



An
Bord
Pleanála

Inspector's Report ABP-304452-19

Development

Demolition of existing house and replacement with the construction of a new dwelling house comprising of two stories over partial basement. Development will include new vehicular entrance and associated site works and landscaping.

Location

'Bella Vista', Coliemore Road, Dalkey, Co. Dublin.

Planning Authority

Dún Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D19A/0130

Applicant(s)

Chantal McCabe

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

Gerry Noonan and Joan Heelan

Observer(s)

Patrick Kearns & Mary Upton

Date of Site Inspection

29th July, 2019

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located along the western side of Coliemore Road in Dalkey, Co. Dublin, approximately 1.2km southeast of Dalkey village centre and a short distance south of the junction of Coliemore Road with Nerano Road, where it occupies a particularly prominent position directly overlooking Dillon's Park with Dalkey Sound and Dalkey Island beyond same. The surrounding area is characterised by a variety of mature residential development, including several notable examples of period properties and more contemporary architecture.
- 1.2. The site itself has a stated site area of 0.0649 hectares, is irregularly shaped, and is presently occupied by a single-storey over-basement dwelling house which has fallen into a state of disrepair / dilapidation. From a topographical perspective, the site is characterised by a steep incline on travelling westwards through the property away from Coliemore Road with the rear garden area broken in a series of terraces. To the immediate north the site adjoins a dormer bungalow (No. 51 Coliemore Road) whilst the lands to the south are occupied by a pair of three-storey, semi-detached, dwelling houses with two-storey front projections.

2.0 Proposed Development

- 2.1. The proposed development involves the demolition of an existing dilapidated single-storey over-basement detached dwelling house (floor area: 135.52m², inclusive of the basement level) known as 'Bella Vista' and the subsequent replacement of same by a new contemporarily designed detached, front-gabled, two-storey over-basement dwelling house with a stated floor area of 331.71m² and an overall ridge height of 12.53m (over basement floor level). The proposed construction has sought to utilise the difficult site topography by including for a basement level which will house a garage area and a plant / renewable technologies room in addition to the entrance hall to the upper two levels of accommodation which will extend beyond the rear limit of the basement in order to provide for additional living space. External finishes will include a 'natural slate' photovoltaic roof, a painted render, granite stonework (at basement level), and zinc cladding.

- 2.2. In addition to the foregoing, it is proposed to provide a new vehicular entrance onto Coliemore Road which will be centrally positioned along the site frontage. Water supply and sewerage services are available from the public mains.
- 2.3. On 26th March, 2019 the Planning Authority issued a Certificate of Exemption pursuant to Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development (PA Ref. No. V/042/18).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 18th April, 2019 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 13 No. conditions which can be summarised as follows:

Condition No. 1 - Refers to the submitted plans and particulars.

Condition No. 2 – Requires the proposed dwelling house to be used as a single residence and prohibits its subdivision into two or more habitable units.

Condition No. 3 – Requires the submission of a revised site layout plan detailing the distance from the proposed dwelling house to the eastern and southern site boundaries, for the written agreement of the Planning Authority, prior to the commencement of development.

Condition No. 4 – Refers to the external finishes.

Condition No. 5 – Requires the timber fence proposed along the northern site boundary to be 1.8m in height above ground level.

Condition No. 6 - Refers to surface water drainage.

Condition No. 7 - Refers to paved areas and surface water drainage.

Condition No. 8 – Refers to construction practice / management.

Condition No. 9 – Refers to the methodology to be employed during any excavation works undertaken on site.

Condition No. 10 – Requires the public road and adjoining properties to be maintained free from mud & debris etc. during the construction works with any damage to the public road to be repaired at the developer's expense.

Condition No. 11 - Requires the payment of a development contribution in the amount of €126.11 towards the provision of surface water public infrastructure and facilities benefitting the development in the area of the Local Authority.

Condition No. 12 – Requires the payment of a development contribution in the amount of €2,887.90 towards the provision of roads public infrastructure and facilities benefitting the development in the area of the Local Authority.

Condition No. 13 - Requires the payment of a development contribution in the amount of €1,874.61 towards the provision of community & parks public infrastructure and facilities benefitting the development in the area of the Local Authority.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context, planning history, and the applicable policy considerations, including the site location relative to the Vico Road Architectural Conservation Area, its positioning opposite Dillon's Park, and the views listed for protection along Coliemore Road. The report proceeds to analyse the overall design and visual impact of the proposed dwelling house relative to earlier development proposals refused permission on site and concludes that the subject proposal satisfactorily overcomes the Planning Authority's previous concerns as regards the visual impact of the development on the streetscape etc. It is further stated that the proposed development does not constitute an overdevelopment of the site and will not seriously injure the residential amenity of neighbouring properties by reason of overlooking, overshadowing, or overbearing impact etc. The report thus concludes by recommending a grant of permission, subject to conditions.

