



An
Bord
Pleanála

Inspector's Report ABP-301279-18

Development

The replacement of the existing single storey extension to the rear of the existing property with a larger single storey extension, along with all associated landscaping and site works.

Location

35 Bettystown Ave, Raheny, Dublin5

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

Web1540/17

Applicant

Clare Killane & David Anderson

Type of Application

Planning Permission

Planning Authority Decision

Granted

Appellants – 2no. 3rd Party

Roisin Ryan & Brian Dolan
James & Anna Cronin

Observers

None

Date of Site Inspection

26th July 2018.

Inspector

L. W Howard.

1.0 Site Location and Description

- 1.1 The application site is located at No.35 Bettystown Avenue, towards the eastern end of Bettystown Avenue, close to the junction with All Saints Road, and on the northern edge of St. Anne's Park, north Dublin City.
- 1.2 The site comprises a 2-storey end of terrace dwellinghouse, with a dash finish, and a pitched roof.
- 1.3 The site has been subdivided. A detached dwelling – No.35A Bettystown Avenue, has been constructed in the former side garden of the application site – No.35 (Reg.Ref.No. 3672/04).
- 1.4 There is a driveway to the front directly off Bettystown Avenue, enabling off street car parking.

2.0 Proposed Development

- 2.1 The replacement of the existing single storey extension to the rear of the existing property, with a larger single storey extension, along with all associated landscaping and site works.

3.0 Planning Authority Decision

3.1 Decision

- 3.1.1 Planning permission granted, subject to 5no. Conditions.
- 3.1.2 In the context of the 3rd Party Appeals lodged, the following are considered noteworthy –
 - C2 specifications regarding days and hours of site and building works.
Reason : to safeguard the amenities of adjoining residents.
 - C3 mitigation of negative impact of site development and construction works on the local adjoining road / street network.
Reason : ensure local roads / streets kept in a clean and safe condition
 - C4 specifications regarding foul and storm / surface water drainage
Reason : to ensure a satisfactory standard of development.
 - C5 compliance with specified noise control standards.
Reason : to safeguard the amenities of adjoining residents

3.2 Planning Authority Reports

The report of the Deputy Planning Officer can be summarised as follows :

3.2.1 The 'Principle' of Development

- The application site is zoned 'Z1 -Sustainable Residential Neighbourhoods'.
- The Z1 zoning objective is – "... to protect, provide and improve residential amenities".
- 'Residential' is a permissible use within the Z1 Zone.

3.2.2 Residential Amenity Impact

- Reference 3rd party concerns regarding –
 - the scale of the extension, and
 - impact on residential amenity.
- Noting the proposed scale, height, aspect and location of the proposed extension relative to adjacent properties, Planning Authority concern as to the threat of overshadowing particularly the adjoining property to the north – No.33 Bettystown Avenue.
- Applicant requested to provide a daylight and sunlight analysis study, particularly examining impact on the rear private open space of No33 Bettystown Avenue.
- Applicants F.I. response – 'A revised Daylight / Sunlight Study'
 - Reference submission of a daylight / sunlight analysis of the proposed development, which examines impact of the extension on the adjoining property to the north – No.33 Bettystown Avenue.
 - Note the reduction in the height of the extension, and that the analysis was completed using the amended proposal.
 - Consider 'overshadowing' consequent of the proposed extension as minimal. Ranging between 1.98% and 4.18%.
 - Conclude consideration that the proposed extension will not unduly overshadow the adjacent property to the north – No.33 Bettystown Avenue.
- Notwithstanding the 1.0m separation distance between the proposed extension and No.35A Bettystown Avenue, Planning Authority

concerned the proposed extension will have an 'overbearing' impact on the adjacent property, particularly having regard to the restricted nature and triangular form of the rear private open space of the adjoining property (ie. at the rear elevation of the house is c.2.8m in width).

- Further concern regarding –
 - the level of glazing, particularly the proposed high-level glazing on the north facing side elevation of the proposed extension, and
 - its impact in terms of light pollution on the adjoining property to the south – No.35A Bettystown Avenue.
- Applicants F.I. response – 'A revised Daylight / Sunlight Study'
 - Note F.I. submission of a revised proposal in which –
 - the overall height of the extension has been reduced by c.500mm.
 - the high-level glazing has also been reduced by c.500mm.
 - the perforated block detail has been increased to cover the high-level glazing to the rear of No.35A Bettystown Avenue to the south.
 - Consider that the perforated brick panel addresses overlooking and light pollution from the proposed extension.
 - Having regard to the revised reduction in height, consider that the proposed extension will not appear overbearing in relation to adjoining property.

3.2.3 Flood Risk Assessment :

- Application site located within Flood Zone 'C'.
- Reference that the City Drainage Division has no objection to the proposed development, subject to Conditions.

3.2.4 Appropriate Assessment :

- The proposed development has been screened for AA.
- No significant effects are likely to arise, either alone or in combination with other plans and projects, that will result in significant effects to any Natura 2000 area.

- Conclude a full Appropriate Assessment of this project is not required..

3.2.5 Having regard to –

- the nature and scale of the proposed development
 - the established pattern of development in the area, and
 - the ‘Z1 – Sustainable Residential Neighbourhood’ zoning designation,
- consider that the proposed development is in accordance with the proper planning and sustainable development of the area.

3.2.6 Recommend planning permission be granted, subject to Conditions

3.3 Other Technical Reports

3.3.1 Internal

Drainage Division –	No objection, subject to Conditions
Roads & Traffic Planning Division –	None

3.3.2 External / Prescribed Bodies

Irish Water –	None.
Irish Rail –	None.

3.4 Third Party Observations

3.4.1 Two 3rd party submissions noted received by the Planning Authority.

3.4.2 The issues argued included :

- the side access is a right of way to No.35A Bettystown Avenue
- the glazing on the side elevation of the proposed extension will overlook No.35A and impact on privacy
- due to the proposed height of the extension, it will appear overbearing in relation to adjoining property
- the proposed development results in the overdevelopment of the site
- the height and length of the extension will have a negative impact on the residential amenity of adjoining property.
- the extension will overshadow adjoining property
- the proposed development will impact on the development potential of adjoining property.

3.4.3 Confirmation the above were noted and taken into account, in the assessment of the proposed development, by the Planning Authority.

4.0 Planning History

3672/04 Permission granted for a detached 2-storey dwellinghouse, and associated site works to include new site entrance on a site at the side of 35 Bettystown Avenue, Raheny, Dublin 5.

5.0 Policy Context

5.1 Dublin City Dev. Plan (2016 – 2022)

Relevant provisions include (see copies attached):

S14.8 Primary Land-Use Zoning Categories :

Table 14.1 Primary Land-Use Zoning Categories

<u>Land Use Zoning Objective</u>	<u>Abbreviated Land Use Description</u>
Z1	Sustainable Residential Neighbourhoods

S14.8.1 Sustainable Residential Neighbourhoods – Zone Z1

Zoning Objective Z1 “To protect, provide and improve residential amenities.

Z1 Permissible Uses – include Residential.

(see copy of pg. 213 attached)

S16.2.2.3 Extensions and Alterations to Dwellings

Council to seek to ensure that the alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context, the amenity of adjoining occupiers, and integrated with the surrounding area.

S16.10 Standards for Residential Accommodation

S16.10.2 Residential Quality Standards – Houses

(see copy of pg. 311 attached)

S16.10.12 Extensions and Alterations to Dwellings

- the design of extensions to have regard to the amenities of adjoining properties, in particular, the need for
 - light, and
 - privacy
- the form of the existing building to be followed as closely as possible
- new development to integrate with the existing building through use of similar
 - finishes, and
 - windows
- Extensions to be subordinate in terms of scale, to the main unit
- Applications for extensions will only be granted where applicant has demonstrated the proposed development will –
 - not have an adverse impact on the scale and character of the dwelling
 - not adversely affect amenities enjoyed by the occupants of adjacent buildings in terms of
 - privacy,
 - access to daylight and
 - sunlight.

