



An
Bord
Pleanála

Inspector's Report ABP305569-19

Development	Construction of a detached dwelling in side garden of existing dwelling.
Location	No. 39 St. Kevin's Park, Dartry, Dublin 6.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB 1434/19.
Applicants	Pauline and Ronan O'Connell.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	John Kehoe.
Observer	Philip O'Reilly.
Date of Site Inspection	8 th January, 2020.
Inspector	Paul Caprani.

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1.0 Introduction

ABP305569-19 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the construction of a detached house with pitched roof and rooflight on a side garden in a suburban residential estate at St. Kevin's Park, Dartry. The grounds of appeal argue that the proposed dwellinghouse will adversely impact on the visual amenities of the area through overshadowing and visual intrusion. The appeal goes on to argue that the proposed dwelling is also of an inappropriate architectural design and would set an undesirable precedent for development which is out of character with the pattern of development in the area.

2.0 Site Location and Description

- 2.1. The subject site occupies a side garden at No. 39 St. Kevin's Park, a mature residential estate located to the south of Highfield Road and to the north of the River Dodder in the suburban area of Dartry, approximately 4 kilometres due south of Dublin City Centre.
- 2.2. St. Kevin's Park comprises of an attractive verdant, inner suburban area comprising on the whole of two-storey, semi-detached redbricked dwellings incorporating projecting bay windows with granite bands above. No. 39 is located on the northern side of the road and incorporates a large side garden to the west of the house. This side garden incorporates mature planting and a detached single shed at the rear corner of the site.
- 2.3. A pair of semi-detached dormer bungalows (Nos. 37 and 38) face eastwards onto the subject site and towards the side garden of No. 39. Nos. 37 and 38 St. Kevin's Park back onto St. Luke's Hospital. Nos. 37 and 38 have relatively modest sized front garden lengths at approximately 7 metres.
- 2.4. The subject site which is to accommodate the new dwelling has a stated area of 627 square metres (0.627 ha). It is approximately 50 metres in length. The front

boundary of the site is approximately 15 metres in width and this tapers down to 10 metres in width to the rear.

3.0 Proposed Development

3.1. Planning permission is sought for the construction of a two-storey three-bedroomed dwelling on the subject site. The dwellinghouse rises to a ridge height of between 7.95 and 8.47 metres in height. It incorporates a slate/tiled roof with a redbrick external finish and matches the ridge height of the adjoining dwelling at No. 38 St. Kevin's Park. The ridge height of the proposed dwellinghouse at No. 39 St. Kevin's Park is approximately 1.5 metres higher than the proposed dwelling. The dwellinghouse accommodates a floor area of 172 square metres. All living accommodation is located at ground floor level with sleeping accommodation in the three bedrooms at first floor level. The front building line of the dwelling matches that of the dwellings to the east.

4.0 Planning Authority's Decision

Dublin City Council issued notification to grant planning permission subject to 9 standard conditions.

4.1. Documentation Submitted with Planning Application

- 4.1.1. The planning application was accompanied by the following reports.
- 4.1.2. A Planning Report prepared by Sheridan Woods Architecture. It states that planning permission was previously refused for a dwellinghouse on site by An Bord Pleanála (see Planning History below) and it is considered that the main reasons stated in the refusal has been addressed in the current application. The report goes on to describe the site and the particular characteristics of the site that lend itself to the accommodation of an additional dwelling. The report goes on to argue that the proposed development respects and maintains the amenity of adjoining dwellings at No. 39 and No. 38 St. Kevin's Park. The relevant policies and objectives as they relate to infill residential development of this nature are set out in the planning report. The report also sets out details of the pre-planning consultation and the key issues which were raised in the pre-application consultations. Finally, the report sets out

details of the quantitative standards relating to the development, and argues that the proposed development is in general compliance with the minimum standards set out in the development plan.

- 4.1.3. An Engineering Report was also submitted which sets out details of the stormwater drainage, flood risk assessment which concludes the subject site is not at any significant flood risk from pluvial flooding, groundwater flooding or public drainage flooding. The report sets out details of the foul water drainage. It notes that foul water generated by the proposed development can be adequately catered for by existing foul infrastructure drainage.
- 4.1.4. A shadow Study was also submitted with the application.