3.2.2. *Other Technical Reports:*

Transportation Planning: No objection, subject to conditions.

Drainage Division: No objection, subject to conditions.

A / Conservation Officer (Architect's Dept.): States that the proposed development will not visually detract from the streetscape / character of the adjacent Architectural Conservation Area and that the loss of the building proposed for demolition is of no concern as it is of little or no architectural interest. It is further stated that the proposed replacement dwelling would appear to be suitable to the site in terms of its scale, design and materials.

Appropriate Assessment Screening Report: States that it is clear from the location and nature of the project that there are no likely significant effects on any Natura 2000 sites as there are no known direct pathways, including hydrological / hydrogeological links, from the proposed development site to any of the Natura 2000 sites examined in the screening exercise.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A total of 3 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- The unsustainable and unwarranted demolition of a structurally sound and habitable dwelling house.
- Concerns with regard to the dismantling / removal of any asbestos-laden materials that may be present on site.
- The overall scale, height and design of the proposed dwelling is overbearing, visually obtrusive, and out of character with the surrounding area.
- The unacceptable levels of noise, dust and disturbance arising during the construction works, with particular reference to any excavation / rock-breaking activities.
- The potential impact on groundwater flow due to site excavation works.

- The overdevelopment of a restricted site.
- Detrimental impact on the residential amenity of neighbouring properties by reason of overlooking, loss of privacy, overshadowing, overbearing nature, and visual appearance.
- The inadequate description of the proposed development in the site notice.
- The potential for structural damage to neighbouring properties during development works.
- The proposal does not satisfactorily address the reasons for the refusal of previous planning applications on site.
- Adverse impact on the Vico Road Architectural Conservation Area and the views from Coliemore Road as listed for preservation in the Development Plan.

4.0 Planning History

4.1. *On Site:*

PA Ref. No. D16A/0758 / ABP Ref. No. PL06D.247850. Was refused on appeal on 18th April, 2017 refusing Lorraine and Gerry Park permission for the demolition of the existing single storey pitched roof property and construction of new detached flat roof three storey to the front and two storey to the rear house. The works will also consist of lift access to a recessed roof terrace, front balconies, gangway access to rear garden, roof lights, new driveway entrance with landscaping and ancillary and associated works:

- Having regard to the pattern of development in the area, it is considered that the proposed replacement house, by reason of its detailed design, its scale, mass and bulk, and its undue proximity to site boundaries, would be visually obtrusive, incongruous and overbearing in relation to neighbouring dwellings and would seriously injure the residential amenities of adjoining properties by reason of overlooking and overshadowing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- Under the provisions of section 8.2.3.4 (vii) of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is policy to ensure that new infill development shall respect the height and massing of existing residential units. This policy is reasonable. It is considered that the proposed replacement house, by reason of its height, design and first floor fenestration, would constitute a form of development which would be out of character with existing development and would not respect the height and massing of existing residential units in its vicinity. The proposed development would fail to respond appropriately to the context of the site and its surroundings, and would represent an incongruous feature that would represent an undesirable precedent for similar re-development proposals in the area and would contribute to the incremental erosion of the character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. D18A/0238. Was refused on 14th May, 2018 refusing Chantal McCabe permission for the demolition of the existing house and its replacement with the construction of a new dwelling house comprising of two stories over partial basement plus attic under pitched roof. The development will include new vehicular entrance and associated site works and landscaping:

- The proposed development, by reason of its design and scale, in particular the proposed front elevation treatment, would be visually obtrusive, incongruous, and overly dominant when viewed along the streetscape from Coliemore Road and Nerano Road and the surrounding areas and would infringe on the staggered building line along these roadways. It is also considered that the proposed dwelling by reason of its bulk, scale, mass and proximity to the adjoining site boundaries would result in overdevelopment of the site and would unduly impact on the residential and visual amenity of the adjoining dwellings to the north and south of the site, and if permitted would set an undesirable precedent for similar development in the area. The proposed development would, therefore, seriously injure the amenities and/or depreciate the value of property in the vicinity and would, thereby, be contrary to the proper planning and sustainable development of the area.

4.2. *On Sites in the Immediate Vicinity:*

PA Ref. No. D11B/0139. Was granted on 14th June, 2011 permitting Mr. & Mrs. S. Flanagan permission for a single storey bedroom extension at first floor level to the side and rear of the existing detached single storey house with mansard roof, at 41 Coliemore Road, Dalkey, Co. Dublin.