Appendix 17 Guidelines for Residential Extensions

The Guidelines provide general advice and design principles for residential extensions (see copy attached).

5.2 Natural Heritage Designations

None.

6.0 The Appeals

6.1 Grounds of 3rd Party Appeal – Roisin Ryan and Brian Nolan (No.33 Bettystown Ave.)

The 3rd party grounds of appeal are comprehensively set out in the documentation date stamped received by the Board 23rd March 2018. These may be summarised as follows :

6.1.1 Their concern is not against the applicants improving their dwellinghouse by way of extensions. Rather, the 3rd party appeal is lodged in response to the scale, design, location and aspect of the proposed development –

- on an already heavily developed site, and
- on the residential amenity currently enjoyed by the adjoining property to the north – No.33.

6.1.2 Proposed development, in current form, is an overdevelopment of the application site – No.35, due to previous development on the site

- Having regard to Condition No.7 attached to historical permission **Reg.Ref.No.3672** (ie. the 2-storey, 3-bed detached house adjacent and to the south built in c.2005 – No.35A Bettystown Avenue), request ‘reflection’ on the valid concern noted by Dublin City Council regarding the previous development on this site, and acknowledge that the proposed development is excessive given that Dublin City Council has concerns even for structures that would ‘normally constitute exempted developments’ (eg. conservatories or garden sheds).

6.1.3 The scale and height of the proposed development were highlighted as a concern of the Dublin City Council, and amendments were requested. However, 'scale' was not addressed in the amended plans.

- As part of the applicants F.I. response submission, the applicant agreed to reduce the height of the overall extension by c.500mm.
- This height reduction alone is not sufficient to significantly alleviate the concerns of the adjoining neighbours regarding overshadowing. In this regard, sustain concern that the overall scale of the extension remains.
- Whereas the architect references the hedge height as up to 2.7m, clarify that the hedge is in fact 2.0m high. This is best practice according to Site Layout Planning for Daylight and Sunlight.
- Contrary to the provisions of Chapter 16, Section 16.10.12 of the City Development Plan 2016-2022, the proposed extension development remains excessive and insubordinate, where impact by way of overshadowing and overbearing remains.
- Use of an inaccurate hedge height as a benchmark for the height of the proposed development, and the absence of external figures is questionable at best.
- In the interests of protecting residential amenity and orderly development, request the Board refuse planning permission for the proposed development.

6.1.4 The scale and design of the proposed development, is not consistent with existing local developments.

- Any development on the application site should be much more consistent with terrace properties / developments in the area, rather than end of terrace with large side gardens.
- Request the Board –
 - have regard to the referenced local examples of comparative developments, and
 - refuse planning permission for the proposed development –
 - it is not subordinate in terms of scale to the main unit,

- it is in contrast to the interests of orderly development,
and
- it will negatively impact the residential amenity.

6.1.5 The application of the 45degree approach illustrates the daylight (ie. the amount of light entering a room), will be impacted significantly by the proposed extension

- The ‘BRE 209 Site Planning for Daylight and Sunlight : A Guide to Good Practice’ sets out that the quantity and quality of daylight inside a room will be impaired if adjacent obstructing buildings, such as the proposed rear extension development, are large in relation to their distance away.
- Although the applicants completed and submitted a ‘Daylight and Sunlight Analysis Study’ (ie. as F.I. and in response to the Planning Authority’s F.I. request), 3rd party appellant concern that this was not adequately provided.
- Having regard to the 45-degree angle approach, comment that the centre point of their window closest to the application site is within the 45-degree area.
- This illustrates the significant impact the scale of the proposed development will have on their property – No.33, blocking significant ‘daylight’ to their kitchen and sitting room.
- Request the Board refuse planning permission for the proposed development due to the serious impact the proposed development will have on ‘daylight’ into the key living spaces of adjacent No.33.

6.1.6 The ‘Sunlight Diagram’ not deemed as ‘Adequate’ or ‘Best Practice’

- Concern regarding the vagueness and consequent accuracy of the applicants F.I ‘Sunlight and Daylight Analysis’ Study.
- Reference images showing their rear garden space with a 3m high post (“assumed final height”) erected at the 10m projection point along the shared boundary. These images demonstrate the serious impact the proposed development would have on sunlight.

- The difference between the existing shadow and the expected proposed shadow is very large, leaving a resultant c.1.0m of the 5.5m wide usable garden in sunlight (Images taken on 19th March 2018).
- The photographs submitted accurately illustrate the reduction that would be caused to their sunlight at No.33, were the proposed development to be granted planning permission.
- The combination of the height, projection and proximity to the shared boundary is the cause of the serious sunlight reduction.
- Request the Board refuse planning permission for the proposed development, due to the serious injury to their residential amenity currently enjoyed at No.33.

6.1.7 No 'permission' given by No.33 Bettystown Avenue to the applicant to build along the boundary line.

- State minimal conversation took place between the applicants and the 3rd party appellant's – No.33 regarding the proposed development.
- Specifically, no permission has been granted to the applicants regarding building on the boundary line.
- Confirm they have not given permission to the applicants –
 - to build on the boundary line, or
 - to remove the mature hedge growth.
- the proposed height and length of the wall along the boundary line, will have serious negative amenity impacts due to –
 - overshadowing, and
 - overbearing visual impact.
- besides no permission being granted to the applicants, building on the boundary line, would remove their hedges, and impact their residential amenity consequent of an overbearing structure being built on the boundary line with no set back.
- Doing so at the scale proposed, would significantly increase the overshadowing to the north at No.33.
- Any building on the site requires set back from the boundary, similar to the existing extension currently on site.

6.1.8 The overall increase of the original house size is excessive making the extension principal in terms of scale to the main unit.

- The proposed development would mean an 86% increase in the size of the original house, on an already heavily developed site, and with a design that negatively impacts both adjoining properties.
- “175% increase in the ground floor area”.
- Having regard to the proposed new floor space comprising –
 - 64% of the total ground floor area, and
 - 46% of the total site floor space,consider proposed development as excessive, contrary to Chapter 16, Section 16.10.12 of the City Development Plan 2016-2022.
- Rather, the additional space required for the applicant’s family can be achieved without the proposed scale, which is unsuitable for the application site and will seriously negatively impact adjacent properties.
- Request the Board refuse planning permission for the proposed development, due to the excessive increase of floor space on a small site, already heavily developed.

6.1.9 The angled sky-light projecting 10m on the north of the proposed extension is excessive, and will cause light pollution.

- Having regard to the excessive use of glazing proposed to the rear, south and north roof of the proposed extension, request the Board to refuse permission for the proposed development, consequent of negative impact on residential amenity, due to the impact on light pollution and privacy.

6.1.10 Protect the development potential of the adjoining property

- the proposed design and scale impacts the future development potential of the adjoining No.33.
- The proposed height and projection would render an average extension for the local area unviable, as daylight and sunlight would still be heavily reduced.

- Having regard to the negative impact on the development potential of adjacent No.33 request the Board refuse planning permission.

6.1.11 Landscaping concerns, as the plans appear to show the addition of trees along the boundary with No.33

- Additional trees to be planted along the shared boundary wall with No.33, demonstrates a further lack of consideration of the Daylight and Sunlight of No.33, as this would further impact sunlight and create overshadowing.
- Having regard to the negative impact on the sunlight available to No.33, request the Board refuse permission for the proposed development.