4.2. **Assessment by Planning Authority**

- 4.2.1. A report from the Drainage Department states that there is no objection to the proposed development subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works together with other standard conditions.
- 4.2.2. The planning report notes that the proposed development would provide a dwelling to the front of the site that would maintain the front building line with the adjoining house at No. 39 and would also match the ridge height of No. 38 St. Kevin's Park. It is also noted that a shadow study was submitted with the application and that overshadowing of the adjoining property at No. 38 would occur. However the majority of overshadowing would be to the front of the house while the amenity space and habitable rooms to the rear would be unaffected. Accordingly, it is not considered that the proposed development would have a significant negative impact in terms of overshadowing. It is noted that two windows are proposed at first floor level facing No. 38. One of the windows serves a void to the kitchen at ground floor level and the second windows serves a master bedroom and would be fitted with obscure glazing. As a result, it is not considered that the proposal would give rise to significant overlooking of neighbouring properties. Overall therefore it is considered that the proposed development would not have a significant negative impact on the residential amenities of property in the vicinity and would therefore be acceptable.

On this basis Dublin City Council issued notification to grant planning permission for the proposed development subject to 9 standard conditions.

5.0 Planning History

- 5.1. One relevant history file is attached under ABP302373-18. An Bord Pleanála upheld the decision of Dublin City Council and refused planning permission for the demolition of a garage and the construction of a two-storey detached three-bedroomed house with all associated works on the subject site. An Bord Pleanála refused planning permission for one reason which is set out in full below.

It is considered that the proposed development, by reason of scale, roof form and siting on this side garden/corner site would be out of character with the pattern of development in the area, would adversely impact on the surrounding residential conservation area and would set an undesirable precedent for similar backland development. Furthermore, the Board is not satisfied that the proposed development would integrate with other dwellings in the vicinity. It is considered therefore that the proposed development would seriously injure the amenities and depreciate the value of residential properties in the vicinity and would be contrary to the relevant provisions of the Dublin City Development Plan 2016 – 2022 and the proper planning and sustainable development of the area.

This decision was dated the 7th December, 2018.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council to issue notification was the subject of a third party appeal from Mr. John Kehoe of No. 38 St. Kevin's Park. The grounds of appeal are outlined below.
- The applicants were last year refused planning permission to build a house of a very similar scale and design in a different part of their garden.
 - The proposed development would by reason of mass, height, roof form and siting cause a serious loss of visual amenity and overshadowing to the appellant's dwellinghouse.

- The applicants have not overcome the reasons for refusal set out in the previous An Bord Pleanála order under 302373-18.
- The architectural design of the proposed development is not in keeping with the area which attracts a Residential Conservation Zoning (Z2).
- It is noted that the main difference between the current application and the previous one refused, is that the house would now be located to the applicants' side garden (where it was previously located in the back garden). While this may have resolved the issue in relation to backland development, it has left all the other An Bord Pleanála refusal reasons unresolved. It has also intensified concerns with regard to visual intrusion and overshadowing.
- Concerns are expressed in relation to overshadowing, particularly in terms of the afternoon sun. The dwelling now proposed is higher than that rejected previously. The applicants in this instance has only exacerbated the inspector's concerns with regard to An Bord Pleanála's previous reason for refusal. Contrary to what is stated in the local authority planning report, the impact in terms of overshadowing on habitable rooms to the front of the house is deemed to be unacceptable to the appellant.
- It is considered that the shadow casting study submitted with the application understates the overshadowing which will occur to the appellant's house in the early morning period during the summer (21st June).
- The An Bord Pleanála Inspector's Report in relation to the previous application, noted that although tucked away in the applicants' back garden, the proposal would have caused significant visual intrusion to neighbours. It is argued that the re-siting of the subject site would greatly increase the intrusion. Dublin City Council's planning report contained no analysis as to how visual intrusion concerns may have been overcome by the proposal. It is also argued that when compared with the rejected proposal under the previous application, the setback between the existing and proposed dwelling will have in fact been reduced as opposed to increased which will further exacerbate the visual intrusion. It is argued that the applicants' house could not accommodate an additional house of the scale proposed without materially impacting on neighbour's amenity. The applicants under the

previous application readily acknowledged that a dwellinghouse in the position now proposed, would visually intrude on the existing dwellings at Nos. 37 and 38 and this option therefore is not considered appropriate.

