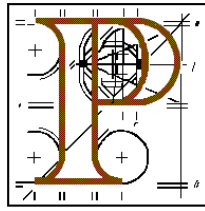


An Bord Pleanála



Inspector's Report

PL06D.246294

DEVELOPMENT:-

Permission sought for a residential development of 50 no. houses located within the attendant grounds of a protected structure at Shankill House, Ferndale Road, Rathmichael, Co. Dublin.

PLANNING APPLICATION

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. No: D15A/0809

Applicant: Charlton Homes Ltd

Application Type: Permission

Planning Authority Decision: Refuse

APPEAL

Appellant: Charlton Homes Ltd

Observers:

Type of Appeal: 1st-V-Refusal

DATE OF SITE INSPECTION: 15th June 2016

Inspector: Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area of 3.05 hectares, is located to the south west of Dublin, just south of the M50 and west of Shankill and east of Rathmichael. The site is located on the western side of Ferndale Road, which links into the R116 to the north of the site. The appeal site is the existing curtilage of Shankill House, but the site does not include the house itself and adjoining outbuildings. Shankill House is a three-storey over basement dwelling that is on the record of protected structures. There are other structures adjoining Shankill House including a two-storey dwelling and single-storey outbuilding (not on appeal site), with the only structure on the appeal site being a corrugated metal shed. There is an existing entrance from Ferndale Road and a driveway through the site to the existing dwelling. There are a number of existing mature trees on site. Immediately to the south of the site is the access road serving Hillfield, which is a residential development of two-storey dwellings (a two-storey dwelling adjoins the western boundary of the site). To the north of the site is the access Road to Rathmichael Dales, which is a development of detached dwellings on large sites.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for development within the attendant grounds of Shankill House (protected structure, RPS No. 1829). The development consists of 50 no. dwelling units comprising 15 no. detached, 20 no. semi-detached and 15 no. terraced houses ranging in size from c. 115sqm to 273sqm arranged across 1-3 storeys with garden sheds to the rear. The proposal also entails new boundary treatments to the front of Shankill House and a new vehicular entrance to the east at Ferndale Road. Vehicular entrance to the north remains as permitted (under ref no. D14A/0110).

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

- (a) Drainage Planning (22/01/16): Further information required regarding a number of drainage issues and details.
- (b) Irish Water (27/01/16): Conditions in the event of permission.
- (c) Development Applications Unit (27/01/16): Archeological Impact Assessment required.
- (d) Conservation Officer (10/02/16): It is noted that setting of the protected structure is unchanged in the current proposal in the context of previous proposal permitted on site. No objections are raised.
- (e) Transportation Planning (11/02/16): Refusal recommended based on traffic hazard due to intensification of traffic onto local road network,

prematurity based on the standard of the existing local road networks and the precedent such development would set.

- (f) Parks and Landscape (11/02/16): Further information required including detailed landscaping proposals and a revised tree report detailing trees of be retained and how such are to be protected.
- (g) Planning Report (16/02/16): Concerns identified included traffic issues as raised by the Transportation Planning Section. Concern was also expressed regarding the extent of land shaping works, retaining wall and loss of trees in the context of the amenities of the area and properties in the vicinity. It was also noted that Section 38 sterilisation agreement relates to the subject site. It was also noted that the proposal would be contrary Section 16.3.1 of the County Development Plan due to the extensive use of retaining walls.

4. DECISION OF THE PLANNING AUTHORITY

4.1 Permission refused based on 4 reasons...

1. The proposed development, as a result of the level of intensification of additional vulnerable road users, on Ferndale Road between the proposed development and the approach to the Rathmichael Road/Ballybride Road Roundabout would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. The proposed development is premature because of the lack of adequate, safe facilities for vulnerable road users on Ferndale Road between the proposed development and the approach to the Rathmichael Road/Ballybride Road Roundabout which renders it unsuitable to carry the increased vulnerable road user traffic likely to result from the proposed development. In addition, the precedent that a grant of permission for the proposed development would set for other relevant development would adversely affect the use of Ferndale Road by traffic. This is contrary to the proper planning and sustainable development of the area.
2. Having regard to the extent of land shaping works , retaining walls and the loss of trees on the subject site, it is considered that the proposed development is not an appropriate design response to the constraints of the subject site located in a semi-rural area with an objective to 'protect and preserve trees and woodland'. This is contrary to Section 16.3.1 and policy LHB11 of the Dun Loaghaire Rathdown County Development Plan and to the following Ministerial Guidelines, 'Housing for Sustainable Communities, 2007' and the 'Guidelines and the Urban Design Manual Guide', 2009. In addition, the proposed development would seriously injure the amenities of property in the vicinity. This is contrary to the proper planning and sustainable development of the area.