6.1.12 Overall ‘Conclusion’

- Noting the applicants requirement of space for their family, consider that this space be achieved in compliance with best practice and having regard to the local contextual patterns of development.
- Request the Board overturn the Planning Authority’s decision to approve planning permission, as the plans submitted have not adequately considered their concerns submitted.
- The space requirements for the applicant’s family can be achieved, without the proposed design and scale –
 - which is not suitable for the application site or the location, and
 - would seriously injure adjoining properties.
- If the Board are mindful to make amendments to the plans, request that the Board have regard to the following amendments –
 - reduce the outward projection of the extension beyond the existing rear elevation, to be in line with local developments which project 4.5m - 6.5m.
 - adequate set back from the boundary line
 - the roof design to be consistent with design of local developments thereby reducing impact on adjoining properties
 - remove / reduce large skylight on the north of the extension.

6.2 **Grounds of 3rd Party Appeal – Roisin Ryan and Brian Nolan (No.35a Bettystown Ave.)**

The 3rd party grounds of appeal are comprehensively set out in the documentation date stamped received by the Board 26th March 2018. These may be summarised as follows :

6.2.1 Their concern is not against the applicants proposed replacement of the existing extension. Rather, the 3rd party appeal is lodged in response to the scale and design, particularly of the proposed development.

Request the Board overturn the decision of the Dublin City Council, and refuse planning permission for the proposed development, in its current format.

6.2.2 Their property No35a is designated with the Zoning Objective Z1 – “to protect, provide and improve residential amenities”. Therefore, their property deserves equitable consideration under the Z1 Zoning Objective as the adjacent application site.

Rather, as it stands, the Planning Authority decision does not protect their amenity, but “dis-improves it”.

The grounds of appeal can be summarised as follows :

6.2.3 **Observations as already submitted still stand and proposed development remains contrary to the proper planning and sustainable development of the area.**

- Affirm no issue with a replacement extension being built, as well as no issue with the current extension.
- Rather, their concerns are to do with the design elements of the proposed development, which infringe their privacy and create an overbearing effect. These include :
 - the level of glazing and opening windows ((privacy in terms of both overlook and acoustic issues), and

- the scale and height of the extension, including the encroaching overhang.
- These design elements, which will negatively impact their property, are of aesthetic value rather than necessary to the function of the extension.
- Sufficiency of space and light within then extension can be achieved, without the requirement of :
 - A high mono-pitched roof with overhang,
 - 8 windows on the side gable facing their property – No.35a., and
 - 4 opening windows on the side gable next to No.35a.
- Emphasise regard to the acoustic privacy issue’ as an infringement on their privacy, due to the close proximity and positioning of these opening windows.
- Emphasise the combination of the height and the extra depth (ie. 9.55m) to be created, will result in the “sheer bulk and scale” of the ex5tension dominating their immediate rear space.
- Having regard to “the extenuating circumstances of the narrowness of our rear space, as well as the locational context, this impact is augmented”.

6.2.4 Concerns have not been adequately addressed in Further Information requested

- Reduction of the floor level of the proposed extension below the existing floor level, has implication that capacity exists to reduce the height further.
- Notwithstanding proposed height reduction by c.500mm, the overall height of the extension, including increased proximity of the overhang (ie. protruding into the less than 1.0m set back from the shared lateral property boundary with No.35a, will continue to have an overbearing effect.
- Note applicants (ie. Architect’s) reference of the existing hedgerow to benchmark the height reduction, and impact of the proposed extension. Application of this approach not considered as a fair gauge, as the

height of the hedgerow is variable. Further, the use in drawings of approximate (ie. 'circa') is deemed as too vague, leaving the height as open to further interpretation. Rather, measurements to be specified with more accuracy.

- Whereas proposed height reduced by c.500mm, no indication in the revised F.I. plans / drawings as to how the concerns regarding 'scale' have been addressed by the applicants.
- Rather the bulk and scale appear as unchanged.
- The replacement extension
 - will appear significantly more dominant in its locational context, and
 - pose far more negative impact on adjacent properties, than the existing extension structure.
- This does not demonstrate the subordinate approach advocated in the City Development Plan 2016-2022 Guidelines for residential extensions.
- Note no opaque glazing applied to the glazing behind the perforated brick finish. Therefore threat of light spillage and trespass will remain. The nature of, composition and dimensions of the proposed perforated brick finish remains unclear (eg. size of gaps between the bricks).
- The F.I. dropping of the high-level glazing did not 'significantly' decrease the level of glazing proposed. Effectively, no decrease in size has occurred, as the large middle section has just been lowered, rather than being reduced (ie. the size of this particular side window remains the same).
- Classification of this glazing as high-level as questionable, noting its F.I. lowered position. At the lowered position, closer to eye level, the threat of negative amenity impact due to potential 'light pollution' was been worsened.
- Therefore assertions that potential threats from 'light pollution', and 'overlooking' have been addressed, are questionable.

- Rather, potential threats from ‘light pollution’, and ‘overlooking’ have been worsened, having regard to the applicants F.I. plans and drawings.
- Note the applicants (ie. Architects) reference to potential ‘overlooking issues’ from adjacent No.35a. Rather, their concerns are with reference to potential overlooking from the proposed extension development, compromising their current privacy enjoyed within their kitchen space and their private patio leisure space to the immediate rear of their house
- Assert the ground level overlook, together with light pollution impact has not been remedied satisfactorily, consequent of the applicants F.I. submissions. Rather, these threats to their residential amenity remain unresolved.
- Note the applicants (ie. Architects) F.I. reference to 3no. examples of similar development locally, which is argued have a greater negative impact on adjacent residential amenities, than the current proposed residential extension at No.35 and its impacts on the adjacent No’s 33 and 35a.
- Rather, these referenced properties enjoy a much more favourable locational circumstance which moderates the impact of their respective extension developments. By way of comparison, point out :
 - the depth of the proposed No.35 extension is greater,
 - the roof profile of No.35 is pitched, as opposed to flat in the other examples
 - No.35 does not benefit from generous separation distances between adjoining properties, as the 3no. examples do
 - light issues are considerably dissimilar due to the orientation / aspect, and were alleviated due to previously existing extensions on adjoining properties adjacent to these 3no. sites
 - reference to a ‘typical’ exempted development is not relevant and unfair, having regard to the significantly different criteria applicable to exempted development, particularly regarding scale and bulk

- none of the cases referenced have the extent of glazing on a side gable, as is currently proposed at No.35

6.2.5 Permission was granted without appropriate Conditions attached

- Notwithstanding the Planning Authority's acknowledged concerns regarding the threat of negative impact on No.35a (eg. overbearing and intervisibility), in mitigation of which F.I. requests were made and F.I. submissions from the applicants received, point out that ensurance of such mitigation was not followed through by way of inclusion within the Conditions attached to the Planning Authority's decision to grant planning permission.
- Specifically, the Planning Authority's appraisal concerning the need for opaque glazing of the proposed high-level glazing on the south facing side elevation of the proposed extension, to be addressed "by way of Condition", has not materialised.
- Concern this omission may have been an unintended oversight, particularly as the applicant's (ie. architects) F.I. plans / drawings did not indicate that nay of the glazing proposed will be opaque.
- Request the Board examine this discrepancy and consider whether the serious concerns raised have been adequately addressed by the applicant's (ie. Architect) so as to enable the decision to grant planning permission without attaching specific Conditions ensuring mitigation of amenity impact concerns.

