



An
Bord
Pleanála

Inspector's Report

ABP-312977-22

Development

Development consisting of demolition of existing, detached single storey dwelling and two garden outbuildings; and the construction of three, two storey dwellings, and all associated site works.

Location

8 Convent Road, Dalkey, Co. Dublin, A96 DD58 located in an Architectural Conservation Area

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D21A/1084

Applicant(s)

Noel Mac Mahon

Type of Application

Planning Permission

Planning Authority Decision

Refused Permission

Type of Appeal

First Party Appeal

Appellant(s)

Noel Mac Mahon

Observer(s)

Philip Owens

David and Bernadette Cunningham

James and Shelia Nicholson

Susan Loughnane

Lee Devlin

Marie Lynch

Kevin and Audrey O'Farrell

Breda and Brian Ryan

Date of Site Inspection

29th November 2022

Inspector

Susan Clarke

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	7
3.1. Decision	7
3.2. Planning Authority Reports	7
3.3. Prescribed Bodies	8
3.4. Third Party Observations	9
4.0 Planning History.....	9
5.0 Policy Context.....	9
6.0 The Appeal	12
6.1. Grounds of Appeal	12
6.2. Planning Authority Response	14
6.3. Observations	14
6.4. Further Responses.....	16
7.0 Assessment.....	17
8.0 Appropriate Assessment.....	26
9.0 Recommendation.....	26
10.0 Reasons and Considerations	26

1.0 Site Location and Description

- 1.1. The irregular shaped appeal site, measuring 0.0623ha, is located at No. 8 Convent Road Dalkey, Co. Dublin, approximately 100m northeast of the centre of Dalkey village. The site is bound by No. 9 Convent Road, a single storey dwelling with dormer windows to the east and south; Convent Road to the east; No. 7 Convent Road, a part-one/part-two storey dwelling to the south, and a terrace of single storey redbrick dwellings to the west. The site is located opposite a terrace of two storey cottages on Convent Road.
- 1.2. The site comprises a 1980's detached single storey dwelling with a front projecting gable. There are two outbuildings to the south of the dwelling. The dwelling has a large front and side garden in comparison to the limited private open spaces associated with the dwellings in the wider area. A low-level (c. 0.7m tall) wall with a bordering evergreen hedge bounds the site to the east.
- 1.3. The site currently has a pedestrian access via Convent Road and a vehicular access via St. Patrick's Road. On-street car parking is available on the western side of Convent Road, but restricted by double yellow lines on the eastern side of the road. Similarly, there is a footpath on the western side, but not the eastern side of the Road.
- 1.4. The immediate area predominantly comprises low-rise (one-two storeys) modest sized, residential dwellings in terrace format, however there are a number of detached units also. Harold's Boys Primary School is located on the western side of St. Patrick's Road. The site is located within the Dalkey Village Architectural Conservation Area. There are no Protected Structures in the immediate area.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - Demolition of a 1980's detached single storey dwelling (118 sq m/3-bed) and two single storey outbuildings
 - Construction of a terrace of dwellings comprising 2 No. two storey dwellings (referred to as House B and House C and measuring 112 sqm/3-bed/5person and 125 sqm/3-bed/5person, respectively) and one, two storey dwelling with attic accommodation and a dormer window and single storey rear extension

(home office and storage gallery) to the rear (referred to as House A measuring 230 sqm/4-bed/8person)

- Removal of the existing pedestrian entrance and formation of three new pedestrian entrances onto Convent Road
- One-off street car parking space is proposed for House A via St. Patrick Street,
- Landscaping, boundary treatments and all associated site development works.

2.1.1. The proposed development will be contemporary in design with the external walls plainly rendered with an off-white colour nap render finish. A 500mm high native granite stone plinth with a bush-hammered finish will be provided to the base of the external walls on all elevations. On the front elevation at first floor level, a horizontal band of granite stone cladding is provided to window cill height to each property. The pitched roofs will be finished in natural slate, while the dormer window to the rear of House A will be finished with an aluminium/zinc sheet.

2.1.2. At present, the site is serviced by an existing 225mm combined vitrified clay sewer that passes through the site along the southern boundary before extending onto Convent Road. There is an existing 101.6mm cast iron watermain running along Convent Road. It is proposed that the foul water from House A will discharge via gravity to an onsite 150mm diameter private sewer that connects to the existing 225mm vitrified clay passing through the southern boundary of the site, while Houses B and C will discharge via a 150mm sewer to the existing combined 225mm vitrified clay connection running along Convent Road with the installation of a saddle connection. Surface water runoff for paved areas will percolate onsite through porous paving. The remainder of roof runoff will drain directly to the combined sewer. Three new watermain connections are proposed from the existing 101.6mm cast iron mains running along Convent Road.