PA Ref. No. D11A/0551 / ABP Ref. No. PL06D.240234. Was granted on appeal on 14th June, 2012 permitting Aidan O'Meara permission for (a) two-storey extension of area 48m² at the rear of the house with 32m² roof deck and 8m² top floor balcony; (b) shed of area 8m² on part of the site of the existing garage (area: 18m²) which is to be demolished and (c) ancillary works including reconstruction of existing external steps to rear of house at "Atlanta", 37 Coliemore Road, Dalkey, Co. Dublin.

PA Ref. No. D12A/0455 / ABP Ref. No. PL06D.241562. Was determined on appeal on 2nd July, 2013 whereby a split decision was issued to Aidan and Fiona O'Meara granting permission for windows to north elevation of approved lowest floor extension and refusing permission for enlarged pedestrian-accessible deck to roof of approved lowest floor extension, proposed 4m² top floor balcony and ancillary works, all at "Atlanta", 37 Coliemore Road, Dalkey, Co. Dublin.

PA Ref. No. D13A/0001. Was granted on 24th June, 2013 permitting Harvey Twomey permission for development of: 1. Demolition of rear outhouses and partial demolition of existing two storey rear return. 2. Construction of a two-storey flat roof extension to the side. 3. Construction of a two-storey flat roof extension to the rear. 4. Construction of new lower ground level to match adjoining property. 5. Attic conversion including dormer window to the rear, Velux rooflights to the front and new window in gable wall to the side. 6. Provision of vehicular parking to the front and ancillary site works including landscaping and shed to the rear. All at 'Seaverge', Coliemore Road, Dalkey, Co. Dublin.

PA Ref. No. D13A/0166 / ABP Ref. No. PL06D.242127. Was refused on appeal on 29th October, 2013 refusing Gerry Ryan permission for the demolition of existing two storey dwelling including removal of existing septic tank and construction of new two storey over basement house (497m²) with associated landscaping and new main drainage connection at 36 Coliemore, Road, Dalkey, Co. Dublin:

- Notwithstanding the acceptability of the design, it is considered that the proposed replacement dwelling, located between the road and the sea, is excessive in width, resulting in a dwelling overly proximate to boundaries, which would seriously detract from the visual amenities of the area. The proposed development, would therefore, be contrary to the proper planning and development of the area.

PA Ref. No. D14A/0004 / ABP Ref. No. PL06D.243211. Was refused on 2nd September, 2014 refusing Gerard Ryan permission for the demolition of existing two storey dwelling including removal of existing septic tank and construction of new two storey over basement house (478m²) with associated landscaping and new main drainage connection at 36 Coliemore Road, Dalkey, Co. Dublin:

- The subject site is at a highly sensitive location on Coliemore Road and within the Vico Road Architectural Conservation Area. Views from Coliemore Road and Nerano Road are to be preserved. Having regard to the excessive width and proximity to boundaries of the proposed development, which is compounded by its bulk and scale, and which is effectively three-storey at the rear, and to the proximity and relative positioning of neighbouring property, and notwithstanding the general acceptability of the proposed contemporary design approach, it is considered that the proposed development would be unsympathetic to the character of the area, would seriously detract from the visual and residential amenities of the area, would fail to respect the steeply sloping topography of the site, and would fail to enhance the unique qualities of the Architectural Conservation Area arising from its particular character and characteristics, including the landform that slopes steeply to the sea. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. D15A/0208 / ABP Ref. No. PL06D.245013. Was granted on appeal on 19th October, 2015 permitting Gerard Ryan permission for demolition of house, removal of septic tank and construction of new 4 bedroom house and all associated site works at 36 Coliemore Road, Dalkey, Co. Dublin.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Dún Laoghaire Rathdown County Development Plan, 2016-2022:

Land Use Zoning:

The proposed development site is located in an area zoned as 'A' with the stated land use zoning objective 'To protect and-or improve residential amenity'.

Other Relevant Sections / Policies:

Chapter 8: Principles of Development:

Section 8.2: Development Management:

Section 8.2.3: Residential Development:

Section 8.2.3.1: Quality Residential Design

Section 8.2.3.2: Quantitative Standards

Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas:

(vii) Infill:

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

(xiv) Demolition and Replacement Dwellings:

The Council will sometimes state a preference to retain existing houses that, while not Protected Structures, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character and/or accommodation type.

