



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317845-23

<b>Development</b>	Conversion of attic and all associated site works. Dormer, roof lights and rear balcony
<b>Location</b>	1 Portobello Place, Portobello, Dublin 8, D08 W7C6.
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	WEB1462/23
<b>Applicant(s)</b>	Karina Melvin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Charlotte Fenning; Roland Ramsden
<b>Observer(s)</b>	Philip O'Reilly
<b>Date of Site Inspection</b>	22 <sup>nd</sup> May 2024
<b>Inspector</b>	Bernadette Quinn

## **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 at 11 Portobello Harbour. The ground level of the houses that form the terrace on Portobello Place is considerably lower than that of Portobello Harbour from which there is pedestrian access down several steps via a gate.
- 1.2. The appeal site has a stated area of 61 square metres. No 1 Portobello Place is the first house at the southern end of a terrace and is perpendicular to the frontage onto Portobello Harbour. The house is two storey with the lower ground floor at the level of Portobello Place and the upper floor at the same level as Portobello Harbour. The rear boundary of No. 1 adjoins the gable wall of No 11 Portobello Harbour.

## **2.0 Proposed Development**

- 2.1. Permission is sought for:
  - Conversion of attic to storage and a bathroom, including a dormer window to the rear elevation;
  - 2 conservation roof lights to the front elevation at roof level;
  - A balcony at first floor level to the rear.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. On 24<sup>th</sup> July 2023 the Planning Authority issued a split decision as follows:
  - Grant permission for the conversion of the attic to storage and a bathroom, including dormer window to the rear elevation, 2 conservation roof lights to the front elevation all at roof level, subject to 8 conditions. The following conditions are of note:

Condition 2: Prior to the commencement of development the applicant shall submit the following amendments for the written agreement of the Planning

Authority: (i) The dormer window shall be reduced to a maximum width of 3m.  
(ii) The dormer shall be set down from the ridge of the roof by 100m.

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

Condition 5: The attic space hereby approved shall not be used for human habitation unless it complies with the current building regulations.

Reason: To provide for an adequate standard of development.

- Refuse permission for the balcony at first floor level to the rear for the following reason:

The proposed balcony at upper ground level is considered to seriously impact on the amenity of the property due to its location above an existing lower ground floor window and on the neighbouring properties in relation to noise and overlooking and as such is considered contrary to Appendix 18, section 1.4. The balcony is also considered to negatively impact on the existing character of the terrace and would set a precedent for other similar unsuitable developments and would therefore be contrary to the Z1 zoning objective of the site and the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

3.2.1. The local authority planning reports can be summarised as follows:

- The proposed conservation roof lights and dormer window are considered acceptable subject to the dormer being set down from the ridge of the roof and reduced in width.
- The proposed balcony is considered to be unacceptable due to the impact on the property and on neighbouring property's residential amenity.

3.2.2. Other Technical Reports

The report of the Drainage Division indicates no objection subject to standard conditions.

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

Four observations were received in relation to the planning application. The issues raised are comparable to the issues raised in the third party appeal.

## **4.0 Planning History**

Appeal Site:

WEB1165/24: Permission granted for new ground floor, single storey flat-roofed extension with a roof garden at first floor level to the rear.

4490/17: Permission granted for single storey flat-roofed extension with a roof garden at first floor level to the rear. This permission was not implemented and has expired.

Adjoining Site to North:

2006/18 / PL29S.301305 Permission granted by the planning authority and refused on appeal for a two storey extension to the rear of No. 2 Portobello Place. The reason for refusal relates to the height and two storey nature which would obstruct and diminish sunlight and daylight and would seriously injure the residential amenities of adjoining properties.