- The building would form a physical barrier approximately 14 metres long rising to a height of 8 to 9 metres with the kitchen/dining/livingroom directly overlooking the boundary hedge.
- It is argued given the nature of the layout of dwellinghouses around this corner of St. Kevin's Park that the proposed development would not adequately integrate with other developments in the vicinity and this concern was raised in the previous reason for refusal and has not been adequately addressed under this application.
- The granting of planning permission in this instance could establish a precedent for similar type two-storey dwellings on side gardens. It is argued that the applicants' garden is by no means unique for St. Kevin's Park.
- In terms of architectural design, it is argued that the proposed development is strikingly similar to that refused under the previous application. Details of the previous and current application are depicted in the grounds of appeal (see section 3.9.5 of appeal). It is stated that the overall design remains strongly contemporary with its shallow roof pitches, squat footprint and floor to ceiling windows. The design is out of place. The existing buildings in St. Kevin's Park which were built approximately a century ago share a range of architectural features which are characteristic of all the existing dwellings. The current application constitutes a more contemporary discordant feature which does not contribute to the existing character of the area or the Z2 zoning objective relating to the site.
- It is also argued that the architectural finishes proposed in the current application before the Board are somewhat vague. It is not appropriate that this would be addressed by way of condition. The design appears to be very similar to the previous application which was rejected by both Dublin City Council and An Bord Pleanála.
- The grounds of appeal go on by way of illustration to describe the distinctive architectural features, details and materials which are common to all houses

throughout St. Kevin's Park making specific references to the window shapes and sizes, the lintels and window cills, the front door openings, the reception rooms, the roof forms and chimneys

- Finally, the ground of appeal make reference to the provisions contained in the Dublin City Development Plan and in particular section 16.10.9 which relates to corner/side garden sites. The Planning Authority has set down detailed criteria in assessing proposals for development on corner/side garden sites. It is noted that An Bord Pleanála Order APB 302373 specifically identified the issue of the side garden/corner site as a refusal reason. The current application shows no analysis as to how the criteria set out in the development plan might be satisfied under the current application.

7.0 Appeal Responses

7.1. A response was received from Sheridan Woods Architecture and Planning Consultants. The response is set out below.

- It is stated that each of the issues raised in the previous decision to refuse planning permission have informed the current design proposal. It is argued that the proposal integrates with the character of the area and protects the visual amenity of the conservation area.
- A design statement attached (Appendix A) indicates how the proposed development integrates with other developments in the vicinity.
- It is stated that the front of the proposed house is aligned with neighbouring houses (Nos. 39 St. Kevin's Park) and the separation distance between No. 39 and the proposed house is 7.5 metres which is in keeping with the rhythm of the separation distance between each pair of semi-detached houses along the road. The scale, form and height of the dwelling is also designed to integrate with neighbouring houses.
- The proposed dwelling is more conventional in appearance and is aligned to adjoining dwellings presenting the eaves and the pitched roof to the street and the gable to the side.