6.2.6 Misrepresentation in drawings and plans

- Notwithstanding their 3rd party objection submission, the applicant's F.I. plans and drawings sustain misrepresentation of the elevation of their house No.35a.
- Concern that "on paper", this allows for the proposed development to appear more favourably to the receiving environment.
- Notwithstanding the City Councils Guidance Notes regarding how to make a valid planning application, in compliance with the Planning regulations, the elevation rear view drawings submitted by the

applicant's, have never correctly depicted the restricted nature and triangular form of the rear private open space of No.35a (ie. at its narrowest is 2.13m across).

- Further, the 'wayleave' was never outlined in yellow, on any site plans submitted. Emphasise that had they not submitted their 3rd party objection, the fact that a 'wayleave' exists may have been overlooked altogether.
- Argue the misrepresentations within the plans and drawings submitted by the applicants (including F.I. submissions), make it difficult to decipher the true reality of the impact of the proposed extension on the adjoining properties. In this regard, attention is drawn to the following –
 - additional elements appear to have been added to the design, which were either not in the original application submission, or specified for attention in the Planning Authority's F.I. request.
 - two significantly larger opening sections of window now exist behind the perforated brick finish. Previously only one smaller opening window was shown.
 - the original selected render finish on the rear elevation has been changed to be part of the selected double glazed and sliding door window system (ie. incorporated as more glazing). Effectively the overall level of glazing of the extension may not have been reduced, but rather altered to another side of the building. Having regard to the additional glazing now added to the rear gable, the 3rd party appellants feel there is full capacity to remove the extensive side glazing which directly impacts their property – No.35a.
 - the continued misrepresentation of the contiguous elevation in relation to their property – No.35a. The plans and drawings fail to show the actual nature of the rear view of No.35a resulting from the irregular boundary definition of their No.35a property, along its southern lateral / side boundary, and which resulted in the Planning Authority description as "the restricted nature and

- triangular form of the rear private open space”. Emphasise this exceptional feature of their property warrants fair representation in the plans and drawings, for purposes of decision making.
- assume that the selected double-glazed window system onto the ‘wayleave’ which serves the proposed WC, will not open onto the shared ‘wayleave’. Express the view that as this window is near ground level it should, by way of Condition, be made opaque.
 - reference the overhang encroaching significantly into the side passage (ie. less than 1.0m separation distance). A proportion of the overhang jutting into the ‘wayleave’ space “will likely meet the side building line of our house thus effectively creating an enclosed or tunnel like area of the side passage”. Consequently, this effect will hinder and cause obstruction for the moving of materials required for the purpose of maintenance of their property.
 - have regard to omission of the wayleave from the plans and drawings as unacceptable. Confirm possession of “a Copy Deed” to adjacent owner showing right of way serving the property, and stating that the Right allows pass and repass of the passageway for all purposes connected with the use and enjoyment of the retained land as a private residence. Accordingly, emphasise existence of the ‘wayleave’ as important piece of relevant information to the planning application, which necessitated their Observations to be submitted.
 - Conclude the full effect of the design on neighbouring properties has not been presented in any of the plans and drawings submitted by the applicants in an accurate or fair manner. Accordingly, these provide an unreliable basis for planning decision purposes.

6.2.7 Serious injury of amenities to No.35a

- Emphasise their use of :
 - the wayleave, and

- the immediate rear space as valuable elements contributing to their amenity currently enjoyed at No.35a.
- Having regard to the unique, tight configuration of property boundaries proximate to the rear elevation of their house at No.35a, emphasise that their garden space to the rear “is in practical terms the best alternative to another room to our home”.
- Therefore, privacy is of great importance to their enjoyment of this space.
- With the level of glazing proposed, particularly the increase to 4no. opening windows within significant proximity, their concerns regarding overlook, light pollution and acoustic issue, remain unresolved.
- Emphasise their use of the ‘wayleave’ daily, to bring bikes and bins etc. to their back garden.
- The ‘wayleave’ is the only means of accessing the back of the property without passing through the house itself.
- The proposed use of materials – the perforated brick finish with clear glazing and opening windows along the wayleave impacts negatively on the privacy both of the applicants at No.35, and themselves at No.35a.
- Reference applicants appear to have proposed a diningroom in this space, within the proposed extension alongside the ‘wayleave’.
- Intervisibility and corresponding audibility between the two properties will characterise this space along the ‘wayleave’.

6.2.8 Conclusion

- Planning Authority’s are entrusted to decide on planning applications “impartially and deliver fairness in reaching their decisions”.
- As it stands, the Planning Authority decision allows for the improvement of No.35, to the detriment of neighbouring properties.
- Rather, a more subordinate or moderate design could strike a fair balance for all the parties affected.

- Whilst not wishing to hinder the applicants right to extend, they advocate for the maintenance of their existing level of privacy and quality of their amenity, which they hope to sustain.
- Request the Board review and overturn the decision by Dublin City Council.

6.3 Planning Authority Response

None.

6.4 Applicants Response

6.4.1 3rd Party Appellant – James & Anna Cronin (No.35a Bettystown Ave.)

- Clarification of the following -
 - on south facing façade, the cill of the high-level glazing set at 2250mm above floor level of the extension, thereby negating possibility of overlooking of the external rear space of adjacent No.35a, from the internal space within the extension
 - the ground level of the proposed extension set at 360mm (2no. 180mm steps) below the current ground floor level thereby enabling level access from the extension into the garden
 - a blockwork wall exists extending the full length of the boundary between No.35 and 35a. The wall height measures between a variance of 1600mm – 1700mm
 - the internal face of the sections of proposed glazing which drop below the high level cill are at least 1400mm away from the common boundary. This set back from the common boundary means that even the closest observer to the internal face of the glazing would not have a view of the external rear space of adjacent No.35a.
- However, the applicants would be happy to discuss the possibility of raising the height of the boundary wall between the two properties to just below the exempt limit of 2000mm for the full length of the extension, thereby addressing remaining

concerns of the adjacent 3rd party appellants – No.35a, in relation to overlooking.

- Response to concerns relating to the Loss of Privacy :
 - clarify the perforated brick detail and glazing arrangement to this side elevation was as a direct result of the additional information request by the Planning Authority
 - the requirement to introduce opaque glazing at this location would render the perforated brick detail as superfluous
 - noting 3rd party appellants – No.35a priority to ensure protection of their privacy amenity, and by way of ameliorating this issue, the applicants propose an updated version of the original submission with respect to treatment and detailing of the side, south facing elevation as follows :
 - a single section of glazing at high level, with an increase in the height of the cill level as illustrated in the attached **Drawing No.G1013-S2-204-B**
 - as a consequence, the two larger opening sections of glazing which were originally behind the perforated brick wall are removed, thereby reducing the number of opening sections to two
 - the remaining two opening sections are provided to meet the requirements of Part F – ventilation of the Building Regulations, and are both outside the extent of the side passageway.
 - as a further compromise measure, propose to raise the cill level of the remaining high-level glazing by 225mm, from 2250mm to 2475mm from the floor level of the extension. In relation to the original floor level of the house it would be 2115mm, which would mean that there is no possible way of overlooking the external rear space of adjacent No.35a through any element of the high-level glazing.

- this change in cill level combined with the reduction in the height of the extension, as illustrated in the applicants F.I. submission to the Planning Authority, has resulted in an overall reduction in the glazing to the south facing elevation of 17%, from the original submission to the Planning Authority.
- with the construction of the extension to the rear of the applicants' property, their external private amenity space will be considerably removed from the external rear private amenity space of adjacent No.35a. This 'staggering' of external private amenity spaces will afford the 3rd party appellants at No.35a an increased level of privacy to the rear of their property.

6.4.2 3rd Party Appellant – Roisin Ryan & Brian Dolan (No.33 Bettystown Ave.)