3. A Section 38 Sterilisation Agreement pertains to the subject site and adjoining lands in the vicinity of Shankill House as per Condition No. 1 of Planning Register Reference No. ZA/1064. The proposed development does not warrant the relaxation of this agreement as the proposed development would have a negative impact on the residential amenities of the area due to the extent of the land shaping works and the extent of tree loss. This is contrary to the proper planning and sustainable development of the area.
 4. The site layout and design proposed particularly with regard to the extensive use of retaining walls would result in a substandard level of residential amenity for future occupants materially contravening Section 16.3.1 of the Dun Laoghaire Rathdown County Development Plan, 2010-2016.
5. PLANNING HISTORY
- 5.1 D15A/0403: Permission granted for 10 no. two-storey detached dwellings.
 - 5.2 D14A/0110: Permission granted for new wrought iron entrance gates.
 - 5.3 D08A/0213: Permission granted for removal of existing septic tank and provision of new wastewater treatment system.
 - 5.4 PL06D. 232498: Permission refused for a nursing home within the curtilage of Shankill House. Refused due to adverse impact on the setting of a protected structure, would be out of character at this location and would constitute overdevelopment of the site.
 - 5.5 D08A/181: Permission refused for construction of a two-storey dwelling within the curtilage of Shankill House.
 - 5.6 D08A/180: Permission granted for refurbishment of existing two-storey dwelling.
 - 5.7 D08A/0179: Permission sought for alterations of permitted dwelling, pending further information.
 - 5.8 D07A/1190: Permission sought to refurbish and extend existing mews building with a split decision issues (grant for refurbishment of existing structure and refusal for extension).
 - 5.9 PL06D.216904: Permission refused for the construction of new wrought iron gates and stone gate posts.
 - 5.10 D05A/0168/E: Extension of duration of permission granted.
 - 5.11 D05A/0168: Permission granted for the construction of 11 no. two-storey detached dwellings.

- 5.12 PL06D.204608: Permission refused for a nursing home on the grounds of Shankill House, refused due to detrimental impact on a protected structure and contravention of condition no. 1 of ZA/1064.
- 5.13 ZA/1064: Permission granted for 14 houses on lands to the west and including the subject site (existing Rathmichael Dales and Rathmichael Haven developments). Condition no. 1 included a requirement for sterilisation under Section 38 of lands part of the grounds of Shankill House.

There have a number of subsequent applications for alterations and layout changes under 91A/0626, 91A/0636, 94A/0124, 94A//0125 and 94A/0126.

6. PLANNING POLICY

- 6.1 The relevant plan is the Dun Laoghaire Rathdown County Development Plan 2016-2012. The site is zoned 'Objective A', with a stated objective 'to protect and or improve residential amenity'.
- 6.2 Policy RES3: Residential Density

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- Sustainable Residential Development in Urban Areas (DoEHLG 2009)
- Urban Design Manual - A Best Practice Guide (DoEHLG 2009)
- Quality Housing for Sustainable Communities (DoEHLG 2007)
- Irish Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013)
- National Climate Change Adaption Framework-Building Resilience to Climate Change (DoECLG 2013).

Under Section 2.1.3.3 on Residential Density the following is also noted...

Where a site is located within circa 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 at a minimum 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 or larger 'A' zoned areas.

6.3 Policy RES4: Existing Housing Stock and Densification

It is Council policy to improve and conserve housing stock levels of the County, to densify existing built up areas and to maintain and improve residential amenities in existing residential developments.

Policy RES 7: Overall Housing Mix

It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Housing Strategy.

6.4 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

Chapter 5 identifies 'Appropriate locations for increased densities'. These locations include...

(d) Inner suburban / infill

5.9 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 revitalising areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division:

(i) 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 privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc. Local authority intervention may be needed to facilitate this type of infill development, in particular with regard to the provision of access to backlands.

7. GROUNDS OF APPEAL

7.1 A first party appeal has been lodged by McGill Planning on behalf of Charlton Homes Ltd. The grounds of appeal are as follows...