Demolition of an existing house in single occupancy and replacement with multiple new build units will not be considered simply on the grounds of replacement numbers only, but will be weighed against other factors. Better alternatives to comprehensive demolition of, for example, a distinctive detached dwelling and its landscaped gardens, may be to construct structures around the established dwelling and seek to retain characteristic site elements.

In larger proposals for demolition of existing structures, the balance between the greater energy efficiency ratios of the new build, its size for running costs/impacts, and resources used for its construction - and those of the existing dwelling and the 'embodied energy' lost in its demolition, will be considered.

The Planning Authority will assess single replacement dwellings within an urban area on a case by case basis and may only permit such developments where the existing dwelling is beyond repair due to structural defects. For all applications relating to replacement dwellings, a strong justification / rationale shall be provided by the applicant.

Applications for replacement dwellings shall also have regard to Policies AR5 and AR8 (Sections 6.1.3.5 and 6.1.3.8). In this regard, the retention and reuse of an existing structure will be encouraged over replacing a dwelling. Applications for replacement dwellings within the rural area will be assessed under the provision of Section 8.2.3.6(iv).

Section 8.2.3.5: *Residential Development – General Requirements*

Section 8.2.4.9: *Vehicular Entrances and Hardstanding Areas*

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the immediate vicinity of the proposed development site:

- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 160m east of the site.
- The Dalkey Island Special Protection Area (Site Code: 004172), approximately 170m northeast of the site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- By way of background, the Board is advised that permission was previously refused on site under PA Ref. No. D16A/0758 / ABP Ref. No. PL06D.247850 for the construction of a three-storey dwelling house on the basis that the development in question would have been visually obtrusive, incongruous and overbearing in relation to neighbouring dwellings and would have seriously injured the residential amenities of adjoining properties. Subsequently, in 2018, the Planning Authority refused permission for PA Ref. No. D18A/0238 which had sought to construct a three-storey dwelling house on site that was larger and taller than that previously refused by ABP Ref. No. PL06D.247850. The subject proposal seeks to construct a dwelling house that is similar in all material respects to that already refused permission under PA Ref. No. D18A/0238 (i.e. it is larger and taller than that proposed in PA Ref. No. D16A/0758 / ABP Ref. No. PL06D.247850).
- The application documentation is misleading as to the extent of the differences between the subject proposal and the development previously refused permission on site. Given that the proposed development is the same in all material respects to that refused under PA Ref. No. D18A/0238, it is submitted that the Planning Authority would have come to a different decision if the application documentation had been clearer as to the extent of the changes now proposed.

- Whilst the assessment by the case planner has referred to the massing of the proposed dwelling house having been 'broken down' and that this is a key factor in distinguishing the subject proposal from that previously refused in 2018, it is not accepted that the massing of the proposed development has been altered to such an extent as to change the impact on Coliemoire Road, Nerano Road or the surrounding area.
- Contrary to the Planning Authority's assessment, the development refused under PA Ref. No. D18A/0238 did not propose an apex window whilst the subject proposal continues to include for an apex gable roof.
- The two-storey projecting bay window is almost identical in scale to the previously proposed balcony. Specifically, the proposed bay window will project the same (1.5m) distance from the façade of the dwelling house (as did the aforementioned balcony) whilst it will also be located at a comparable height (i.e. both elements were proposed as cantilevered over the lower ground floor / basement level and extended to the living accommodation level).
- Contrary to the report of the case planner, the adjoining houses to the south of the application site do not have bay windows. Furthermore, box-bay windows such as those proposed are a relatively unusual feature on Coliemoire Road with canted bay windows being much more typical, particularly along this section of Coliemoire Road. Accordingly, the proposed box bay windows are not '*in keeping with the more simplified geometry of adjoining houses on the road*'.
- Given that there continues to be a lift proposed at the same location as was shown in PA Ref. No. D18A/0238, it seems likely that a lift overrun will still be required which was presumably omitted from the submitted drawings in error (due to the failure to submit an attic level plan it is unclear whether that space will be served by the lift).
- The Planning Authority's assessment states the following:

‘With respect to the front building line . . . , it is considered that the omission of the previously proposed full width balcony to the front of the house would allow the building line and corners of the main volume of the house to read as the principal building line of the house’.

Similar to the bay window now included, the previously proposed balcony was cantilevered over the lower ground floor level and extended only as far as the living level. In addition, the main volume of the balcony did not extend across the full width of the facade but was angled from the corner of the main volume of the proposed house. Therefore, it is submitted that there is no material difference between the way in which the building line was addressed under the previous proposal when compared to the subject development.