- Clarify and confirm the following :
 - application site area – 287.4m²
 - zoning objective Z1 – Sustainable Residential Neighbourhoods
 - gross internal floor area of the ground floor of the proposal – 95.95m²
 - existing 1st floor area – 40.89m²
 - proposed 'plot ratio' – 0.476 and 'site coverage' – 33.39%
 - Dublin City Development Plan 2016-2022 provides the indicative Plot ratio for Z1 and Z2 (Outer City) is 0.5-2.0. The indicative site coverage for Z1 is 45% - 60%.
 - although originally larger in area, the current site area and dimensions are reflective of the majority of the sites within the locality.
- The 'Hedge' currently comprising the boundary treatment between the application site – No.35 and adjacent property No.33 :
 - confirm measured by applicants (c/o architect) on 11/01/2018. The measured height varied across the length at that time between 2400mm – 2800mm.
 - reference 3rd party appellants – No.33 confirmation of measurement of hedge height from within No.33 at 2000mm

- distinguish that the hedge has been cut in the intervening period since 11/01/2018. This would account for the discrepancy in measurements between the information submitted as part of the applicants F.I. submission to the Planning Authority, and the situation on the application site at present.
- The 'Daylight / Sunlight Analysis' F.I. Report :
 - Confirm the hedge / boundary height for the purpose of the analysis was 2400mm
 - Having regard to recent works resulting in a lower hedge height, a fresh 'analysis' was completed using revised / updated information and data.
 - The hedge / boundary height of 2000mm was used on the updated 'Daylight Analysis Drawing No.G1013-S2-108-A
 - While there is an increase in shading from between 1.98% and 4.18% to 3.25% and 5.38%, these levels remain well within the limits noted in 'Site Planning for Daylight and Sunlight – A Good Practice Guide.
 - Emphasise that the approved, proposal boundary level is significantly lower than an 'exempt development' parapet level, which would cast an increased shadow upon the neighbouring property – No.33.
 - Emphasise that whilst the proposed 'mono-pitch' roof design enables light penetration into the proposed extension, a primary consideration by the applicants when deciding the form of the proposed extension was to ensure that the parapet level closest to the boundary with No.33 was kept to a minimum.
 - Reference Drawing No.G1013-S2-302 illustrating that the shadow cast by a comparative planning 'Exempted Development' (as outlined previously), would have an increased shadow effect upon the private leisure space immediately to the rear of No.33, of 4.45% or 8.28% as opposed to the 5.38% increase incurred with the approved development.

- Distinguish that this example is referenced solely in order to illustrate the increased effect a standard flat roof extension would have on the 3rd party appellants adjacent property to the north – No.33.

6.4.3 Conclusion

- The logic of the planning application is to enable the modern domestic living space requirements of a young growing family.
- When considered alongside current standards, the space is modest and not excessive.
- The current response submission to the 3rd party planning appeals, considered together with documentation, plans and drawings included both with the original planning application and the applicants F.I. response submission, clearly demonstrates that the true impact of the proposed development has been consistently portrayed by the applicants.
- A primary consideration by the applicants in the design of the proposed extension was due regard for the impact on their neighbours at Nos. 33 and 35a.
- The proposed development as decided by the Planning Authority :
 - has considerably less effect upon the amenity of neighbouring properties than an exempt development would have,
 - is consistent with the planning history of the vicinity, and would therefore
 - be in accordance with the proper planning and sustainable development of the area.

6.5 Observations

None

6.6 Further Responses

6.6.1 Planning Authority : Response to the Applicants response to the 3rd Party Appeal Submission

None.

6.6.2 3rd Party Appellant – Roisin Ryan & Brian Dolan (No.33 Bettystown Ave.) : Response to the Applicants response to the 3rd Party Appeal Submission

- Assert no change since the original plans were submitted. Further, applicants have not addressed many of their 3rd party concerns.
- Arguments regarding familial links to the local community and the need to accommodate visitors, are irrelevant in planning laws.
- The applicants have never demonstrated attempt to mitigate against negative impact on their neighbours, consequent of their proposed development.
- Reference to an extension design that the applicants were going to build is irrelevant. This was included as a distraction.
- Concern at the applicants reference to the height of the wall along the shared boundary as follows :
 - the plans submitted do not reference the height of the wall
 - as the property owners of No.33, they do not give permission to build on the boundary wall. Yet the plans submitted have not been updated to reflect this
 - noting applicants reference to ‘the approved proposed boundary level’, consider it unacceptable that Council approved this with no measurements in the plans and only a non-committal height of c3000mm referenced by the applicants architect.
- the proposed extension does not reflect the immediate neighbourhood, and reference their previous motivation in this respect. No extension locally projects more than 7000mm beyond the back of the original house.
- note applicants references to ‘exempt extension’. However, respond that the application site is prohibited from building an ‘exempt

extension', as the original site has already been overdeveloped with the construction of No.35a. This was emphasised by the Planning Authority in the decision, with attached Conditions, to grant planning permission for No.35a.

- Emphasise that when development such as that proposed is not in keeping with the local area, it will negatively impact their amenity at No.33.
- Reference the local houses as modest ex-corporation houses. These houses were never designed for the demands of the applicants. Ask the question whether the No.35 property is suitable for the applicants and their needs.
- Regarding the hedge height, clarify that they do not cut their hedge in January. Rather, in the summer months.
- No evidence is apparent that the applicants have attempted to keep the wall to a minimum. The real cause for negative impact to their existing amenity is the overall scale of the development, comprising both height and length. This combination will be seriously overbearing on their housed and garden, and is not common in the area.
- Made reference to "small ways" the proposed design could be amended, which would potentially contribute to mitigation of their concerns. However, none of these have been suggested by the applicants, raising the question of commitment to minimise impact on neighbouring property.
- Example of amend : removal of the skylight running along the boundary with No.33, would enable the wall height to be lowered. This amend would have zero impact on the space created and help minimise impact on No.33.
- Whereas the applicants compare a flat roof and the mono-roof in an attempt to illustrate height, no alternative is made regarding concerns against the length projection away from the original house.
- Applicants conclude an 'exempt extension' would have more impact on their property – No.33, than the proposed development. This inclusion of this reference was created to suggest the proposed design would be

less impactful. Rather, the reality is that the 'exempt development' design would be unsuitable for the applicants brief.

- Conclude that with only a little compromise, the space required by the applicants at No.35 could be achieved without impacting them at No.33 so negatively.
- Request hope the Board finds compromise, by reviewing all concerns raised and reviewing comparable development locally.

6.6.3 3rd Party Appellant – James & Anna Cronin (No.35a Bettystown Ave.) : Response to the Applicants response to the 3rd Party Appeal Submission

- Notwithstanding the applicants stated “specific regard for the impact on its neighbours”, assert that consideration ultimately lies in the clients (applicants) interests.
- Whilst no legal requirement exists to consult neighbours, the applicants missed an obvious mitigation measure in not doing so. Had consultation been available, they would have happily communicated and discussed their concerns. In doing so what has now transpired as a lengthy process would possibly have been avoided.
- State preference to refrain from further observations on the submission dated 24th April 2018, as all of their previously motivated concerns, still exist.
- Request the Board consider the proposed development on the basis of all their previously submitted 3rd party observations.
- Emphasise that underlying all of their concerns has been the fact that there is a particularly unusual site circumstance to the rear of their property – No.35a
- That the plans submitted misrepresent this important feature has raised their concerns from the outset.
- The special and unique character and composition of the rear garden / private leisure space at No.35a does deserve special consideration in the decision-making process.

- Emphasise the need for a site visit, to view the reality of the site circumstance at No.35a.
- Recent addition to their family has emphasised how valuable their rear private patio and associated privacy is to them, and will continue to be into the future.
- Affirm their primary concerns regarding
 - privacy
 - an overbearing effect, and
 - out of keeping with the locality.
- Assert the belief that the Board “will make a decision which will take the concerns of all families into account”.