- With regard to the architectural design, roof form, finishes and architectural features, reference again is made to the design statement prepared by GKMP Architects attached as Appendix A. It is noted that Dublin City Council provide guidance in relation to contemporary design approach for residential extensions and the general advice is to match the existing buildings and fit in with the neighbourhood. However, the Council also supports good contemporary design options and An Bord Pleanála are requested to accept that the design of the dwelling conforms with the overall design approach set out in Appendix 17 of the development plan.
- With regard to overshadowing, sunlight and daylighting, reference is made to Appendix B of the submission. It concludes that there will be some additional overshadowing to the eastern side of No. 38's garden at 9 a.m. on the 21st March. There is no additional overshadowing at 12 noon or 3 p.m. The analysis clearly shows that the garden easily meets the BRE Guidelines requirement of having at least 2 hours of sunshine on 21st March. It is also worth noting that while the existing chestnut tree along the common boundary is not taken into consideration in the overshadowing analysis the removal of the tree will increase the extent of sunlight to the front of No. 38.
- In terms of sunlight the report identifies that the only relevant window that could be adversely affected is the south-east facing portion of the projecting bay window and concludes that the level of sunlight for this window is not reduced.
- In terms of daylight penetration, the report undertaken also indicates that there will be an imperceptible impact on the windows of No. 38 in terms of daylight penetration.
- In conclusion therefore, it is stated that the development, positioned at a minimum distance of 10 metres from No. 38 creates a minimal overshadowing impact which is limited to the early morning period. Finally, it is noted that the planner's report incorrectly stated that the development would generate overshadowing to the habitable room to the front of No. 38.
- With regard to visual intrusion, it is stated that the position of the proposed dwelling to the front of the site addresses the previous concerns of An Bord

Pleanála. The separation distances between the gable of No. 39 and the proposed dwelling is generally consistent with the separation distances between gables along the street. Any loss of amenity derived from the mature chestnut tree is ameliorated by the existing extensive mature planting. The presence of this planting together with the 10-metre separation distance will ensure that the proposed dwelling will not visually intrude on the amenity of No. 38. Furthermore, the gable windows proposed at first floor does not generate any overlooking. The applicants do not propose to make any alteration to the boundary of the property as part of the application.

- It is argued that the proposed development fully complies with the criteria set out in paragraph 16.10.9 of the Dublin City Development Plan in that the design of the proposed dwelling meets the above requirements and represents a sustainable use of serviced lands.
- With regard to precedent, it is submitted that the site is unique within the context of the environs of St. Kevin's Park. The proposed dwelling is a bespoke response to the particular site and as such will not set a precedent for similar development.
- Attached to the grounds of appeal are a design statement prepared by GKMP Architects and as Appendix B an overshadowing report.

7.2. Further Submission on behalf of the Applicant

7.2.1. This submission reiterates that the new proposal intensifies more of the concerns than it eases and argues that overall, very little has changed in respect of the current proposal before the Board over that which was previously refused.

7.2.2. With regard to overshadowing and loss of light, it is stated that the study submitted shows increased overshadowing of No. 38 on each of the mornings which it is modelled - yet states that the proposed house does not generate adverse overshadowing. No explanation is given for the errors in the previous study. The new study does not account for the direct overshadowing of habitable rooms to the front of the house. The Board are also requested to note that the overshadowing is longer lasting than the snapshots shown in the applicants' study. The first party response

argues that the BRE Guidelines have been met but provides no validating data such as probable sunlight hours. It is therefore not being demonstrated that at least half of the garden, which is predominantly north facing and relatively heavily planted, will continue to receive at least 2 hours of sun on the equinox.

- 7.2.3. Also in relation to loss of daylight, the first party response notes that this has not been modelled because it was not practicable. However, the impracticality of the modelling is not explained. For the above reasons the Board are invited to place limited reliance on the study submitted.
- 7.2.4. In terms of visual intrusion, the Board are requested to examine how a house of a similar scale sited directly in front of the appellants front door, with reduced setbacks will be less visually intrusive than one at the end of the backgarden. The setbacks in the current application have been reduced - not increased. The house is now c.9.4 metres from the appellant's house whereas the rejected application was c.16 metres from the house. For 100 years the appellant's house has looked onto a side long of the existing house. This will be replaced by a building 14 metres in length and 10 metres above ground level.
- 7.2.5. Concerns with regard to the integration of the house on the subject site are reiterated. The proposed development must respect and maintain the existing front and side building lines which exist.
- 7.2.6. The greater massing of the proposed development together with a contemporary form with its double height ceilings, floor to ceiling windows, chimneys and 2 metre protruding porch would result in an overbearing structure.
- 7.2.7. In terms of precedent, it is not considered that the site in question is unique or even especially large compared with neighbouring sites. Furthermore, there is insufficient detailing to argue that the design in question is bespoke. The precedent issue is very relevant and was expressly referenced in the Board's previous decision.
- 7.2.8. With regard to the overall design approach, it is stated that the applicants in this instance are inappropriately referring to Development Plan guidelines which relate to residential extensions which are not applicable here. The proposed development is not of such an exceptional quality that it would contribute positively to the character of the existing residential estate, particularly when located in a designated