- The only change in the overall massing of the proposal is an alteration in the profile of a small part of the roof to the rear of the house. The proposed dwelling is also larger than the house refused under ABP Ref. No. PL06D.247850. It is unclear how concerns regarding overdevelopment of the site can be addressed without reducing the quantum of development proposed.
- Contrary to the assessment by the case planner, the rear building line of the proposed dwelling has not been revised. The footprint of the proposed development at lower ground / basement level and the living level remains the same in all material respects as the development refused under PA Ref. No. D18A/0238.
- Permission was previously refused on site for a dwelling of a similar bulk, scale, mass and proximity to adjoining site boundaries (PA Ref. No. D18A/0238) and for a house of lesser height and smaller scale (ABP Ref. No. PL06D.247850) on the basis that those developments were contrary to the proper planning and sustainable development of the area. Given that the subject application makes no reasonable effort to address the reasons for the refusal of similar developments on site, and as there has been no change in planning policy during the intervening period, it is submitted that the subject

proposal is also contrary to the proper planning and development of the area and thus must be refused permission.

- With regard to the overall scale, mass and bulk of the proposed development, and its proximity to the site boundaries, the Board is requested to consider the following:
 - The subject proposal is materially similar in scale and design to the development previously refused permission under PA Ref. No. D18A/0238. Indeed, whilst some changes have been proposed to the rear roof profile, the current application only proposes a 1% reduction in gross floor area when compared to PA Ref. No. D18A/0238. The proposed development is also larger than that refused under ABP Ref. No. PL06D.247850 due to its '*scale, mass and bulk*'. In addition, given that the scale of the subject proposal has been referenced by the Planning Authority as an issue in terms of visual impact and overdevelopment of this constrained site, it is considered that a clear justification should be provided for the excessively large attic space (c. 60m² which has not been included in the gross floorspace figure) and the large basement area.
 - The height of the proposed dwelling is identical to that refused under PA Ref. No. D18A/0238 and also exceeds that rejected under ABP Ref. No. PL06D.247850.
 - The separation distance from No. 51 Colliemore Road is not materially different from that detailed in both ABP Ref. No. PL06D.247850 & PA Ref. No. D18A/0238.
- The proposed development fails to satisfactorily respond to the concerns of both the Board and the Planning Authority as regards its negative visual impact:
 - The subject application proposes only minor cosmetic changes to the front facade of the new dwelling when compared to PA Ref. No. D18A/0238. Whilst the decorative privacy screen has been omitted, the proposal continues to include an apex gable roof notwithstanding that the Planning Authority has already indicated that such a design '*would*

represent an unattractive elevation treatment to Coliemore Road and when viewed from Dillon Park'. In addition to failing to address the unattractive elevational treatment, the application now includes for excessively large bay windows / winter gardens, the design of which would appear incongruous and jarring when viewed from along Coliemore Road.

- There has been no change to the scale of the proposed development as it presents onto Coliemore Road or in its separation from neighbouring dwellings.
- There have been no material changes made to the front elevation of the dwelling in terms of scale, height or footprint.
- The proposed development will be visually obtrusive and overbearing when viewed from neighbouring properties, Coliemore Road, and from within Dillon's Park.
- The proposal will likely disrupt the composition of the streetscape at a particularly sensitive location along Coliemore Road opposite Dillon's Park, which is located within the Vico Road Architectural Conservation Area.
- The excessive scale, bulk and height of the proposed dwelling will have a significant negative impact on the residential amenity of neighbouring housing and the visual amenity of the surrounding area.
- The overdevelopment of the application site would be seriously injurious to the residential amenity of No. 51 Coliemore Road due to unacceptable levels of overshadowing, overlooking and visual obtrusiveness.

6.2. Applicant's Response

- The subject proposal is not a re-submission of a previous application and the suggestion that the Planning Authority has been misled is rejected.
- It is evident from the report of the case planner that the Planning Authority has assessed all aspects of the proposal.
- During the course of pre-planning discussions, the bulk and massing of the proposed development when viewed from public areas was reduced whilst its

relationship with the appellants' property at No. 51 Coliemore Road was also considered. Accordingly, the potential impacts of the proposal have been significantly mitigated.