3746/19 Permission granted by planning authority for a single storey extension to rear.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Dublin City Development Plan 2022 - 2028 is the relevant development plan for the area. The appeal site is zoned Z1: Sustainable Residential Neighbourhoods, with the associated land use objective *to protect, provide and improve residential amenities*.
- 5.1.2. Appendix 18, section 5.0 refers to attic conversions and dormer windows. It states: “The conversion of attic spaces is common practice in many residential homes. The use of an attic space for human habitation must be compliant with all of the relevant design standards, as well as building and fire regulations. Dormer windows, where proposed should complement the existing roof profile and be sympathetic to the overall design of the dwelling. The use of roof lights to serve attic bedrooms will be considered on a case-by-case basis. Dormer windows may be provided to the front, side or rear of a dwelling”.
- 5.1.3. Guidelines for attic conversions and the provision of dormer windows are set out in Table 18.1 which includes the following relevant considerations: use complimentary materials; meet building regulation requirements; be visually subordinate to the roof slope, enabling a large proportion of the original roof to remain visible; relate to the shape, size position and design of existing doors and windows; be set back from the eaves; sit below the ridgeline of the roof; do not obscure the main ridge and eaves features of the roof; avoid extending the full width of the roof; avoid being over dominant in appearance; avoid extending above the main ridge line.

### 5.2. National Inventory of Architectural Heritage

- 5.2.1. No.'s 1 – 4 Portobello Place are included on the NIAH, Reg. No. 50110132. The terrace is identified as of regional importance. The NIAH appraisal includes the following “the terrace retains much of its original form and character, enhanced by the survival of some early doorcases. Although modest in scale, the houses exhibit some ornamentation, including a decorative leaded fanlight and exposed granite stringcourse”.

### **5.3. Natural Heritage Designations**

- 5.3.1. There are no SAC or SPA in the vicinity of the site. The Grand Canal proposed NHA is located 50 metres to the south of the site.

### **5.4. EIA Screening**

- 5.4.1. See Appendix 1 - Form 1 EIA Pre-Screening attached to this report. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, to the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, to the established suburban nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Two third party appeals have been received from Charlotte Fenning, 3 Portobello Place and from Roland Ramsden of Edenvale Road, Ranelagh. The issues raised can be summarised as follows:

- The attic will be used for habitable purposes which contravenes health, safety and fire regulations for a habitable space and does not comply with building regulations. A dormer is not necessary for storage requirements.
- The development does not comply with the requirements of the Dublin City Development Plan 2022-2028, including Appendix 18 Section 4.0, Section 5.0 and Table 18.1 relating to dormer window guidance, does not comply with the Z1 zoning objective “to protect and improve residential amenities”, and is not in accordance with the proper planning and sustainable development of the

area. Dublin City Council failed to have sufficient regard to their Development Plan in granting permission.

- Notwithstanding the condition by the Planning Authority to reduce the dimensions of the dormer the roof coverage will be 50% which goes against Development Plan Table 18.1 Dormer Window Guidance which requires dormer windows “be visually subordinate to the roof slope, enabling a large proportion of the original roof to remain visible”. The scale of the dormer is not subordinate, extends above the ridgeline of the existing roof and does not allow for a large proportion of the original roof to remain visible. The condition relating to amendments to the dormer fails to address the concerns raised.
- Portobello Place is below street level and the dormer is therefore closer to street level than would normally be the case and within direct eyeline of pedestrians. The dormer will obstruct visibility of the roofs of No. 1-4 which are visible from Portobello Harbour, does not complement the roof profile of these dwellings and will have a detrimental visual impact on the character of the rear of the terrace. Permitting the dormer sets a precedent for further similar development which would further degrade the roof profile.
- The increased height at No. 1 as a result of the dormer will have a negative impact on sunlight and daylight in the rear gardens of No. 3 and No. 4 Portobello Place. This breaches the zoning objective “to protect, provide and improve residential amenities”.
- Attic space serving No.’s 1 – 4 Portobello Place has no party wall divisions and the proposal results in a fire hazard to adjoining properties resulting in health and safety concerns.
- The development will have a negative impact on the visual and residential amenities of the area and would set a precedent for other similar, unsuitable development proposals.
- No.’s 1 – 4 are listed on the NIAH as being of regional importance. The dormer and roof lights will have a detrimental visual impact on the terrace which the NIAH states “retains much of its original form and character” and will impact on the architectural heritage.