2.1.3. As part of the First Party Appeal, the Appellant has proposed an alternative design (hereafter referred to as the 'alternative scheme'), which is reduced in scale in comparison to the original scheme and includes the following:

- Reduction in length and width of the proposed terrace (east façade moved westward by c.600mm, south gable moved northwards by c.300mm, west

façade moved eastwards by c.300mm, and north façade moved southwards by c.1800mm.

- Ridge height reduced by 1,455mm.
- Ground floor bay windows now have a solid opening panel reducing the surface of the glazing.
- Nibs added to porches reducing the opes seen from the Street.
- First floor oriel windows and sliding shutters replaced with smaller picture windows
- Eaves detail adjusted to reduce level.
- House A altered from a 4-bed unit to a 3-bed unit (159 sq m).
- House B reduced to 107 sq m,
- House C altered from a 3-bed unit to a 2-bed unit (94 sq m).
- Removal of the dormer roof to House A.
- SuDs provisions in the garden of each dwelling.

Both the original scheme submitted to the Planning Authority and the alternative scheme submitted with the First Party Appeal are assessed in this Report.

2.2. Along with the standard drawings and information, the application included the following reports:

- Cover Letter
- Drainage Design Report
- Architectural Design Statement.

As part of the First Party Appeal, the following documentation was submitted:

- Daylight Analysis and Overshadowing
- Architectural Heritage Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

A Notification of Decision to Refuse Permission was issued on 10th February 2022 for one reason:

*The proposed terraced dwellings, by reason of their **proximity to site boundaries, height, bulk and massing, relationship to existing adjacent properties and overall design**, would adversely impact on the residential and visual amenities of adjacent properties by reason of **overlooking, overshadowing and overbearing appearance**, and would be **visually discordant within the subject streetscape**. The proposed development would **detract from the existing amenities of the area**, would depreciate the value of property in the vicinity, and would not accord with the provisions of Section 8.2.3.4 of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022 regarding Additional Accommodation in Existing Built-up Areas (vii) Infill.*

*Furthermore, the site is located within Dalkey Village Architectural Conservation Area. **The proposed development would, if permitted, not be in accordance with Policy AR12: Architectural Conservation Areas, and Section 8.2.11.3(i) New Development within an ACA**. The proposed development would therefore be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. In addition, the proposed development, if permitted, would **set an undesirable precedent** for similar development in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*
(Bold: my emphasis.)

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. Planning Report (10th February 2022)

Basis of Planning Authority's decision.

The Planning Officer considered that the principle of the proposed development was acceptable in terms of land use zoning and the demolition of the existing dwelling on-site. However, the Officer raised a number of concerns including, the impact on residential amenities of adjoining properties particularly in terms of overlooking, overshadowing and overbearing impacts, and the impact on the Dalkey ACA, and recommended that permission be refused as per the reason outlined above.

Whilst not referenced in the refusal reason, the Officer also raised concerns in relation to the extent of excavation required, noting that the bedrock in the area is granite. The Planner highlights that the Planning Report prepared in respect of Reg. Ref. D21A/0798 for the neighbouring site (No. 9 Convent Road) recommended that a condition for methods of excavation works on site, to avoid the creation of significant noise nuisance to adjacent properties, should permission be granted for the development.

3.2.3. Other Technical Reports

Conservation Officer (20th January 2022): Recommends permission be refused as the proposal is incompatible with the existing morphology of Convent Road due to the scale, height and massing of the proposed development.

Transportation Planning (19th January 2022): Recommends further information be sought in relation to cycle parking for Unit B.

Waste Management: No comments received.

Drainage Planning (20th January 2022): Requests further information in relation to surface water run-off.

Public Lighting (24th December 2021): No objection.

3.3. Prescribed Bodies

Irish Water (22nd January 2022): Recommends further information in relation to the 225mm diameter combined sewer crossing the site.

The Heritage Council: No comments received.

An Taisce: No comments received.

An Comhairle Ealaoin: No comments received.

Failte Eireann: No comments received.

3.4. **Third Party Observations**

- 3.4.1. Fifteen Third-Party Observations were submitted to the Local Authority opposing the proposed development. The key issues raised are similar to those in the Observations submitted to the Board (see Section 6.3, below).