7.0 Assessment

7.1 I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The issue of appropriate assessment also needs to be addressed. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed development.
- OverDevelopment of the Site
- Visual Amenity Impact / Streetscape – Griffith Avenue.
- Residential Amenity Impact.
- Road Access and Traffic Safety.
- Appropriate Assessment.

7.2 Principle and Location of the proposed development

7.2.1 The application site is zoned “Z1 – Sustainable Residential Neighbourhoods”, with the objective to protect, provide and improve residential amenity. The applicable zoning matrix designates residential land use as being permitted in principle within the zone. The “Z1 – Residential” zoning objective therefore seeks to ensure that any new development within existing neighbourhoods has minimal impact on, and enhances existing residential amenity.

7.2.2 The challenge, having regard to the proposed architectural and planning design, and the relevant requirements of the Dublin City Development Plan 2016-2022, is to ensure the proposed rear domestic single storey extension development, has no disproportionate adverse impact on the existing residential development and associated amenity along Bettystown Avenue generally, and no unacceptable impact on the amenities enjoyed by the adjacent neighbours specifically, including that owned and occupied by the 3rd party appellants at Nos. 33 and 35a Bettystown Avenue respectively.

7.3 OverDevelopment of the Site

7.3.1 The 3rd party appellants at No.33 emphasise that the proposed development, in current form, is an overdevelopment of the application site – No.35, due to previous development permitted on the site under **Reg.Ref.No.3672/04**.

Having regard specifically to Condition No.7 attached under **Reg.Ref.No.3672/04**, emphasise Councils expressed concern regarding overdevelopment of the No.35 property at that time, and into the future. Therefore, the current proposed development must be regarded as excessive, given the serious concerns expressed by the Planning Authority in terms of Condition No.7, even for the future development of domestic structures that would normally constitute exempted developments (e.g. walls, conservatories or garden sheds).

7.3.2 I certainly share the precaution against excessive, overdevelopment of properties advocated at Condition No.7. I understand this as a generally 'standard' Condition attached to permissions granted by Planning Authorities for domestic, residential extension development.

7.3.3 However, I would disagree that new development proposed subsequent to that previously granted under **Reg.Ref.No.3672/04**, necessarily results in overdevelopment of the site.

7.3.4 Rather, I understand the purpose of Condition No.7 as requiring that a new application for planning permission be made for all new development both on the current application site – No.35, and the new adjacent property developed under **Reg.Ref.No.3672/04** – No.35a.

7.3.5 Planning applications for new development would then be assessed against the relevant prevailing planning legislation, planning guidelines and statutory development plans. Precaution against overdevelopment of the site is therefore assured.

7.3.6 Having regard to the above, I conclude that 3rd party appellants arguments against the proposed development, cannot be sustained.

7.4 Visual Amenity Impact / Streetscape – Bettystown Avenue

7.4.1 I have taken note of the established, contextual scale and pattern of residential development comprising the local streetscape along Bettystown Avenue, passed the application site. As one moves along Bettystown Avenue, no reasonable visibility is possible of the rear of any of the houses, and including and specifically the rear of No.35, the application site.

7.4.2 From the rear, intervisibility is restricted to the rear elevations and rear yards / gardens of surrounding properties, of which there are only few and which appear generally compliant with Dublin City Development Plan 2016-2022 Standards. Whereas from the Bettystown Avenue frontage no obvious visibility is possible, visibility of the proposed rear single storey extension is open and greater at the rear, effecting multiple properties, albeit from their rear yards. Noteworthy in my view, is the existing close proximity and tight configuration of available space derived generally from the existing established pattern of development comprising the rear domestic yard / garden spaces of these ex-Dublin City Corporation houses (ie. deep, with narrow widths – c6.9m-c.7.0m), and specifically, between the rear private

amenity space of the application site – No.35 Bettystown Avenue, the comparable private amenity space of the neighbouring property to the north – No.33, and the certainly unique rear private amenity space of the neighbouring property to the south – No.35a, and into which the proposed single storey domestic extension to the rear of No.35, is proposed to be inserted, replacing the existing single storey, flat roofed extension currently on site.

7.4.3 I have taken note of the applicants revised drawings included in their submission to the Board, in response to both of the 3rd party appeal submissions. The proposed extension is shown projecting c.9.8m from the rear elevation of the original house, with the northern elevation wall directly onto the shared boundary with No.33, at a parapet height of c.3.0m along this length, and set back c.1.0m from the shared boundary with No.35a, at a roof edge height of c.3.9m along this length and overhanging this setback space which includes the wayleave in favour of No.35a for the first c.4.2m. What clearly sets this single storey domestic extension apart, in my view, is the proposed ‘mono-pitch’ roof design, sloping significantly from south to north across the rear width of the property. At the outset, I note the Planning Authority’s stated concerns with the proposed roof height, design and profile, and consequent negative overbearing visual impact. Consequent of the F.I. consultation process I note the overall height of the proposed extension has been reduced by c.500mm and that the height of other elements (ie. the proposed high-level glazing) has been similarly reduced.

7.4.4 Having regard to the information available, I note and acknowledge the applicants clear efforts to reasonably minimise the extent of the extension required, in order to reduce the impact on the original house in-situ, and on the neighbouring properties, whilst still ensuring satisfaction of requirements

for domestic accommodation of a size and composition consistent with modern living and having regard to domestic liveability needs.

7.4.5 However, in my view, and notwithstanding the conviction articulated in the architectural design references and motivations made by the applicants, I believe the proposed extension will be disproportionately visually prominent or overbearing to adjacent and nearby residents, when viewed from the rear. I share the arguments made by each of the 3rd party appellants against the proposed development, in this regard. In my view, the most serious negative visual impact will be on the amenities currently enjoyed by the 3rd party appellants to the south at No.35a Bettystown Avenue.

7.4.6 In my view this disproportionate visual discord will also be apparent from the rear private amenity spaces of the row of houses further to the south, which front onto All Saints Road. Further, I believe the proposed mono-pitch roof design, and associated height, bulk and scale, will be visually disruptive of the existing established pattern of development comprising the rear domestic yard / garden spaces of these modest ex-Dublin City Corporation houses. Certainly, in its current design with 'mono-pitch' roof profile, and associated height, bulk and scale, the proposed extension is not satisfactorily compliant with Chapter 16, Section 16.10.12 – 'Extensions and Alterations to Dwellings', of the City Development Plan 2016-2022, which prescribes that domestic extensions to dwellinghouses be subordinate to the main original unit on site.

7.4.7 A consequent visual impact must logically and reasonably be expected of any domestic extension development on the application site. This cannot be avoided, subject to compliance with the Dublin City Development Plan 2016-2022. In my view, application of the provisions of the City Development Plan 2016-2016-2022, should be towards positively enabling reasonable domestic

home improvements, whilst protecting residential amenities both of individual property owners, as well as collectively within the neighbourhood. This outcome is the reasonable expectation of the 'Z1 – Sustainable Residential Neighbourhoods' Zoning Objective. In my view, as originally proposed and subsequently revised through the F.I. and 3rd party appeal processes, this has not been successfully demonstrated by the applicants in compliance with the provisions of the City Development Plan 2016-2022.

7.4.8 Notwithstanding all of the above, I believe that these serious negative visual impacts can be satisfactorily resolved by way of further revision to the roof design and profile for the proposed extension. Rather than the 'mono-pitch' roof design proposed, I believe that a conventional pitched roof design with the gable end to the east, will satisfactorily mitigate the serious negative visual impacts outlined above. In my view, such a pitched roof design and profile will be significantly more compatible with the established pattern of development comprising the rear domestic yard / garden spaces of these modest ex-Dublin City Corporation houses. With the height and weight taken off each of the roof edges, the serious overbearing visual impacts on each of the 3rd party appellants at Nos. 33 and 35a respectively, will be minimised.