Residential Conservation Area. St. Kevin's Park has retained much of the uniformity of design and stands out as a strong architectural template.

7.2.9. While it is acknowledged that national, regional and local planning policies clearly require the most effective use of lands this must be balanced against harming the receiving environment. For these reasons planning permission should be refused. Attached to the further submission as Appendix A, is a comparison table to assess the differences between the previous application and the current application.

7.2.10. The Planning Authority have not submitted a response to the grounds of appeal.

8.0 Observations

8.1. One observation was submitted from Mr. Philip O'Reilly of 18 Grosvenor Place, Rathmines. It argues that the proposed development would have serious detrimental impact on neighbouring properties which are of significant architectural merit. The area constitutes a unique character and the proposal would seriously adversely impact on this character. The design of the proposal is poor and does not respect its surroundings. The fact that conditions are required to incorporate obscure glass in the main functional rooms means that the development is seriously substandard. What kind of residential amenity can be expected from a development which has two first floor bedroom windows permanently fitted with obscure glazing? This is tantamount to permitting inferior and unacceptable residential development within the existing neighbourhood. The proposal does not comply with the objectives of the development plan and is unsuitable as it would result in a degradation of the residential amenity of adjoining properties.

9.0 Development Plan Provision

9.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The site is located in an area zoned Objective Z2 "*to protect and improve the amenities of Residential Conservation Areas*". Under this land use zoning objective, residential development is a permissible use. Relevant policies and standards set out in the development plan include the following:

Chapter 11 of the Plan sets out policies in relation to heritage and the built environment.

Policy CHC4 seeks to protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible.

9.2. Enhancement opportunities may include:

- Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
- Reinstatement of missing architectural detail or other important features.
- Improvement of public spaces and the wider public realm, and reinstatement of historic routes and characteristic plot patterns.
- Contemporary architecture of exceptional design and quality which is in harmony with the conservation area.

9.3. Development will not:

- Harm building spaces and original street patterns or other features which contribute positively to the special interest of the conservation area.
- Involve the loss of traditional, historic or important building forms, features and detailing including roofscapes, shopfronts, door, windows and other decorative detail.
- Introduce design details and materials such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors.
- Harm the setting of Conservation Area.
- Constitute a visually obtrusive or dominant form.

9.4. Chapter 16 sets out details of development standards. Section 16.10.9 relates to corner/side garden sites. The development of a dwelling or dwellings in a side garden of an existing house is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites and to a

high standard of design, can constitute valuable additions to the residential building stock of an area and will generally be allowed for by the Planning Authority on suitable large sites.

9.5. However, some corner/side gardens are restricted to the extent that they will be more suitable for extending an existing home into a larger family home rather than to create a poor-quality independent dwelling, which may also compromise the quality of the original house. The Planning Authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites.

- The character of the street.
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, height, parapet levels and materials of adjoining buildings.
- Impact on residential amenities of adjoining sites.
- Open space standards standards for both existing and proposed dwellings.
- The provision of appropriate car parking facilities, and a safe means of access and egress from the site.
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
- The maintenance of front and side building lines where appropriate.

9.6. Section 16.10.10 relates to infill housing.

9.7. Having regard to the policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the Planning Authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development; however in certain limited circumstances, the Planning Authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and underutilised lands in the inner and outer city is developed.

9.8. Infill housing should:

- Have regard to the existing character of the street by paying attention to the existing building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

9.9. Section 16.10.12 and Appendix 17 relate to extensions and alterations to dwellings.

10.0 Natural Heritage Designations

The subject site is not located within or adjacent to a natural heritage site or Natura 2000 site.