- The extensive planning history is noted including permission for residential development on the appeal site.
- In regards to refusal reason no. 1 in relation to traffic/road network it is noted and the appellants refer to an engineering report that outlines improvements to the existing road and footpaths in the vicinity of the site that can be carried out. This report also identified that the existing road network is of sufficient standard to cater for the traffic generated in addition to pedestrians.
- It is noted that the proposal is sufficient in regards to public open space and amended drawings submitted with the appeal include an increase in open space through the omission of dwelling no. 43. The applicant have submitted revised drawings showing less trees to be removed than originally proposed and enhanced landscaping proposals. Three dwellings (27, 34 and 43 have been removed to realign roads and increase levels of open space.
- The proposal has no adverse impact on the residential amenity of adjoining properties with this assertion in the reason for refusal unsubstantiated or defined by the Planning Authority.
- Refusal reason no. 3 relates to a Sterilisation Agreement under Section 38 that refers to the site and adjoining lands and relates to condition no. 1 of permission ref no. ZA/1064 (14 houses at Rathmichael Dales and Rathmichael Haven). The appellant questions the relevancy of the sterilaistaion agreement in the context of the zoning of the site and notes that the relaxation of this agreement was deemed appropriate in previous proposals on the site. It is considered that such should not be a factor in the context that the proposal is for a low density development with sufficient public open space and adequate regard for the setting of the existing protected structure. It is noted that a legal opinion regarding the sterilisation agreement is included and it concludes that reason no. 3 is invalid.
- In regards to use of retaining walls and land shaping it is noted that there is a difference in levels from front to back on site of 17m and such are required to deal with this change in levels. It is considered that the impact of retaining walls is internalised and does not impact upon residential amenity. The applicant has included revisions to deal with this reason however note that such were unwarranted in the first place with the overall design satisfactory.

8. RESPONSES

8.1 Response by Dun Laoghaire Rathdown County Council.

- The PA reiterates concerns regarding the standard of the Ferndale Road particularly in regards to the provision of pedestrian facilities and note that the improvements proposed by the applicant are inadequate to serve the level of development proposed and the intensification of development over the level of development previously granted on site. The PA expresses concerns regarding the impact of reduce carriageway width and consider that traffic calming measures are not suitable. It is noted that the site is remote from public transport facilities with a reliance on vehicular traffic. It is noted that the proposal entails inappropriate engineering alterations to the road network and that the existing transport network is not expected to change in the short to medium term.

9. OBSERVERS

9.1 Observations were submitted by the following....

Charles Lee & Catherine Moylan-Lee, 10 Hillfield, Ferndale Road, Rathmichael, Co Dublin.

Theo Splinter & Claire Gallagher & others.

Rathmichael Residents Association

Colm & Christine Brennan, Treetops, Ferndale Road, Rathmichael, Co Dublin.

Ihwani Phologolo, The Turrets, 8 Rathmichael Haven, Ferndale Road, Rathmichael, Dublin 18.

An Taisce.

Patrick & Elizabeth Hurley, Willow Cottage, Rathmichael haven, Rathmichael, Co. Dublin.

The nature and content of the observations are similar and shall issues raised can be summarised as follows...

- The proposal would be contrary the Objective A zoning which is to protect existing residential amenities.
- The scale and density of development is out of character at this location.
- The proposal constitutes premature and unsustainable development and would set an undesirable precedent for such.
- The section 38 sterilisation agreement should remain in place to maintain open space and the amenity of the area.
- Concern is raised regarding the overall visual impact of the proposal, quality of urban design, level of tree protection and its impact on the setting of a protected structure.
- Concerns are raised regarding traffic safety due to the intensification of traffic proposed and the substandard nature of the existing road network in terms of width, alignment and pedestrian and cycling facilities.
- It is noted that drainage infrastructure is currently deficient at this location.