- The Planning Authority has given a detailed explanation of the changes which have facilitated a different response to the design put forward in the subject application.
- It is of particular relevance to note that the Conservation Division of the Local Authority is of the opinion that the proposed development will not adversely impact on the adjacent Vico Road Architectural Conservation Area and that the existing substandard dwelling house on site is of no architectural merit.
- The subject site is not located within the adjacent Architectural Conservation Area whilst the protected views along Coliemore Road and Nerano Road are orientated away from the site.
- With regard to the overall streetscape / site context, the Planning Authority has concluded that the proposed dwelling provides for a suitable transition from the taller buildings at the upper end of Coliemore Road downhill towards the coastal level. The principle and subsidiary building lines will be protected.
- It is evident from the contiguous elevations, which are representative of the views available from within Dillon's Park, that the proposed dwelling house will sit properly within the overall architectural composition of the area. The proposed house will be lower than the pair of period dwellings to the immediate south whilst it will also be narrower than the housing to either side of the site.
- A vertical emphasis has been provided to the main elevation which includes a narrow gable feature within the main frontage. The flat-roofed section is lower than the roof of the neighbouring property at No. 51 Coliemore Road and is set back a metre from the boundary.
- It should be noted that no concerns as regards sunlight / daylight have been raised in the grounds of appeal.
- With regard to the floorspace of the proposed dwelling, the Board is advised that the semi-basement is integrated into the floor area and provides for on-

site car parking that could not otherwise be accommodated external to the dwelling and an area for the storage of a substantial amount of plant associated with the high energy rating and passive house design. Therefore, the basement level does not contribute to the accommodation floorspace, other than for an entrance hallway and stairway.

- Having regard to the floor areas proposed, it is submitted that the proposed dwelling house is not overly large.
- The positioning of the proposed dwelling respects the graduated building line along Nerano Road & Coliemore Road.
- Above ground, the proposed dwelling is quite modest in scale considering the size of other dwellings prevalent in the area and the scale of period houses which have higher floor to ceiling heights. Therefore, it is submitted that the proposed development is not oversized and is an appropriate response to the site context.
- It should be noted that there is a gradient of 14.5m between the front of the proposed dwelling and the rear site boundary which allows the house to sit into the landscape with no breach of the skyline when viewed from Dillon's Park or the coast.

6.3. **Planning Authority's Response**

- States that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.4. **Observations**

6.4.1. *Patrick Kearns & Mary Upton:*

- The subject proposal does not appear to be materially different from that previously refused permission by the Planning Authority under PA Ref. No. D18A/0238.

- The scale of the proposed dwelling house in terms of its overall height, depth and massing will have a negative visual impact on the surrounding area from the perspective of neighbouring housing and the amenity of Dillon's Park.
- The height and footprint of the proposed building will have a negative impact on the amenity of surrounding houses and garden areas.
- The bulk, scale, mass and proximity of the proposed dwelling to adjoining boundaries gives rise to an overdevelopment of the site.
- The front elevation of the proposed development is not consistent with the staggered elevational treatment of other buildings along this section of roadway whilst the large, projecting front bay windows are visually obtrusive.
- The proposed development will require a significant level of excavation which could impact on the structural stability of neighbouring housing.
- Construction works on site will likely give rise to a significant level of noise and inconvenience.
- The overall scale of the proposal will be visually obtrusive when viewed from the refurbished viewing area within Sorrento Park to the rear of the site.

6.5. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout / visual impact
- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is zoned as 'A' with the stated land use zoning objective '*To protect and-or improve residential amenity*' and that the surrounding area is primarily residential in character. It is of further importance to note that the subject proposal involves the replacement of an existing dilapidated dwelling house with a newly constructed modern residence. Therefore, in light of the foregoing, including the established use of the site for residential purposes, in my opinion, the proposed redevelopment of the subject site and the construction of a replacement dwelling house is acceptable in principle.

7.3. Overall Design and Layout / Visual Impact:

7.3.1. With respect to the overall design and visual impact of the proposed development, I would advise the Board at the outset that whilst regard should be had to the planning history of the site and the rationale for the refusal of previous development proposals, in my opinion, it is entirely appropriate to assess the subject application '*de novo*' (i.e. from first principles).

7.3.2. By way of context, the proposed development site is located along the western side of Coliemore Road where it occupies a particularly prominent and visually sensitive position directly overlooking Dillon's Park with expansive views towards Dalkey Sound and Dalkey Island beyond. The immediate site surrounds are dominated by the steeply rising topography that extends from the coastline whilst the surrounding pattern of development is characterised by a variety of period properties and several examples of more contemporary housing / architecture. It is of further relevance to note the proximity of the Vico Road - Sorrento Point Architectural Conservation Area, although the site itself is not located within same, whilst it is an objective of the Development Plan to preserve the views available from Coliemore Road towards the coastline.