7.4.9 Should the Board be inclined to share this potential solution, rather than the alternative of a refusal of planning permission, I believe that the necessary revisions to the roof design and profile could be achieved by way of Condition. Such Condition shall require revision of the roof design and profile to a 'pitched roof', whereby the maximum height of each of the northern and southern external walls shall not exceed 2.2m and the Roof ridge height shall not exceed 3.0m. Relevant revised drawings showing compliance with these requirements would then be submitted to, and agreed in writing with the Planning Authority, prior to commencement of development on site.

7.4.10 In my view, such further revision to the roof design and profile of the proposed extension, in accordance with the above parameters, and to be included by way of Condition, will positively enable the proposed development's visual integration with the existing contextual pattern of development, and it being in accordance with the proper planning and sustainable development of the area. I recommend to the Board accordingly.

7.5 Residential Amenity Impact

7.5.1 Having regard to all of the information available, and to my own observations at the time of site visit (see attached copies of photographs), I am of the view that subject to further revision and update of proposed plans and drawings outlined below, to be achieved by way of Condition should the Board be so minded to decide to grant planning permission, the proposed domestic single storey rear extension development at No.35 Bettystown Avenue, will have no significant, disproportionate negative impact on the prevailing residential amenity. In this regard, I have given consideration to potential threats to residential amenity as follows :

- **Visual Obtrusion** : See as discussed at 7.4 above. In my view, this negative visual externality impact, is sufficient to substantiate a refusal reason in its own right. In addition, I believe the burden of negative visual externality would be significantly greater on the 3rd party appellants adjacent and to the south at No.35a Bettystown Avenue, than on the other properties in the vicinity.

However, as set out at 7.4 above, rather than a refusal of planning permission, I believe that further revision to the proposed roof design and profile, to a conventional 'pitched roof' design would directly, reasonably and satisfactorily address the serious concerns consequent of the 'mono-pitched' roof design and profile proposed. As recommended at 7.4 above, this could reasonably be achieved by way of suitably worded Condition attached to any decision to grant planning permission, if the Board were to be so minded.

- **Loss of Natural Light or Overshadowing :** Loss of natural light consequent of overshadowing, is a concern argued particularly by the 3rd party appellants, located adjacent and to the north of the application site. Section 16.10.12 – ‘Extensions and Alterations to Dwellings’ and Section 17.6 – ‘Daylight and Sunlight’ of Appendix 17 – ‘Guidelines for Residential Extensions, all of the Dublin City Development Plan 2016-2022, specifically advocate against the loss of residential amenity consequent of overshadowing, when facilitating residential extension type development.

Notwithstanding the initial submission of a ‘daylight / sunlight’ study by the applicants, I note the Planning Authority’s concerns regarding the potential for overshadowing of the adjacent property to the north, No.33. Consequently, and in response to a F.I. request by the Planning Authority, the applicants submitted a ‘daylight / sunlight’ analysis of the proposed development, examining the impact of the proposed extension on the adjoining 3rd party appellants property to the north – No.33. Noteworthy was that the study was completed having regard to the reduced height of the proposed extension by c.500mm. This height reduction was consequent of a F.I. request by the Planning Authority. I note the consequent ‘overshadowing’ as minimal, ranging between 1.98% and 4.18%. Having regard to these results, I share the view expressed by the Planning Authority that no undue, disproportionate overshadowing of No.33 adjacent and to the north of the proposed extension will result.

Having regard to the 3rd party appellants – No.33 sustained concern regarding serious threat to their amenity due to overshadowing, I have had detailed regard to the further, updated ‘Sunlight / Daylight’ study completed by the applicants using revised / updated information and data which emerged from the 3rd party appeal. I note the applicants study findings that while there is an increase in shading from between 1.98% and 4.18% to 3.25% and 5.38%, these levels remain well within the limits noted in ‘Site Planning for Daylight and Sunlight – A Good

Practice Guide'. I accept these results as reasonable, and indicative of no disproportionate loss of residential amenity by the 3rd party appellants – No.33, consequent of overshadowing.

Having regard to the location of No.35a to the south of the proposed development, no threat to residential amenity exists consequent of overshadowing from the proposed extension.

- **Overlooking / Privacy Loss :** No threat to the privacy enjoyed by the 3rd party appellants – No.33 is apparent consequent of overlooking from the proposed domestic residential extension. I deduce this conclusion having regard to the single storey of the proposed extension, and that whilst noting the footprint of the exterior wall against the shared boundary with No.33, no window openings are proposed within this north facing side wall of the extension.

I also note that no threat of overlooking of properties located to the east exists, primarily due to the proposed extension being single storey, that adequate back to back separation distance exists, notwithstanding the proposed extension being single storey, as well as due to the substantial mature boundary treatment along the applications eastern boundary, as well as that proposed consequent of the proposed development.

However, the 3rd party appellants – No.35a argue concern regarding potential loss of privacy, particularly with respect to their use of their uniquely shaped private amenity space immediately proximate to the proposed extension. I have taken note of the considered response by the applicants, to the 3rd party concerns regarding threat of loss of privacy, as follows –

- clarify the perforated brick detail and glazing arrangement to this side elevation was as a direct result of the additional information request by the Planning Authority
- the requirement to introduce opaque glazing at this location, as argued by the 3rd party appellants – No.35a, would render the perforated brick detail as superfluous

- noting 3rd party appellants – No.35a priority to ensure protection of their privacy amenity, and by way of ameliorating this issue, the applicants in their response submission to the 3rd party appeal – No.35a, propose an updated version of the original and F.I. plans and drawings submitted, with respect to treatment and detailing of the side, south facing elevation onto No.35a, as follows :
 - a single section only, of glazing at high level, with an increase in the height of the cill level as illustrated in the attached **Drawing No.G1013-S2-204-B**, in mitigation of overlooking No.35a.
 - as a consequence, the two larger opening sections of glazing which were originally behind the perforated brick wall are removed, thereby reducing the number of opening sections to two
 - the remaining two opening sections are provided to meet the requirements of Part F – ‘Ventilation’ of the Building Regulations, and are both outside the extent of the side ‘wayleave’ passageway, used by the 3rd party appellants – No.35a.
 - as a further compromise measure, propose to raise the cill level of the remaining high-level glazing by 225mm, from 2250mm to 2475mm from the floor level of the extension. In relation to the original floor level of the house it would be 2115mm, which would mean that there is no possible way of overlooking the external rear space of adjacent No.35a through any element of the high-level glazing facing onto No.35a.
- this change in cill level combined with the reduction in the height of the extension, as illustrated in the applicants F.I. submission to the Planning Authority, has resulted in an overall reduction in the glazing to the south facing elevation of 17%, from the original submission to the Planning Authority. This reduction not

only significantly reduces any potential for overlooking of No.35a, but similarly reduces the potential for 'light pollution' consequent of the illumination of window openings from within the extension after dark. In addition, by way of reduction in opening windows, mitigation of threat of negative acoustic / noise impact on adjacent residential amenity is achieved.

- with the construction of the extension to the rear of the applicants' property, their external private amenity space will be considerably removed from the external rear private amenity space of adjacent No.35a. This 'staggering' of external private amenity spaces will afford the 3rd party appellants at No.35a an increased level of privacy to the rear of their property.

Accordingly, on the information available, and subject to further revision and update of proposed plans and drawings outlined above, to be achieved by way of Condition should the Board be so minded to decide to grant planning permission, I believe no serious threat to adjacent privacy would result, consequent of the proposed development.