- The attic space will not comply with building regulations relating to habitable rooms and a condition is attached to the grant of permission to this effect. As such there is no need for two roof lights and a bathroom as it will be rarely occupied if not used as a habitable room.
- The development does not comply with fire safety regulations.
- A previous proposal on the site was refused permission on appeal in which the inspectors report referred to concerns over the impact of that development on residential amenities of Portobello Place and the precedent that would be set.
- The proposed development is in close proximity to appellant's home (on Edenvale Road).

## **6.2. Applicant Response**

None received.

## **6.3. Planning Authority Response**

None received.

## **6.4. Observations**

One observation received from Philip O'Reilly, Gandon Close, Harolds Cross. The issues raised can be summarised as follows:

- The terrace of houses at Portobello Place is unique, the houses are built in a restricted area below the surrounding ground levels and are deprived of natural light. Existing light levels are restricted due to a limited corridor by which natural light can reach the houses and the fact that the houses are built one storey below the ground level at Portobello Harbour. The level of the dormer would be below the first-floor level of the adjacent house at No. 11 Portobello Harbour thereby closing off the space between the two properties and reducing the amount of natural light to the rear of other houses on Portobello Place resulting in degradation of their residential amenity.



- It is an oversight of the local authority that they have not been included on the list of protected structures and they should be protected.
- The houses at Portobello Place are largely in their original condition with original features, including their original roof profiles, are still intact and the four houses form a unified whole and the proposed development would have a detrimental visual impact.
- The development would result in overshadowing of properties to the north.
- Attic spaces are not separated with one open attic across the terrace and the attic space is unsuitable for any purpose and should be retained as a void attic space.
- If the attic is to be used as storage space as proposed then there is no need for rooflights, a dormer window and ensuite. The ensuite reduces available storage space.
- The development will result in a fire hazard.
- The proposed balcony would result in overlooking and would block light to neighbouring properties and the applicant's property and is a security risk.

## 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Impact on Visual and Residential Amenities
- Other issues

### 7.2. **Impact on Visual and Residential Amenities**

7.2.1. The rear dormer as originally proposed in the planning application would sit approximately 1.2m from the southern side elevation adjoining Portobello Harbour, 0.6m from the boundary with the adjoining house at no. 2 to the north and 5.1m from

the side elevation of no. 11 Portobello Harbour to the east. The dormer is in line with the ridge of the roof and is set approximately 0.5m above the eaves. The planning authority considered the proposed dormer to be acceptable subject to a condition requiring that the dormer be set down from the ridge of the roof and reduced in width. Condition 2 of the grant of permission requires that the rear dormer shall have a maximum width of 3m and shall be set down from the ridge of the roof by 100mm. The first party has not appealed this condition and noting the nature of the third party appeal, if permission is granted I consider it appropriate to amend the dormer as per the Planning Authority's condition.

- 7.2.2. I note that there are no rear opposing windows facing the proposed dormer and as such it would not result in any undue overlooking. The site is located perpendicular to and visible from Portobello Harbour. I consider that the proposed dormer, as amended by the planning authority to reduce the scale and set it below the ridge line, will be in line with the Development Plan criteria as it will be subordinate to the roof, will be set back from the eaves and below the ridgeline and will not be overly dominant in appearance. The dormer window will be visible from Portobello Harbour when approaching from the east, however having regard to the design and scale proposed, I consider the dormer is in keeping with the existing pattern of development in the area and will not result in a negative visual impact when viewed from the public road.
- 7.2.3. In relation to concerns that the dormer will impact on sunlight and daylight, I note that the existing rear gardens are narrow in form and any overshadowing or loss of light that occurs would be from existing dwellings. Having regard to the scale of the proposed dormer I am satisfied that it would not result in any significant reduction of daylight or sunlight to surrounding properties.
- 7.2.4. In relation to concerns that the dormer will result in a negative impact on the character of the area, I note that the site is not located within any conservation area nor are there any protected structures within the immediate vicinity of the site. As noted by the third party's the site and the terrace it forms part of are included on the NIAH and identified therein as of regional importance. I consider that the scale of the proposed dormer as amended by the planning authority is such that it will complement the existing roof profile and be sympathetic to the overall design of the dwelling and will remain a subordinate structure. Whilst the dormer will be visible on approach to the site from