4.0 **Planning History**

Subject Site

- 4.1.1. **DLRCC Ref. V/102/21:** Part V Certificate of Exemption, dated 23rd February 2022.

Neighbouring Site – No. 9 Convent Road

- 4.1.2. **Reg. Ref. D21A/0798:** Planning permission refused in October 2021 for a two-storey, two bedroom detached dwelling house to the north of the existing dwelling for the same reason as the subject case was refused permission.

5.0 **Policy Context**

5.1. **Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009**

- 5.1.1. The ‘Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009’ note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

5.2. Dun Laoghaire Rathdown County Development Plan, 2022-2028

5.2.1. Since the Local Authority issued a Notification of Decision to Grant Permission for the proposed development, a new development plan has been prepared and adopted for the County. The applicable plan is the Dun Laoghaire Rathdown County Development Plan, 2022-2028. I do not consider that there are material differences between the former Development Plan and the new Development Plan for the purposes of assessing this appeal case.

5.2.2. The subject site is zoned Objective A “*To provide residential development and improve residential amenity while protecting the existing residential amenities*”. This zoning objective applies also to the adjoining dwellings on St. Patrick’s Road and Convent Road.

The site is within the boundary of the *Dalkey Village Architectural Conservation Area* and also within the Area of Archaeological Potential – Dalkey (Historic Town) boundary, RMP Ref. 023-23 as included in Appendix 4 of the Plan.

Policy Objective PHP19 includes the objective to ‘densify’ existing built up areas through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

Where a site is located within 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities of 50 units per hectare will be encouraged.

As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning objectives ‘GB’, ‘G’ and ‘B’) shall be 35 units per hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to greenfield sites of larger ‘A’ zoned areas.

Section 12.3.7 refers to ‘Additional Accommodation in Existing Built Up Areas’ and sets out policies relating to **infill development** (12.3.7.7) which states that in accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. 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 ACA status or similar.

Key Policy Objectives include:

- Policy Objective PHP20: Protection of Existing Residential Amenity
- Policy Objective HER13: Architectural Conservation Areas
- Policy Objective HER20: Buildings of Vernacular and Heritage Interest
- Policy Objective HER21: Nineteenth and Twentieth Century Buildings, Estates and Features

Development Management

- Section 12.3.1.1 Design Criteria
- Section 12.3.3 Quantitative Standards for Residential Development
- Section 12.3.3.2: Residential Density
- Section 12.3.7.5: Corner/Side Garden Sites
- Section 12.3.9 Demolition and Replacement Dwellings
- Section 12.4.5 Car Parking Standards
- Section 12.4.6 Cycle Parking
- Section 12.8.2/12.8.3/12.8.8 Open Space
- Section 12.8.6.2 SuDS
- Section 12.11.4 New Development within an ACA

5.3. Natural Heritage Designations

- 5.3.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are Dalkey Island SPA and Rockabill to Dalkey Island SAC, located c. 540m east and c. 840m east respectively.

5.4. EIA Screening

5.4.1. On the issue of environmental impact assessment screening I note that the relevant classes for consideration are Class 10(b)(i) “construction of more than 500 dwelling units” and Class 10(b)(iv) “urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere”. Having regard to the modest size of the site at 0.0623 ha and the number of units to be provided at three which is considerably below the 500 dwelling threshold, it is considered that, having regard to the nature and scale of the proposed development, the location of the development on an infill serviced site, the separation distance from the nearest sensitive location, together with the characteristics and likely duration of potential impacts, that the proposal is not likely to have significant effects on the environment and that the submission of an environmental impact assessment report is not required. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A First-Party Appeal was submitted to An Bord Pleanála on 9th March 2022 opposing the Local Authority’s decision to refuse permission. As outlined in Section 2.2 above, a number of amendments have been proposed with the Appeal.

6.1.2. The grounds of appeal can be summarised as follows:

- The proposal of a two storey, opposite a two storey terrace is much more in keeping with the existing character and urban morphology than the existing 1980’s bungalow.
- The height, scale and massing can be reduced without altering the proposal in a material way.
- The proposed dwellings are set sufficiently back from the rear boundaries, not to cause any greater overshadowing than exists at present from the closer bulk

of the bungalow. The lower ridge height as proposed with the Appeal would further reduce overshadowing.