7.3.3. At present, the application site is occupied by a single-storey over-basement dwelling house which has fallen into a state of disrepair / dilapidation and in this regard I would concur with the Planning Authority's assessment that the structure proposed for demolition is of no architectural or historic merit and that its replacement with a suitably designed dwelling would be permissible. The subject

proposal involves the construction of a contemporarily designed detached, front-gabled, two-storey over-basement dwelling house with a stated floor area of 331.71m² and an overall ridge height of 12.53m (over basement floor level) which clearly represents a considerable expansion in the overall level of development / accommodation on site. Notably, the submitted design has sought to utilise the difficult site topography in a manner similar to the existing building by providing for a basement floor level that will serve as sub-structure for the main residence (whilst including an enclosed garage area and plant room) with the principle living / bedroom accommodation to be located on the upper floor levels.

7.3.4. From a review of the planning history of the site, it is apparent that the design of the proposed replacement dwelling has gradually evolved in an effort to address the previous concerns of both the Planning Authority and the Board. For example, when compared to the development refused permission under PA Ref. No. D16A/0758 / ABP Ref. No. PL06D.247850 wherein the Board determined that the replacement construction, by reason of its design, scale, mass, bulk, and proximity to site boundaries, would be visually obtrusive, incongruous and overbearing in relation to neighbouring dwellings, the principle front elevation of the subject dwelling house (excluding the two-storey box-bay window serving the upper floor levels) has been set back approximately 1.8m thereby providing for a staggered building line between the adjacent properties to the immediate north and south. The finished floor levels of the proposed dwelling have also been set noticeably below those shown in PA Ref. No. D16A/0758 / ABP Ref. No. PL06D.247850 as evidenced from a comparison of the respective contiguous elevational drawings seemingly through a combination of lesser floor-to-ceiling heights within the upper accommodation levels and also as a result of the basement floor level having been lowered (although the use of differing datum / benchmark levels in the respective applications is regrettable). By extension, the overall height of the flat-roofed element of the proposed dwelling house positioned alongside the northern site boundary is below that previously refused under ABP Ref. No. PL06D.247850 and approximately 1.4m below the roof ridge line of No. 51 Coliemore Road.

7.3.5. However, perhaps the more notable difference between the subject proposal and ABP Ref. No. PL06D.247850 is the deviation from the purely contemporary design previously employed and the incorporation of greater variation in the architectural

treatment. In this respect, the current proposal includes for a curved wall feature at its north-eastern corner forward of No. 51 Coliemore Road thereby 'softening' the bulk / massing of this element of the building, although the principle design change involves the use of a conventional apex roof construction over the more southerly aspect of the dwelling with the result that the northern elevation will appear somewhat less domineering due to its massing having been broken down visually by the photovoltaic roof slates (please refer to the 'Tesla' specification provided with the application). In addition, the overall scale, height and massing of the rear return has been reduced whilst its width has also been narrowed thereby increasing the separation distance between this part of the development and the northern site boundary.

- 7.3.6. On balance, it is my opinion that, when compared to the development previously refused permission on site under ABP Ref. No. PL06D.247850, the overall scale, massing and bulk of the replacement dwelling house has been noticeably reduced, with particular reference to the expanse of the structure sited alongside the northern site boundary which will be visible on the approach to the site from the north along Coliemore Road. This has been achieved by way of a combination of factors, including the setting back of the front building line, changes in finished floor levels, reduced floor-to-ceiling heights on the upper levels, a revised architectural treatment, and a greater variation in external finishes (e.g. the use of granite cladding at basement level thereby avoiding an overly expansive rendered elevation).
- 7.3.7. With regard to the development previously refused permission under PA Ref. No. D18A/0238, the subject proposal provides for a much simplified front elevational treatment through the omission of the decorative balconies (and the hipped roof detail over same) and their replacement with a narrower two-storey box window in addition to the loss of what would appear to have been a triangular window feature within the gable apex serving the attic space. The sitting room and stairwell area at the uppermost 'living' floor level has also been recessed slightly from the southern site boundary whilst I would reiterate that the subject proposal has reduced the overall height and massing of the two-storey return to the rear of the proposed dwelling.
- 7.3.8. In terms of the separation between the proposed dwelling and the neighbouring residences to the immediate north and south, whilst I would concede that there is no

significant difference between the subject proposal and those developments refused under PA Ref. No. D16A/0758 / ABP Ref. No. PL06D.247850 & PA Ref. No. D18A/0238, I would suggest that consideration should be given to the wider changes to the overall design of the structure as regards its reduced massing etc. Moreover, cognisance must be taken of the fact that the proposed development will actually serve to increase the separation distance from the existing dwelling house to the immediate north whilst maintaining that from the property to the south.