10. ASSESSMENT

- 10.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/Development Plan policy

Density

Development control standards

Design, scale, visual/residential amenity

Traffic

Architectural Heritage

Other issues

10.2 Principle of the proposed development:

- 10.2.1 The relevant plan is the Dun Laoghaire Rathdown County Council Development Plan 2016-2022. The site is zoned 'Objective A' with a stated objective 'to protect and or improve residential amenity'. The proposal is for residential use and is compliant with land use policy. The site is currently in residential use with a large detached dwelling and the adjoining development is similar low density residential development. The proposal entails an increased density and a more urban form of development. I would consider the principle of the proposed development to be acceptable subject to the proposal being satisfactory in the context of its impact upon the amenities of adjoining properties, visual amenity, traffic safety and convenience, and satisfactory in the context of being an appropriate form of development at this location in the context of infrastructure. The proposal does also entail development within the curtilage of a protected structure, which although not within the site itself, the impact of the development on the setting and integrity of the protected structure is a significant consideration. These aspects of the proposal are to be assessed in the following sections of this report.

10.3 Density:

- 10.3.1 The proposal entails the provision of 50 dwellings on site of 3.05 hectares in size. This gives a density of 16 units per hectare. The Dun Laoghaire Rathdown County Development Plan 2016-2022 and specifically policy RES3 (Section 2.1.3.3) notes that "it is Council policy to promote higher residential densities provided that proposal ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development". It is noted that "as a general rule that the minimum default density for new residential development in the County (excluding lands on zoning Objective 'GB', 'G' and 'B') shall be 35 units per hectares. This density might not be

appropriate in all instances, but will serve as a general guidance, particularly in relation to 'greenfield' sites or larger 'A' zoned areas".

10.3.2 The density of the proposed development is 16 units per hectares and is not in accordance with the standard advocated under Development Plan policy for residentially zoned lands. The site context is at a location that although zoned is characterised by a very low density pattern of residential development, which would not even be suburban pattern of development, but is semi-rural in nature. The appeal site and adjoining sites are characterised by larger plots with detached dwellings and the proposal entails a significant increase in density over the existing. Based purely on Development Plan policy as written, the proposal does not meet the requirements in regard to residential density. Notwithstanding such I do consider that the site context is relevant with the site a location that at present is not an urban location. The pattern of development is very low density in the vicinity of the site and there are deficiencies in local infrastructure, namely the capacity and standard of the local road network. Development policy in regards to density (Section 2.1.3.3) does indicate the need "to ensure a balance between the reasonable protection of existing residential amenities and the established character of the area". It also noted under the same section that "there may be some specific areas of the County where densities, which would normally be encouraged by virtue of proximity of the site to high public transport corridors, cannot realistically be achieved as a consequence of other infrastructural shortcomings-such as capacity of the local road network". I would consider that such considerations apply to the site in this case and that I would not consider it appropriate to recommend refusal of the proposal purely on the issue of failure to provide a density of 35 units or more per hectare. Also given the setting of the site within the curtilage of a protected structure a lower density would be justified.

10.4 Development control standards:

10.4.1 In relation to residential development the issues concerning development control relate to the provision of public/private open space and car parking. In regards to general development control objectives the proposals entails the provision of 50 no. dwellings with a mix including two, three, four and five bedroom dwellings. Under Section 8.2.8.4 of the County Development Plan the minimum requirement for dwellings with 2 bedrooms is 48 square metres, three bedrooms is 60 square metres and 4 bedrooms or more is 75 square metres. The dwellings proposed have private open space ranging from 102.7sqm at minimum up to 393.1sqm and would be fully compliant Development Plan policy. In regards to public open space, Section 8.2.8.2 of the County Development Plan it is noted that "for all developments with a residential component – 5+ units - the requirement of 15 sq.m- 20 sq.m of Open Space per person shall apply based on the number of

residential/housing units. For calculation purposes, open space requirements shall be based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms (1.5 persons for two bed or less)". It is also noted that irrespective of the circumstances outlined under Section 8.2.8.2 including relaxed standards due proximity to existing park facilities and financial contributions in lieu of public open space "the default minimum 10% open space requirement must be provided on site". The proposed development features three areas of public open space giving an approximate total of just over 5,000 square metres of public open space, which is well in excess of the requirements under the County Development Plan. Based on the requirements of the Development Plan the proposal requires between 2,595-3460sqm (based on 3.5 persons per three bed or more dwelling and 1.5 per two bed or less dwelling). The provision of public open space meets the minimum requires of the County Development Plan. It is notable that the revised plans submitted by the applicant/appellant entails an increase in public open space and provides a more even distribution of such through the scheme.