- The northern gable of the proposed terrace has been repositioned, affording more space and light to No. 9 Convent Road.
- The proposed dwellings are setback further than the present building thereby creating back gardens of reasonable length.
- Any potential overlooking will be from upper floor bedrooms into narrow yard spaces. Any development in a residential area has a degree of overlooking of back gardens. However, the oriel windows can be omitted.
- The rear dormer window to House A can be removed to eliminate any perceived overlooking.
- The proposal is consistent with national, regional and local policy in terms of redeveloping sites in urban areas.
- The proposal is consistent with the Dalkey ACA in terms of the palette of materials and design.
- The existing building is out of character with the ACA.
- The Appeal includes a Daylight Analysis and Overshadowing. The Report states:

- *From the 45-degree analysis the centre-points of the windows of No. 9 Convent Road facing the proposed development does not fall within the plan and elevation extension lines.*

The VSC analysis was conducted and showed that all three windows of No. 9 Convent Road facing the proposed development passes the BRE guideline level for VSC.

- The Appeal also includes an Architectural Heritage Impact Assessment prepared by Cathal Crimmins Grade I Conservation Architect. The Report states:
 - *The proposed revised design of the terrace is not incompatible with the existing urban morphology, or the established character of the area. It like, the red brick terrace nearby and the plastered terrace opposite continues in*

a contemporary manner, the strong enclosure of the street. In detail it is simple with vertical windows and a plain plastered finish.

6.2. Planning Authority Response

There is no response from the Local Authority in respect of the First-Party Appeal on file.

6.3. Observations

6.3.1. Eight Observations were received by the Board supporting the Local Authority's refusal for the proposed development and expressing concerns in relation to the Applicant's alternative scheme submitted as part of the First-Party Appeal, from the following parties:

- Philip Owens, Convent Road
- David and Bernadette Cunningham, Convent Road
- James and Shelia Nicholson, Convent Road
- Susan Loughnane, Convent Road
- Lee Devlin, Convent Road
- Marie Lynch, Convent Road
- Kevin and Audrey O'Farrell, Convent Road, and
- Breda and Brian Ryan, St. Patrick Street.

As similar topics are raised in the Observations, the key points raised are collectively summarised below.

6.3.2. Architectural Design

- Overdevelopment – excessive height, density, bulk with limited open space, and does not comply with plot ratios.
- Reduced height proposed in the Appeal scheme is only marginal. It is the same height as Derrynane Terrace, however this Terrace does not directly face only any other property, unlike the proposed development.

- Concerns regarding the proximity of the proposal to neighbouring dwellings.
- Overbearing impacts
- Depreciate property values in the area
- Visually obtrusive impact on the surrounding area
- Unsuitable in ACA and not in keeping with the character of the area. Development should enhance and preserve the rural character established in the area.
- Proposal would adversely impact the setting of the Protected Structures in the area.
- No visual impact assessment included with the application.
- The proposal is visually confusing with many junctions between materials and will have a low-quality appearance.
- The large bay windows are imposing and inappropriate.
- No. 7 Convent Road predates the Victorian redbrick terrace and was one of the first houses constructed on Convent Road.
- The development will enclose the road giving it a harsh high density, dark and windy canyon like street feel.

6.3.3. Residential Amenity

- The design is contrary to the site's land use zoning objective to protect and/or improve residential amenity.
- Development is unsuitable for families due to limited open space and car parking facilities.
- Overshadowing and loss of light. Shadow analysis does not address the impact for the dwellings located on the opposite side of Convent Road. Will completely overshadow living area of No. 9 Convent Road.
- Overlooking and loss of privacy.

- Removal of the existing hedge along the boundary wall on Convent Road will reduce privacy for the residents in the terrace on the opposite side of the Road.
- No VSC and shadow analysis completed illustrating potential impacts on No. 7 Convent Road.
- Loss of visual amenities relating to the skyline and light to the rear of the properties on St. Patrick Road.
- Inconvenience during construction.

6.3.4. Traffic

- Convent Road is not suitable for high density development. It will necessitate a footpath on both sides of the road. The existing footpath on the western side is only adequate.
- The proposal will have a negative impact on the existing parking, loading and turning of vehicles on the road.
- The proposal represents a safety hazard for resident's children and school children.
- It will create severe congestion in the area.

6.3.5. Other Matters

- Revised proposals forming part of the Appeal is confusing.
- The VSC and shadow analysis has only been prepared in respect of the alternative scheme submitted with the Appeal, not the original scheme.
- Discrepancies on the drawings.