- 7.3.9. On balance, whilst I would acknowledge the sensitivity and visual prominence of the site location, in addition to the difficulties posed by the specifics of the site context, in my opinion, the submitted proposal provides for an appropriate design response to this infill site which achieves a suitable transition between the differing housing / architectural styles along Coliemore Road without detriment to the visual amenity of the wider area. Cognisance has also been taken of the planning history of the site and efforts made to address the previous concerns raised. Accordingly, I am satisfied that the submitted design is acceptable, although I would suggest that the proposed chimney (which will serve a feature fireplace on the uppermost floor level) should be omitted as it serves to detract from the overall design and appears as a somewhat discordant feature.

7.4. Impact on Residential Amenity:

- 7.4.1. Concerns have been raised in the grounds of appeal that the proposed development will have a detrimental impact on the residential amenity of neighbouring properties by reason of overlooking with an associated loss of privacy. In this respect, whilst I would acknowledge that the infill nature of the proposed development has the potential to give rise to overlooking with a consequential loss of residential amenity, having regard to the site context within a built-up urban area and the surrounding pattern of development, I am inclined to suggest that the overall design, positioning and orientation of the proposed dwelling house has taken sufficient cognisance of the need to preserve the residential amenity of neighbouring housing and will not give rise to any significant detrimental impact on same by reason of overlooking. In particular, I would draw the Board's attention to the nature of the rooms to be served by the fenestration within the side elevations of the proposed dwelling (i.e. a wardrobe, sitting room & bathrooms), the proposed use of high-level windows and

obscure glazing, and the positioning of the windows within the side elevations relative to the ground levels on the adjacent sites.

- 7.4.2. In terms of the overlooking of neighbouring properties from within the terraced rear garden area of the proposed development, it should be noted that the subject proposal concerns a replacement dwelling house and that any such overlooking is perhaps more symptomatic of the site context and the existing topography as opposed to the development itself. In any event, I am satisfied that the subject proposal will not give rise to any significant additional overlooking when compared to the existing dwelling house.
- 7.4.3. In relation to the potential for the proposed development to have a detrimental impact on the residential amenity of neighbouring housing by reason of increased overshadowing / loss of daylight / sunlight, given the site context and its relationship with adjacent properties, it is apparent that particular consideration must be given to the appellants' residence to the immediate north of the application site. From a review of the available information, including the appellants' submissions and the *'Skylight & Sunlight Studies'* provided with the application, concerns arise as regards possible overshadowing of the existing sloped window / fenestration within the southern elevation of No. 51 Coliemore Road which serves a combined kitchen / dining area. Whilst I would concede that there may be some diminution in the level of natural light received by the aforementioned window due to the proposed development, at the outset, I would suggest that the actual design of the rear return within which the window in question is located, the excavation of that construction into the hillside and its finished floor level, and the proximity of that window to the site boundary, are all clear aggravating factors as regards the limitation of the available daylight etc. received by same. Furthermore, it is clear that the rear two-storey element of the proposed development has been noticeably set back from the northern site boundary when compared to PA Ref. No. D16A/0758 / ABP Ref. No. PL06D.247850 in an effort to address the Board's previous concerns as regards possible overshadowing. Accordingly, on balance, having reviewed the available information, I am satisfied that the development as submitted has taken sufficient account of the need to preserve the amenity of the appellants' property and that any loss of daylight / sunlight consequent on same would not be of such significance as to warrant a refusal of permission.

7.4.4. With regard to the potential impact of the construction of the proposed development on the residential amenities of surrounding property, whilst I would acknowledge that the proposed development site adjoins an established residential area and that construction works could give rise to the disturbance / inconvenience of local residents, given the limited scale of the development proposed, and as any constructional impacts arising will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition. Furthermore, as regards the suggestion that construction works could result in damage to neighbouring property, with particular reference to the structural integrity / stability of same, it is my opinion that any instances of damage to, or interference with, surrounding property that can be attributed to the proposed development would essentially be a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

7.5. Appropriate Assessment:

7.5.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions set out below:

9.0 Reasons and Considerations

9.1. Having regard to the design and scale of the proposed development, the historical use of the site in question for residential purposes, the planning history of the site,

the pattern of development in the area, and the provisions of the current Development Plan for the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - a) The omission of the chimney stack.

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 amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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.

5. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground.

Reason: In the interests of visual and residential amenity.

6. Prior to commencement of development, the developer shall submit to the planning authority, for written agreement, complete details of all proposed boundary treatment within and bounding the proposed development site.

Reason: In the interests of visual and residential amenity

7. Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

8. 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 noise management measures and off-site disposal of construction/demolition waste.

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

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in

accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Robert Speer
Planning Inspector

6th August, 2019