10.4.2 In regards to car parking, the proposal is for two off-street car parking spaces per dwelling. Under Table 8.2.3 of the County Development Plan the requirement is two spaces per 3 bed unit +. In this regard the proposed development is compliant with development control standards. I am satisfied the proposal is compliant with the minimum development control standards set down under the County Development Plan.

10.5 Design, scale, visual/residential amenity:

10.5.1 The appeal site adjoins existing residential development to the north, south and west of the site. The northern boundary of the site adjoins the existing service road for Rathmichael Dales with the nearest dwelling to the north being the opposite side of the service road. There is a sufficient separation distance between the proposed dwellings on the appeal site and existing dwellings to the north (with Rathmichael Dales and Rathmichael Haven) so as to have no significant or adverse impact on existing residential amenity. To the south of the site runs an existing road that serves a number of dwellings to the south of the site and the housing development Hillfield to the west of the site. The existing service road provides a significant buffer between the proposed dwellings and existing dwellings to the south and therefore no adverse impact on the residential amenities of existing properties. In regards to the existing dwellings to the west of the site, the proposal entails the provision of 8 no. two-storey terraced dwellings (in two blocks) backing on to the western boundary. Immediately to the west is a two-storey dwelling that has its side elevation facing east towards the site. The proposal provides for a at least 12 to 15m of rear garden depth between the rear elevation of the proposed dwellings and the western site boundary and there is at least 22m of

a separation distance between opposing first floor windows. I would also note that levels on site are lower than on the adjoining site to the west and there is good quality boundary treatment along this boundary in the form of a wooden fence. I would consider that the proposed dwellings would be acceptable in the context of the residential amenities of adjoining properties.

10.5.2 The reason for refusal notes that the and design proposed particularly with regard to the extensive use of retaining walls would result in a substandard level of residential amenity for future occupants materially contravening Section 16.3.1 of the Dun Laoghaire Rathdown County Development Plan, 2010-2016. This relates quality residential design and refers to publications such as Sustainable Residential Development in Urban Areas (DoEHLG 2009), Urban Design Manual - A Best Practice Guide (DoEHLG 2009) and Quality Housing for Sustainable Communities (DoEHLG 2007). In regards to overall residential quality and as noted above, the proposal meets the minimum requirements of development plan policy for both public and private open space. There is a significant but gradual change in levels on site moving east to west and there is a need for the provision of retaining walls on site. I do not consider that such would compromise the residential quality or future amenity of occupants and that the proposal is reasonably well served in regards to open space provision (both public and private open space).

10.5.3 In regards to issue of urban design and overall quality of design, I would note that the development meets all the basic development control standards in regards public and private open space and provides for a level of public open space well in excess of the standard required. Although the proposal is not particularly innovative or distinctive in regards to architectural merit or urban design standards, the overall design would be acceptable in the context of the relevant guidelines (Urban Design manual). In this regard I would consider that the proposal is satisfactory. In the event of a grant of permission I would recommend that the revised layout submitted by the appellant be approved in which dwelling no.s 27, 34 and 43 were omitted and revised landscaping details were provided. The applicant has provided a significant level of detail regarding boundary treatments and such are satisfactory. I would consider subject to adequate conditions requiring tree protection measures and implementation of the landscaping scheme; the proposal would be satisfactory in regards to its overall design and layout.

10.5.4 In regards to overall visual impact, the appeal site is not located at prominent or elevated location. The proposed development represents a significant increase in density over the existing pattern of development and a more intense form of development. The observations note that the proposal is out of character at this location. In this regard I would note that the proposal is likely

to have a more significant visual impact than existing development at this location. I would however note that the site is on zoned lands and there has been an expectation that a more dense and urban form of development may become the norm at this location. The proposal does entail the retention of existing trees and landscaping measures and is much lower than the minimum recommended density of 25 units per hectare. I would consider that subject to satisfactory measures in this regard, the visual impact of the proposal in the wider area is not unacceptable on the basis that it is suburban form of development on lands zoned for residential development.

10.6 Traffic:

10.6.1 The site accesses onto the Ferndale Road with an existing entrance serving the dwelling on site. It is proposed to close this entrance and provide a new entrance just further north of the existing access. Ferndale Road is approximately 6m wide with a narrow footpath (1.2m wide) on the western side of the road. The Falls Road links up with the R116 to the north, which eventually joins the N11 a few kilometres to north of the site. One of the reasons for refusal relates to intensification of traffic/traffic and inadequate facilities for the safety of vulnerable road users. The reason for refusal appears to relate to the standard of the existing road network and in particular the width of the road and scope for improvement of such.