the east along Portobello Harbour, I consider that the proposed painted rendered finish and dark grey roof are in keeping with the existing dwelling and the central positioning of the dormer allows it to be clearly read as an attic conversion rather than a third storey. I am satisfied that the dormer is in keeping with the pattern of development in the area and will not have a negative impact on the character of Portobello Place and that there will be no undue or adverse visual impact arising from the proposed development.

- 7.2.5. Having regard to the scale and design of the dormer I am satisfied that it would not be overbearing when viewed from the rear gardens of adjoining properties, would not result in any undue overlooking and would result in an acceptable form of development when viewed from the public road and would be in accordance with the provisions of the Section 5 of Appendix 18 of the development plan.
- 7.2.6. Two roof lights are proposed to be positioned on the front roof slope close to the ridge. The rooflights measure approximately 0.7m wide by 0.8m high. Having regard to the scale and design of the roof lights I am satisfied that they will not result in any significant negative impact on the visual amenities of the area and will be in keeping with the established pattern of development and the character of the area.

### **Other Issues**

- 7.2.7. In relation to concerns raised by the observer that the planning authority should include the properties at Portobello Place on the record of protected structure, I consider this a matter for the planning authority during the preparation of the Development Plan and is not a matter for this appeal.
- 7.2.8. In relation to concerns relating to non-compliance with Building Regulations and fire safety, I note these matters are governed under separate codes. The Planning Authority attached a condition requiring that the attic shall not be used for human habitation unless it complies with the current building regulations. Having regard to the nature of development proposed, if the Board decides to grant permission, I consider it appropriate to attach a condition to this effect in order to ensure an adequate standard of development.

- 7.2.9. The first party has not appealed the decision of the planning authority to refuse permission for the proposed rear balcony. I agree with the planning authority's decision that the balcony would result in a negative impact on the residential amenity of the host dwelling as a result of loss of light to the rear bedroom at lower ground floor and having regard to its overbearing nature. I recommend that permission be refused for this aspect of the proposed development.

## **8.0 AA Screening**

- 8.1. Having regard to the nature and scale of the proposed development in a serviced urban area and the distance from 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 a European site.

## **9.0 Recommendation**

I recommend a split decision with permission granted, subject to conditions for the proposed dormer and roof lights for the reasons and considerations set out under Schedule 1 below together with the conditions thereunder and that permission be refused for the proposed rear balcony for the reasons and considerations set out under Schedule 2 below.

## **10.0 Reasons and Considerations**

### **Schedule 1 Reasons and Considerations**

Having regard to the zoning objective for the site, the provisions of the Dublin City Development Plan, 2022 -2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or the character of the terrace of houses on Portobello Place. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Schedule 2 Reasons and Considerations**

The proposed rear balcony would obstruct and diminish sunlight and daylight at the rear of No. 1 Portobello Place and would constitute an overbearing feature, and as such would seriously injure the residential amenities of adjoining properties, would set an undesirable precedent for other similar development and would be contrary to the proper planning and development of the area.

### **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 scale of the proposed dormer shall be reduced to a maximum width of 3m and shall be set down from the ridge of the roof by 100mm.

**Reason:** In the interest of the visual amenity of the area.

3. The attic space hereby approved shall not be used for human habitation unless it complies with the current building regulations.

**Reason:** To provide for an adequate standard of development.

4. Site development and building works shall be carried out only between the hours of 0700 to 1900 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

5. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and surface water management.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Bernadette Quinn  
Planning Inspector

28<sup>th</sup> May 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	<b>ABP-317845-23</b>		
<b>Proposed Development Summary</b>	Conversion of attic and all associated site works.		
<b>Development Address</b>	1 Portobello Place, Portobello, Dublin 8, D08 W7C6.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>	X	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_