6.4. Further Responses

6.4.1. No further responses on file.

7.0 Assessment

7.1.1. My assessment considers the planning application as lodged with the Planning Authority de novo. The proposed development has been amended by way of the Applicant's First Party Appeal submission. In my opinion, the changes are material and would be more appropriately addressed by way of a revised planning application. Notwithstanding the foregoing, the issues that arose in the first instant are still pertinent and as such the alternative scheme has been considered as part of my assessment. In the event An Bord Pleanála considers granting permission for the alternative scheme, in my opinion, the application should be readvertised to the public.

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

- Principle of Development
- Density
- Residential Amenity
- Other Matters

Each of these issues is addressed in turn below.

7.3. Principle of Development

7.3.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the site is zoned for residential development (*Objective A: to provide residential development and improve residential amenity while protecting the existing residential amenities*) in the Development Plan. Under this land use zoning objective residential is listed as a permitted in principle use. As such, I consider the proposed development to be acceptable in land use zoning terms.

7.3.2. It is of further importance to note that the proposal involves the replacement of an existing dwelling with three new dwellings. There are multiple examples of comparable developments having been permitted in the County, including the demolition of older properties to make way for contemporary replacement housings or the further densification of lands through the construction of multiple-unit schemes. Therefore, in light of the foregoing, including the established use of the site for residential purposes,

in my opinion, the demolition of a less energy efficient dwelling on the subject site and the construction of three replacement dwellings is acceptable in principle. I note that the Local Authority raised no concerns in relation to this matter.

- 7.3.3. Section 12.3.7.7 of the Development Plan (infill development) states *inter alia* “New infill development shall respect the height and massing of existing residential units.” Section 5.9 of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* refers to infill residential development and includes: “Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. These also provide: In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill”.
- 7.3.4. Therefore, while the principle of an infill can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development of 3 No. two storey houses on the subject site would be sustainable on this site and would not be detrimental to the amenities of adjoining residential properties or the character of the area. Regard is had to these issues in the Assessment below.

7.4. Density

- 7.4.1. It is clear from the applicable planning policy and guidelines outlined in Section 5.0 above that there is an increased emphasis on maximising the development potential of sites particularly in relation to housing developments within existing urban areas. In particular, the 2009 Sustainable Residential Development Guidelines recommend that minimum net densities of 50 units per hectare should be applied, subject to appropriate design and amenity standards. The proposed development has a density of 48 No. units to the hectare, which almost achieves the standard. Accordingly, in terms of quantitative development management standards, the proposed development would not be considered as overdevelopment. However, whilst the density is low by comparison to new housing developments, particularly in the context of a site which is serviced and in close proximity to public transport, regard must be had to the site’s sensitivities, including its location in an ACA and proximity to residential dwellings.

7.5. Residential Amenity

Architectural Design – Height, Scale and Massing – Original Scheme

7.5.1. By way of context, the proposed development site is located in a well-established residential area, in close proximity to Dalkey village centre. As outlined above, the site is located within the Dalkey Village ACA. Section 7.8 of the ACA addresses Convent Road. It states that the Road “*has a rural character derived from its narrow thoroughfare, absence of footpath on the east side and siting of houses with gables to the road.... The compact terraces at the southern end, set tight to the road enhance the sense of enclosure. This gradually dissipates at the middle section due to the significant set back of houses on the east side. The northern end is characterised by the high rendered stone wall of Shamrock Hill which contributes to the rural ambience of Convent Road.*” Whilst there are no Protected Structures on the site or in the immediate area, there are a number of period terraces which are of architectural and historical interest and that positively contribute to the character and visual amenity of the ACA. These include Derrynane Terrace, a two-storey Victorian style terrace comprising five dwellings on Convent Road, the row of single storey redbrick cottages on St. Patrick’s Road, and 12 No., two bay, two-storey rendered cottages on the eastern side of Convent Road, opposite the subject site.

7.5.2. Concerns have been raised as to the appropriateness of the overall design, scale, height and massing of the proposed dwellings given the site’s relationship with neighbouring properties. While I acknowledge the original scheme’s contemporary architectural approach, I concur with the Local Authority that its height, scale and massing, and proximity to adjacent properties would adversely impact on the residential and visual amenity of the neighbouring dwellings by reason of overlooking, overshadowing and overbearing appearance, and would be visually discordant within the subject streetscape and surrounding area. In terms of height, I note that the original proposal has a ridge of 9.395m. Whilst the site is within close proximity to the village centre, which has buildings of greater heights than that proposed, the subject site has a lower density, rural character as noted in the ACA. In my opinion, this height is not compatible with the neighbouring properties, at heights of:

- the single storey element of No. 7 Convent Road – c.3.6m,
- No. 12 St. Patrick’s Road – c.4.8m,

- No. 9 Convent Road – c.7m,
- the terrace of dwellings on the opposite side of the site on Convent Road – c.7.2m,
- Derrynane Terrace – c.8.3m.