11.0 EIAR Screening Determination

Having regard to the nature of the development comprising of a single dwelling in an urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore be excluded by way of preliminary examination.

12.0 Planning Assessment

I have read the entire contents of the file and visited the site in question. I have also had particular regard to the issues raised in the grounds of appeal and the Board's previous reason for refusal under Reg. Ref. 302373 and I consider the following issues to be of importance in dealing with the application and appeal before the Board.

- The Principle of Development
- Whether or not the Proposed Development satisfactorily addresses the previous reasons for refusal having particular regard to the following issues:
 - Siting of the Dwelling
 - Failure to Integrate with Dwellings in the Vicinity

- Design and Scale of Development in a Residential Conservation Area
- Precedent Issues
- Impact on Residential Amenities

12.1. Principle of Development

- 12.1.1. The subject site is located in an area governed by the Z2 zoning objective which seeks to provide and improve the amenities of Residential Conservation Areas. Residential use is a permissible use under this zoning objective. Furthermore, the principle of infill development on corner/side gardens is acceptable in principle primarily on the basis that it makes the most efficient use of serviced residential lands in existing built-up areas. There are a number of policy statements contained in the development plan including Policy QH7 which seeks to promote residential development at sustainable urban densities throughout the city having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area. Policy QH8 seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area.
- 12.1.2. There are also numerous policy statements in the more recently adopted National Planning Framework
- 12.1.3. which seek to ensure that infill brownfield sites are developed within existing urban areas in order to ensure more compact urban development at sustainable densities in order to reduce land take, utilise existing infrastructure, improve the viability of public transport and creating a more walkable and cycling friendly urban environment.
- 12.1.4. The provision of infill development such as that proposed under the current application is therefore in my view in accordance with the zoning provisions and policies at local and national level to develop urban areas at sustainable densities and is therefore acceptable in principle. The development plan however also points out that such development will only be permitted subject to appropriate qualitative safeguards in relation to protecting the amenity of adjoining residential developments and protecting the character of Residential Conservation Areas. It is clear from the

planning history relating to the subject site, that the Board had concerns in relation to the previous application for a residential dwelling to the rear of the house. The sections below assess whether or not the concerns of the Board have been successfully addressed under the current application.

12.2. The Siting of the Dwelling

- 12.2.1. The most profound change under the current application is the relocation of the dwelling to the front of the site so that it maintains and extends the established building lines set by houses to the east of the site. The relocation of the footprint of the building to comply with the established building line addresses the Board's concerns in relation to backland development and furthermore results in a dwelling that is more compatible with the established character of the area.
- 12.2.2. With regard to the impact of the proposed dwelling on the character of the residential conservation area, I am generally satisfied that the overall design approach is appropriate. It is neither necessary or apt to slavishly adhere to the established design parameters of the existing character of the area even in the case of Residential Conservation Areas. In my view, the proposed dwelling respects the established character of the area with regard to roof profile and external elevational finishes with the extensive use of redbrick. While the applicant argues that the final details of the external finishes are not stated in the documentation submitted, I consider that any such details can be agreed by way of standard condition and that it is not necessary to detail every single aspect of external finishes in terms of exact colour, texture and materials to be used. I am also satisfied that the proposed fenestrations arrangements and window openings are suitably reflective of the overall character of established residential dwellings in the area.
- 12.2.3. Furthermore, the Board will note that there is no uniformity of design in the dwellings adjacent to the subject site. While No. 39 St. Kevin's Park comprises of a two-storey redbrick dwelling with a ridge height of c.10 metres; No. 38 St. Kevin's Park comprises of a smaller dormer bungalow with a ridge height of c.8 metres. The ridge height of the proposed dwellinghouse is similar to that of No. 37 and 38 St. Kevin's Park.
- 12.2.4. While the appellant argues that the proposed design essentially remains the same and therefore the Board's concerns with regard to the roof profile and impact on

character of the area remains unresolved, I consider the current application currently before the Board is much more acceptable than that previously refused in terms of complying with respecting the existing character of the area. In this regard I refer the Board to the south-east elevation as depicted under Drawing No. PO6 in both applications. The current application incorporates a roof profile which is much more sympathetic, constrained and reflective of the existing roof profiles of dwellings to the north-east compared with that previously refused by the Board.

