevin's Road or in the vicinity. The proposed development would set precedent for similar development on plots where private amenity space is necessary.
 - The planning officer assessed the proposal having regard to the provisions in section 16.2.2.3 of the CDP for Extensions and Alterations and 16.10.12 and Appendix 17 of the CDP. which provide for sensitive design and scale and proportion to the existing development.
 - The planning officer in remarking that the plan drawings are unclear in showing the extent of development at the adjoining properties. The application

was assessed without follow up with the applicant of the deficiencies and as a result assessment of sunlight and daylight impact, an assessment report on which was not provided, was hindered.

- The planning authority failed to consider the impact of the proposed structure with a height of 2.4 metres to 4 metres and will span along the length at the side of the rear garden at the appellant party's property. It would render the private amenity space at the rear of No 24 an inhospitable enclosed space which would be diminished in recreational amenity and function.

Bearing in mind the urban plots and grain the proposed development would have an unsatisfactory relationship with the adjoining properties having regard to the height and the mono pitch element, the position on the boundary with rear amenity space and the rear elevation at the adjacent properties. The corrugated metal cladding may cause glare at the adjoining properties' windows is incompatible with existing development and would lead to precedent. The proposed development would be contrary to the zoning objective for the area.

- There would be an overall profoundly negative and overbearing impact on these properties due to excessive height and unsympathetic form and scale resulting in excessive enclosure at the rear from ground floor rooms at No 24. Reference is made to photographs of a model to demonstrate the appellant's concerns about height, proximity and overhearing impact.
- Residential amenities at the appellant property, which is to the east side would be diminished due to obstruction of daylight and sunlight at the rear garden and planting within it, and the ground floor rear elevation windows which would not receive adequate sunlight having regard to BRE standards. An assessment should have been submitted as was the case with the planning application for the permitted development at the appellant party's property.
- The proposed structure is industrial, due to the metal cladding and form. Industrial and this is negative in impact and out of character with established development's architectural character and would set undesirable precedent and inappropriate to confined rear gardens at terraced properties and

adjacent to party boundaries and the architectural character of the groupings of buildings within the Z2 zoned residential conservation area the objective of which is protection from unsuitable development.

6.2. Applicant Response

6.2.1. A response to the appeal was lodged with the Board by the applicant's agent on 29th July, 2021. According to the submission:

- The claim as to setting an undesirable precedent should be disregarded having regard to the exemption provisions within Class 3, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended, the limitation being that the private open space should not be reduced to less than twenty-five square metres.
- Reference is also made to the Class 1 whereby there is exemption for windows facing but more than one metre from the boundary at ground floor level, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended. As the window faces a blank elevation and no windows at the adjoining property and claims as to negative impact on the amenity should be dismissed.
- Proximity to boundaries does not necessarily establish that residential amenity is affected. Dimensions were not included in the appeal but are provided in the submission shown between north-eastern corner and the permitted development at the rear of the appellant property as demonstrated in overlay of the application drawings for the permitted development at No 24.
- There is no shared boundary wall as referred to in the appeal as the former boundary wall was demolished by a builder engaged by the appellant. The demolished wall is shown in Photo 20 of the application submission. The extent to which the east elevation would have protruded above the wall (if it was in existence) is shown overlain in red on the application drawing which is included. An image included in the application for the permitted development at NO 24 is also included showing the wall when in existence. Reference is also made to a section drawing included in the same application showing a

door opening on the rear of No 25 at 2520mm high as also referenced in the overlay on drawing 19/5 PA-04.

- Particulars to support the claim as to inaccuracies in plans and particulars in the application are not provided in the appeal. The planning authority had no concerns as to adequacy of drawings in its regard and it also had access to the drawings provided for the application for the permitted development at the appellant property.
- If the appellant rebuilds the wall that was demolished on the boundary, visual privacy would be secured between the private amenity space at the rear of the two properties.
- It is difficult to understand how the proposed development can be considered the height can be excessive and overbearing when the permitted two and one storey extensions at the appellant property are taken into consideration which directly abut the property line
- The concerns about the metal clad elevations are fully unfounded the cladding itself facing east and west and not towards the appellant property. If the boundary wall is reconstructed the issue as to glare at ground level windows would be eliminated. There is no basis for claims that glare caused by northern lint reflecting against the glazed doors in the northern hemisphere. If the roof level terrace at No 24 is properly completed with a screen of two metres in height over first floor level no risk of glare is eliminated.
- The height of the monopitch at 4075 is 75 mm higher than the four metres' limit for Class 3 of Part 1 of Schedule 2 of the Planning and development Regulations 2001 as amended. An overlay on drawing 19.5.PA – 04 is provided to illustrate the limited extent of protrusion over the demolished wall.

6.3. Further Submissions.

- 6.3.1. A further submission was lodged by the Appellant's agent on 25th August, 2021 in which the objections based on adverse impact on residential amenities at of the Appellant's property and as to incongruity of stand-alone structure in impact at the location and undesirable precedent are reiterated. It is claimed that additional second independent structure, as proposed for the home office, in small gardens,

creating a second building line, interferes with the established rhythm and sets undesirable precedent. The necessity to remove an element of the existing house to allow for the development and achievement of twenty-five square metres private open space is of note. The purpose of the limitations on the exempt development entitlements for structures in rear gardens is to ensure protection of residential amenity. The current proposal should not be viewed with regard to the restrictions on exempt development.