7.5.3. In addition to the proposed height, the projecting first floor windows along Convent Road and the dormer window to rear of House A, as illustrated on Proposed Section AA on Dwg. No. PP.06, would have a significantly overbearing impact on the surrounding area. In my opinion, the bulk and scale of the proposal would have particularly adverse impacts on Nos. 7, 9, 39-43 Convent Road and Nos. 9-12 St. Patrick's Road due to the proximity of the proposal to these units. As highlighted by the Observers, a visual impact assessment was not submitted with the application. However, from review of the drawings submitted to the Local Authority, in my opinion, the complex front elevations' architectural treatment is not sympathetic to the character of the area and would detract from the area's visual amenity. The large front and rear windows would facilitate direct overlooking of Nos. 39-43 Convent Road and Nos. 9-12 St. Patrick's Road. In addition, the provision of a side window and doorway on the northern elevation of House C, would facilitate direct overlooking into the living accommodation of No. 9 Convent Road (see photo 12). Furthermore, due to the scale, massing and height of the original proposal, it would likely cause undue overshadowing and loss of daylight of the neighbouring properties.

7.5.4. In summary, in my opinion, the original proposal's architectural treatment is inconsistent with the character of the ACA and would adversely impact the area's residential amenity. As such, I consider that the original proposal is contrary to Policy Objective PHP20 and Policy Objective HER13 of the Development Plan.

Architectural Design – Height, Scale and Massing – Alternative Scheme

7.5.5. In terms of the alternative scheme, the ridge height has been reduced to 7.85m. Having reviewed the elevations and sections on Dwg. No. ABP.02, I consider this height to be more in keeping with the area and it would have less of an overbearing impact on the neighbouring properties in comparison to the original scheme.

- 7.5.6. Furthermore, the scale and massing of the terrace has been considerably reduced in size. The northern elevation of the proposed terrace is setback 5.58m from No. 9 Convent Road. The rear side window at ground floor level almost aligns with the rear elevation of No. 9 and as such, I do not consider undue overlooking of the neighbouring property would occur at this level. There are no windows proposed at first floor level and as such no overlooking would occur at this level. I note from my site visit that the block wall between the subject site and No. 9 does not prevent direct overlooking from both sites at present. Whilst a detailed landscape plan has not been submitted with the application, in my opinion such a plan could potentially mitigate this situation.
- 7.5.7. The eastern elevation has been setback c.0.6m and as such is 13.5m from Nos. 39-43 on the opposite side of Convent Road. Due to the site's large front garden and boundary hedge and the limited first floor level windows on the existing dwelling, there is no significant overlooking at present from the site to Nos. 39-43. I note that many of these properties have been extended to the rear and in addition to having small front gardens, also have relatively sized rear gardens. I acknowledge the Observers' arguments that Derrynane Terrace, whilst located in close proximity to Convent Road, does not immediately overlook properties on the opposite side of the road, in comparison to the proposed scheme. In many urban areas, it would not be unusual to have terraces of houses directly facing each other. For example, Nos. 1-3 and Nos. 30-24 St. Patrick's Road directly face each other and are separated by distance of c.11-12m. As such, whilst I acknowledge that the level of overlooking would increase in comparison to the existing situation, I do not consider that it would unduly impact the residential amenity of Nos. 39-43 Convent Road. However, as highlighted by the Observers, it would provide a more enclosed spaced and thus would alter the character of the Road at this location.
- 7.5.8. Acknowledging the site's current low-density nature, it is not a reasonable expectation in my view that there would be no material change in the overall height and scale of any redevelopment of the subject site, having regard to national guidelines and the site's proximity to public transport. Notwithstanding this, in my opinion, the proposal's architectural design and treatment as view from Convent Road will not make a particularly positive contribution to the character of the ACA (see the 3D image enclosed with the First-Party Appeal).