12.2.5. The revised proposal currently before the Board in my view constitutes a significant improvement in terms of overall design. It results in a dwellinghouse which is more compatible with the existing architectural character of the area, while not mimicking the exact design features of adjacent dwellings, it is reflective of the architectural style and character of the area and represents an appropriate transition between the building heights at Nos. 39 and 37/38 St. Kevin's Park. In this regard I do not consider that the overall design and scale of the proposal is incompatible with that of the existing environment nor do I consider that the proposal represents an undesirable precedent for similar type developments. I further note that there is little scope for similar type developments within the estate as there are few side gardens of a similar size and scale.

12.3. Impact on Residential Amenity

12.3.1. With regard to the impact on residential amenity, this issue in my view is the critical issue in determining the current application. While the previous application before the Board created concerns in relation to backland/piecemeal development and overall design and scale, the current application before the Board while addressing many of these issues, nevertheless creates new concerns in my view, particularly in relation to the impact on amenity for the occupants of No. 38 and to a lesser extent the occupants of No. 37 St. Kevin's Park. The relocation of the building from the rear to the front of the side garden results in the insertion of a large structure to the immediate front of No. 38. The problems exacerbated by the fact that No. 38 has a relatively modest front garden depth and contrary to what is stated in the local authority's planner's report, it is clear from the grounds of appeal that the front section of No. 38 incorporates habitable rooms and enjoys a significant level of visual amenity facing onto the front garden of No. 38 and the side garden of No. 39.

Under the current application, the side gable of a new dwellinghouse almost 15 metres in length and between 5 and 7 metres in height will be located directly to the front of No. 38 St. Kevin's Park. This in my view will have a profound visual impact on the amenity enjoyed by the occupant of No. 38. There can be little doubt in my view that while the current development may allay both the Planning Authority and the Board's concerns regarding the backland/non-integrated relationship with the existing character of the residential estate, it exacerbates the adverse impact in terms of residential amenity for Nos. 37 and 38 St. Kevin's Park. The reduction in the separation distance between the bay window at No. 38 St. Kevin's Park and the existing sunroom at the side of No. 39 will be reduced from 24 metres to c.12 metres.

12.3.2. In terms of overshadowing the main impact on the appellant will arise during the morning time and will be profound during the winter months. While the impact on the garden area to the north of No. 38 would in my view be acceptable there could be no doubt that during the winter months particularly in November, December and January that the shadow cast from the proposed dwelling in early morning will inhibit direct sunlight into the habitable rooms to the front of the dwellinghouse. This will result in the reduction of natural illumination and solar gain during these months. This impact in my view will be material.

13.0 Conclusions and Recommendation

The key conflicting issues which the Board must reconcile in any determination of the current application is whether or not the proposal, in overcoming the previous reason for refusal creates additional problems in terms of its impact on the amenity of No. 38 St. Kevin's Park. It is my reasoned conclusion that while the principle of residential development on the subject site is acceptable and that the proposal by and large overcomes previous concerns which the Board had in issuing its reason for refusal under PL302373. Notwithstanding this, the proposal results in a development which would in my view have profound and unacceptable impact on the residential amenities of No. 38 and to a lesser extent No. 37 St. Kevin's Park and for this reason I consider the decision of Dublin City Council in this instance should be overturned and planning permission should be refused for the development based on the reasons and considerations set out below.

14.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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 a European site.

15.0 **Reasons and Considerations**

It is considered that the proposed development by reason of its location in the side garden of No. 39 St. Kevin's Park would have an unacceptable adverse impact on the residential and visual amenities of No. 38 and No. 37 St. Kevin's Park by reason of excessive overshadowing and adverse visual impact. As such the proposed development would be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

13th January, 2020.