- 7.0 It is acknowledged in the submission that the boundary wall was removed and is a matter of dispute between the parties, but it is claimed that it is entirely in the ownership of the appellant and is not a shared boundary. The appellant intends to replace the wall with a two metres' high wall or fence. Any structure projecting above two metres in height would adversely affect the amenities of the appellant party property and cause 'boxed in' effect.

7.1. Planning Authority Response

There is no submission on file from the planning authority.

8.0 Assessment

- 8.1. Within the appeal there are contentions as to deficiencies in the drawings lodged with the application, but the planning authority considered the details sufficient to enable it to assess the proposed development and determine a decision on the application. Similarly, it is considered that the information provided and details available are sufficient for the purposes of assessment and determination of the decision on the appeal.
- 8.2. The issues central to the determination of the decision can be considered below under the following subheadings:-

Demolition / Replacement of Wall

Impact on residential amenities of adjoining property.

Independent Free-Standing Structures

Precedent.

Environmental Impact Assessment Screening.

Appropriate Assessment.

8.3. **Demolition / Replacement of Wall**

- 8.4. Issues relating to the removal/reinstatement of the party boundary wall between the appellant property and the application site property lie outside the scope of consideration of the application and appeal. It is noted that from the supplementary submission of the appellant's agent that the appellant claims ownership in entirety of the wall which was demolished on grounds that it was not a party boundary wall and that the appellant intends to erect a replacement wall or fence up to a height of two metres. However, if matters in this regard are not addressed and there are no enforcement issues any outstanding dispute can be resolved through the legal system.
- 8.5. Having reviewed the plans and particulars, the structure which is to be offset from the boundaries, can be erected on the application site property as proposed without hindrance to any works or structures at the appellant property.
- 8.6. **Impact on residential amenities of adjoining property.**
- 8.7. The contentions as to adverse visual impact and overbearing impact giving rise to a boxed in effect at the adjoining property are not accepted. The structure at its highest point of four metres is at the southern end of the garden from which the height reduces over the 3573 mm depth of the mansard roof (and footprint) to 2500 mm metres at its northern façade which is shown as glazed in entirety. It faces the rear elevation of the house across a patio space (incorporating the area of the footprint of the extension to be removed) four metres in depth.
- 8.8. Assuming a wall or fence to a height of two metres is to be constructed in replacement of the wall which was demolished in the course of the works at the appellant property there is no scope for overlooking of the adjoining property from the proposed structure. There is no substantive potential for a boxed in effect on the adjoining property given the position and form of the structure as discussed above. It should be noted in this regard that the permitted development at the appellant property involving extended footprint over rear garden space is considerable.

8.9. The contentions as to glare from the corrugated sheeting have been noted, however, there is no evidence as to potential for the selected materials to cause glare that would adversely affect the amenities of the adjoining property. However, it is recommended that if permission is granted a condition should be included with a requirement for submission of details of the materials for agreement with the planning authority so that this concern can be addressed.

8.10. Independent Free-Standing Structures

8.10.1. While it is agreed that the plot sizes at the rear of St Kevin's Road properties and the Portobello Road are compact it is not accepted that independent "home office" structures are unacceptable on these plots. The subject development is modest in size, configuration and form and, taking into account the proposed removal of the existing single storey extension would provide for a net increase in development (and site coverage) on the site of six square metres and an area of twenty-five square metres meaningful private open space. The references to exempt development entitlements as provided for in the Planning and Development Regulations 2001, as amended are somewhat immaterial other than to demonstrate the modest in size and form the proposed development and capacity to provide for an adequate area of meaningful private open space.

8.11. Precedent.

8.11.1. With regard to concerns as to precedent, there is no objection in principle to precedent for consideration stand-alone 'home office' developments, and each proposal should be considered on its own planning merits. Having regard to the foregoing and to the planning merits of the current proposal, it is considered that the planning authority decision to grant permission should be upheld. If it is agreed that permission should be granted, it is recommended that conditions of a standard nature should be attached and that conditions of a standard nature should be attached.

8.12. Environmental Impact Assessment Screening.

8.12.1. Having regard to the nature and scale of the development 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.

8.13. Appropriate Assessment.

- 8.13.1. Having regard to the scale and nature of the proposed development and to the serviced suburban 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.

9.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld and that permission be granted based on the reasons and considerations and subject to the conditions set out below: -

10.0 Reasons and Considerations

- 11.0 Having regard to the site layout, footprint, modest size, height, design and form of the proposed development, to the established pattern and characteristics of residential development and to the evolving changes attributable to the range and extent of additional development to the rear of properties in the vicinity, it is considered that the proposed free standing home office structure would not seriously injure the visual and residential amenities of adjoining residential development and would be in accordance with the proper planning and sustainable development of the area.

12.0 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. Details of the materials, colours, and textures of all the external finishes to the proposed development, which shall be not have a glare effect in sunlight, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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 developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. The home office structure shall be ancillary to the main dwelling and its use shall be confined to use by occupants of the dwelling only. It shall not be used, sublet or sold separately from the main dwelling to third parties

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

Jane Dennehy
Senior Planning Inspector
16th November, 2021.