- 7.5.9. The southern elevation is setback 5m from the northern elevation of the single storey element of No. 7 Convent Road. Whilst the alternative scheme includes for a new specimen tree along the boundary between No. 7 and the subject site, I have concerns regarding the bulk and scale of the proposed southern elevation on the residential amenity of No. 7. Furthermore, though I understand the rationale of not providing windows on this elevation to prevent overlooking of No. 7, I consider this blank façade to be stark. Due to the positioning of this elevation, in my opinion, it would be visually poor as one travels in a northerly direction on Convent Road.
- 7.5.10. In terms of the rear elevation, as stated above, I consider that the alternative scheme's reduced height and omission of the rear dormer window on House A is a significant improvement in comparison to the original scheme in relation to overbearing impacts. The rear elevation has also been setback in an easterly direction by c300mm and size of the projecting oriel windows reduced. Notwithstanding this, having regard to the size of the windows and their proximity to the rear elevation of Nos. 9-12 St. Patrick's Road, the impact from direct and perceived overlooking would negatively impact the residential amenities of these properties. In my opinion, smaller windows, perhaps at a higher level that would provide distant views only, could provide light to the subject bedrooms, but would also reduce the level of direct and perceived overlooking on the adjoining residents.
- 7.5.11. In terms of overshadowing, the Daylight Analysis and Overshadowing study of the alternative scheme submitted with the First-Party Appeal illustrates that the proposal will increase the level of overshadowing currently experienced by the neighbouring properties, due to the extant dwelling on the site. However, I do not consider it to be significant or to such an extent that it would negatively impact the residential amenity of the neighbouring properties. Nos. 9-12 St. Patrick's Road are already largely overshadowed by the existing dwelling on the subject site. Furthermore, having regard to the large garden associated with No. 9 Convent Road, I do not consider that there would be an adverse impact on these residents. I note the Observers' comments that the study does not include the properties on the opposite side of the road to the subject site on Convent Road. Whilst the level of overshadowing on the front gardens and elevations would increase at certain times of the day, I note that these units have larger rear gardens. As such, I do not consider that the increased level of overshadowing would adversely impact these residents.

7.5.12. The impact on daylight is measured in terms of Vertical Sky Component¹. In terms of loss of daylight, the Applicant only submitted analysis in respect of No. 9 Convent Road: *The VSC analysis was conducted and showed that all three windows of No. 9 Convent Road facing the proposed development passes the BRE guideline level for VSC.* Having regard to the modest plot sizes and boundary treatments for Nos. 9-12 St. Patrick's Road, in my opinion, it is likely that the rear/east facing rooms of these dwellings receive limited daylight levels at present. Whilst the Applicant has not submitted technical analysis of the impact from the alternative proposal on these units, in my opinion, it is unlikely that the units would not be adversely impacted in terms of daylight loss due to the revised height and orientation of the proposal. Similarly, having regard to the separation distance between Nos. 39-43 Convent Road and the scale and height of the alternative scheme, in my opinion, it is unlikely to be adversely impacted in terms of daylight loss. Due to the orientation of No. 7 Convent Road in relation to the subject site, I am similarly of the view that it will not be adversely impacted in terms of daylight loss. In summary, in my opinion, it is unlikely that the alternative scheme would adversely impact the adjoining residents in terms of daylight loss.

7.5.13. Having regard to the foregoing, whilst the alternative scheme is a significant improvement in comparison to the original proposal, in my view, it will reduce the residential amenity of Nos. 9-12 St. Patrick Road due to overbearing and overlooking impacts, and as such would be contrary to Policy Objective PHP20 of the Development Plan. Furthermore, in my opinion, the proposal would not complement the character of the ACA and as such would be contrary to Policy Objective HER13 of the Development Plan.

¹ The BRE guidelines set out a two-stage guide for the vertical sky component (VSC).

1. Where the Vertical Sky component at the centre of the existing window exceeds 27% with the new development in place then enough skylight should still be reached by the existing window.
2. Where the vertical sky component with the new development in place is both less than 27% and less than 0.8 times its former value, then the area lit by the window is likely to appear more gloomy, and electric light will be needed more of the time.

Standard of Accommodation

- 7.5.14. In terms of the standard of accommodation that the dwellings in the original scheme could provide, the units have conventional layouts and are consistent with the Quality Housing for Sustainable Communities-Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). In terms of private open space, House A and C would be consistent with the Development Plan's standards, but House B would be 10 sq m short of achieving the 60 sq m standard. I am satisfied that the areas would provide residents with a sufficient level of amenity.
- 7.5.15. A schedule of accommodation is not provided for the alternative scheme nor are the room sizes provided on the Dwg. No. ABP.01. However, I estimate that the scheme is largely compliant with the applicable standards. In terms of the private open space provision, I am satisfied that Houses A and C are compliant with the Development Plan's standards, however House B would fall marginally short.
- 7.5.16. Overall, I am satisfied with the standard of accommodation that would be provided to future residents is acceptable.