- **Noise** : No increase at all above that currently characterising domestic residential use of the application site, must reasonably be anticipated. Nonetheless, I note the applicants significant reduction in window openings contained within the south facing elevation onto No.35a, proposed as part of their response submission to the 3rd party appeal – No.35a, and reflected in updated, revised plans and drawings submitted to the Board. Such reduction by the applicants would positively impact the potential for noise escape from the extension consequent of active use of this new space by the applicants, and negatively impacting their principal private amenity space to the immediate south at No.35a.

- Private Amenity / Leisure Space :** Section 16.10.2 – ‘Residential Quality Standards – Houses’ emphasises ‘private open space’ as an important element of residential amenity. Private open space for houses is usually provided by way of private gardens to the rear or side of a house. A minimum standard of 10m² of private open space, per bedspace, will normally be applied, with up to 60-70m² of rear garden area considered as sufficient for houses in the city.

Consequent of the proposed development, I note a logically reduced area of private open space to the rear eastern end of the application site – No.35, will be available and directly accessible from the proposed extension. Specifically, a total private open space of c.80m², would result to serve the needs of the applicants, which exceeds the 60-70m² of rear garden area considered as sufficient for houses in the city (see Section 16.10.2 – ‘Residential Quality Standards – Houses’ of the Dublin City Development Plan 2016-2022).

On its own, I have regard to the provision of onsite private open space as an indicator of potential overdevelopment of the site. I have noted this as an expressed serious concern of the 3rd party appellants – No.33. The c.80m² available exceeds the statutory requirement under the City Development Plan 2016-2022, indicating that no threat of overdevelopment of the site is apparent consequent of the proposed development.
- In Situ ‘Views’ / ‘Outlooks’ :** No designated views exist with respect to the collection of domestic dwellinghouses comprising Bettystown Avenue.
- On-Site Car Parking :** Adequate onsite car parking space exists off Bettystown Avenue, in compliance with the City Development Plan 2016-2022 Standards. No increased need for such space is generated by the proposed development .

- **Access and Traffic Safety** : No.35 Bettystown Avenue is already served with access onto the local public road network. No additional traffic generation will result from the proposed development.

7.5.2 I do acknowledge the potential for negative impact of construction activity on contextual residential amenity locally, whilst site works and construction activity are on the go. However, I consider that these impacts are only temporary, are to facilitate the completion of the proposed development, and certainly cannot be regarded as unique to this development. Further, I consider that given these impacts are predictable and to be expected, they can be properly and appropriately minimised and mitigated by the attachment of appropriate supplementary Conditions to a grant of permission, should the Board be mindful to grant permission, and deem such mitigation of negative impact necessary.

7.5.3 Having regard to the above assessment, and subject to further revision and update of proposed plans and drawings outlined above, to be achieved by way of Conditions ensuring mitigation of disproportionate negative visual amenity impact and loss of privacy consequent of overlooking particularly, should the Board be so minded to decide to grant planning permission, the proposed domestic single storey rear extension development at No.35 Bettystown Avenue, will have no significant, disproportionate negative impact on the prevailing residential amenity and therefore, be satisfactorily compliant with the 'Z1 – Sustainable Residential Neighbourhood' Zoning Objective. Accordingly, subject to the above referenced compliance, the proposed development would be in accordance with the proper planning and sustainable development of the area.

7.5 **Site Boundary : Encroachment / Land – Legal Issues**

7.5.1 I have taken careful note of the arguments made by each of the 3rd party appellants, in respect of land / legal matters relating to –

- argued works impacting directly the existing shared boundary between the application site and No.33 adjacent to the north, and for which the 3rd party appellants have not given their consent, and
- the omission of the 'wayleave' from the site plans and drawings submitted, and which enables the 3rd party appellants – No.35a adjacent and to the south, alongside the proposed extension, to access and service the rear of their property.

7.5.2 I have also had regard to the respective responses by the applicants –

- clarifying the nature of and physical proximity of the proposed extension, contained within the application site – No.35 Bettystown Avenue, and
- including the 'wayleave' in the revised plans and drawings submitted to the Board, in response to the 3rd party appeal. These also include further revision to detail within the south facing elevation of the proposed extension, alongside the 'wayleave', in mitigation of possible threat to adjacent amenity at No.35a.

7.5.3 However, having regard to the arguments raised against the proposed development by the 3rd party appellants, I have had regard to the application for planning permission on its planning merits alone, as set out in the above discussions. I am inclined to the view that any decision on the planning application does not purport to determine the legal interests held by the applicants, or any other interested party in relation to boundary or 'other' demarcation in this instance, and the consequent impact, or not, on the proposed development.

7.5.4 I would also draw attention to Section 34(13) of the Planning and Development Act, 2000 as amended, which relates as follows: "A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development". In this regard, I reference the explanatory notes which read as follows – "This subsection ... makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any

other permits or licences which statutes or regulations or common law may necessitate". Consequently, I understand that any legal obligations on the applicants, to ensure that the legality of landownership and user privileges enjoyed by the 3rd party appellants in particular are not compromised, are covered.

7.5.5 Accordingly, I do not believe these arguments by the 3rd party appellants against the proposed development to be reasonable and substantive grounds for refusal.

7.6 **Appropriate Assessment**

7.6.1 Having regard to the nature and scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance to any 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.

8.0 **Recommendation**

8.1 I recommend that planning permission be granted for the reasons and considerations as set out below.

9.0 **Reasons and Considerations :**

9.1 Having regard to the zoning Objective "Z1" for the area as set out in the Dublin City Development Plan 2016-2022 and the pattern of residential development in the area, it is considered that, subject to compliance with the Conditions set out below, the proposed development would be in accordance with the provisions of the Dublin City Development Plan 2016-2022, would not seriously injure the amenities of the Bettystown Avenue neighbourhood or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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, as amended by the further plans and particulars submitted on the 30th day of January 2018, and by the further plans and particulars received by An Bord Pleanála on the 25th day of April 2018, 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 proposed development shall be amended as follows :
- (a) the omission of the proposed 'mono-pitch' roof design, and replacement with a 'pitched' roof design. Exterior walls shall not exceed a maximum height of 3.0m.
 - (b) with respect to treatment and detailing of the side, south facing elevation:
 - (i) a single section only, of glazing at high level, with an increase in the height of the cill level as illustrated in the attached Drawing No.G1013-S2-204-B received by the Board on the 25th day of April 2018
 - (ii) consequently, the omission of the two (2no.) larger opening sections of glazing which were originally behind the perforated brick wall, thereby reducing the number of opening sections to two (2no.)
 - (iii) raise the cill level of the remaining high-level glazing by 225mm, from 2250mm to 2475mm from the floor level of the extension

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason : In the interests of visual and residential amenity.

- (3) All the external finishes shall harmonise in materials, colour and texture with the existing finishes on the house. Details including samples of the materials, colours and textures of all the external finishes to the building, shall be submitted to, and agreed in writing with the Planning Authority prior to commencement of development.

Reason : In the interest of orderly development, and of the visual amenities of the area.

- (4) Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

- (5) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including :

- hours of working,
- noise management measures,
- measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, and
- off-site disposal of construction/demolition waste.

The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason : In the interests of public health and safety and residential amenity.

- (6) The existing dwelling and proposed extension shall be jointly occupied as a single residential unit, and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason : To restrict the use of the extension in the interest of residential amenity.

- (7) All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason : In the interests of visual and residential amenity.

- (8) Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwellinghouse, without a prior grant of planning permission.

Reason : In the interest of residential and visual amenity, and in order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwelling.

L W Howard
Inspectorate
20th July 2018