Traffic and Car Parking

- 7.5.17. The proposed development includes for one car parking space associated with House A. The Applicant states that future residents of Houses B and C can avail of on-street car parking. I note from my site visit, which was completed mid-morning, that the availability of on-street car parking is limited. Furthermore, Convent Road is very narrow and only has a footpath on one side (western side). Car parking is limited to this side also. However, having regard to the site's proximity to public transport and the number of units proposed, I do not consider that the proposal will significantly increase car parking demand or congestion in the area to such an extent that it would adversely impact on the area's residential amenity. Furthermore, having regard to the size and nature of the development, I do not consider that the proposal represents a traffic safety hazard. Should the Board be minded to grant permission for the proposal, I recommend that a condition be attached to the Order requiring the Applicant to submit and agree in writing with the Local Authority a construction traffic management plan, prior to the commencement of the development.

Construction Impacts

7.5.18. I consider that any construction disturbance impacts on adjoining properties will be only temporary and are inevitable and unavoidable aspects associated with urban development. This matter could be satisfactorily agreed by conditions requiring the submission of construction management proposals to address any impacts.

Conclusion

7.5.19. In summary, in my opinion, as a result of the proposed development's height, scale and massing, and proximity to adjacent properties it would adversely impact on the residential and visual amenity of the adjacent properties by reason of overlooking, overshadowing and overbearing appearance, and would be visually discordant within the subject streetscape and character of the ACA. As such, I consider that the original proposal is contrary to Policy Objective PHP20 and Policy Objective HER13 of the Development Plan. Similarly, I consider that the alternative scheme due to its to overbearing and overlooking impacts on Nos. 9-12 St. Patrick Road would be contrary to Policy Objective PHP20 of the Development Plan. Furthermore, I do not consider that it would positively contribute to the ACA. As such, I consider the Local Authority's reason for refusal still stands and I recommend that permission is refused for the proposed development.

7.6. Other Matters

Precedent

7.6.1. In relation to the application establishing a precedent for development of this kind, I highlight that that neither the Local Authority nor An Bord Pleanála are bound by precedent decisions, and each application/appeal is assessed on its own merits.

Drawing Discrepancies

7.6.2. With regard to the drawing discrepancies provided with the initial application, I note that the Planning Authority was satisfied that these drawings adequately identified the 'main features' of buildings and sites in the vicinity as to accord with the requirements of the Regulations. I do not consider that the discrepancies materially impact the assessment of the proposal.

Bedrock

- 7.6.3. In relation to concerns raised regarding the potential for the bedrock in the area to comprise granite and the impact this could have on the construction phase of the proposal, I have a similar view to the Local Authority, in that should the Board be minded to grant permission for the proposed development, appropriate noise mitigation measures could be attached to the Decision. This matter could be addressed by condition requiring a submission of a site investigation and methodology report by a competent structural engineering firm and subsequent construction management plan for agreement with the Local Authority prior to the commencement of the development.

8.0 Appropriate Assessment

- 8.1.1. As stated above, the appeal site does not form part of, it does not adjoin or is it located within close proximity to any designated Natura 2000 site. I note that the nearest such sites are Dalkey Island SPA and Rockabill to Dalkey Island SAC, located c. 540m east and c. 840m east respectively. There are no direct pathways between the site and the Natura 2000 network.
- 8.1.2. Having regard to the nature and scale of the proposed development, the residential land use zoning of the site, and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

9.0 Recommendation

I recommend that planning permission be refused for the proposed development based on the reasons and considerations set out below.

10.0 Reasons and Considerations

The proposed development to demolish a single storey dwelling and to replace it with a terrace of three houses, would result in development which is inconsistent with the established character of Convent Road as described in the Dalkey Architectural

Conservation Area. The excessive height, scale and massing and proximity relative to neighbouring dwellings would adversely impact on the residential and visual amenity of the adjacent dwellings by reason of overlooking, overshadowing and overbearing appearance, and as such would be contrary to Policy Objective PHP20 Dun Laoghaire Rathdown Development Plan 2022-2028. The terrace would be visual obstructive on the streetscape and not in keeping with the area's established architectural character and would therefore conflict with Policy Objective HER13 of the Development Plan. The proposed development would fail to protect the existing residential amenities in accordance with the site's land use zoning objective (Objective A). The development would, therefore, be contrary to the proper planning and sustainable development of the area.

Susan Clarke
Planning Inspector

6th December 2022