10.6.2 There have been previous proposals for residential development granted on site at a much lower density (10/11 dwellings). The proposal entails a significant increase in the density of development proposed. As noted earlier the location of the site is detached from the established built up areas/urban development in the locality. Although there are footpaths along the public road, these are quite narrow (1.2m) and inadequate to cater for pedestrians or cyclists. The applicants are proposing upgrading of pedestrian facilities along the site boundary and such include a widening of the footpath along the roadside boundary to 1.8m. The appellants have submitted an Engineering report which indicates that the widening of footpath 1.8m is keeping with recommendation of the Design Manual for Urban Roads and Streets. It is noted that the footpaths along Rathmichael Haven to the north of the site are 1.5m wide and there is scope to widen them to 1.8m by narrowing the carriageway width by 0.3m. The applicant questions the need for such given the low level of pedestrian activity. The report notes that the improvements proposed are sufficient to cater for the likely level of pedestrians at this location.

10.6.3 The site is in a remote location relative to established urban development and is not readily accessible to public transport facilities. The proposed development is going to be heavily dependent on car transportation. In terms of pedestrians the site is not in walkable distance of any significant urban

centre due to its remote location. In regards to traffic impact, the existing road serving the site is 6m wide with footpaths along the eastern side of 1.2m along the site and 1.5m further north. The alignment of the public road at this location is good in terms of both vertical and horizontal alignment and sightlines in accordance with the recommendations of Design Manual for Urban Roads and Streets are attainable. It is proposed to widen the footpath along the roadside boundary to 1.8m in accordance with the recommendations of Design Manual for Urban Roads and Streets. It is noted that the footpaths to the north could be widened to 1.8 by reducing carriageway width by 0.3m in the event it was considered necessary. It is noted the provision cycle path is not considered necessary in the context of the existing road network and the remote location of the site from the existing cycle path network. Having regard to the width and alignment of the public road and the existence of a footpath network linking into the roundabout to the north and in the context of the improvements proposed along the road frontage, I would consider that the road network is of sufficient standard to cater for the traffic movement likely to be generated at this location. In this regard the proposal does not merit refusal on traffic grounds. Notwithstanding such I would consider that there are issues regarding the location in terms of long term development of the area for more dense residential development and that such is a symptom of the lack of a coordinated and wider planning strategy/framework for the area.

10.7 Architectural Heritage:

10.7.1 As noted earlier the appeal site is part of the curtilage of a protected structure, Shankill House, which is three-storey over basement dwelling. The structure itself is not a part of the site and no alterations are proposed to such under this application. Notwithstanding such the proposal entails a significant level of new development within the curtilage of Shankill House and therefore the possible of a significant impact on the character and setting of the protected structure. The proposal entails no demolition or physical alteration to a protected structure with the existing structures not on the appeal site. the proposal does entail demolition of a corrugated metal shed that is currently storing building materials. Although within the wider curtilage of Shankill House, this would appear to be a later structure of no architectural merit or heritage value and its demolition would be acceptable.

10.7.2 In terms of changes to the curtilage of the protected structure, the existing grounds are not laid out in a formal manner with the wider grounds of Shankill House consisting of overgrown grassed areas with a number of mature trees. The proposal does take into account the location of mature trees and does entail the protection of a significant level of trees on site. The design and layout of public open space appears to have been dictated by the location of existing mature trees. The proposed layout alters the location of the entrance

and the driveway through the site. The existing entrance is not a significant feature and is quite a modest entrance to the site. I would consider that the alteration to the laneway would not significantly detract from the setting and character of the protected structure.

10.7.3 The development description notes that the site is within the attendant grounds of Shankill House. In this regards the site is part of the wider grounds of the protected structure with there being a smaller defined curtilage around the existing house. Notwithstanding such the site is within the curtilage of a protected and the impact of such on the character and setting of the protected structure is an important consideration. I would consider that the proposal provides for reasonable level of development within the curtilage and the location and layout of such does not significantly or adversely impact on the setting of the protected structure. The protected structure itself is being retained with a reasonable level of curtilage. In addition I would note that the proposal provides for a high level of public open space and tree protection on site. I am satisfied that the proposed development would have no adverse impact on the character and setting of the existing protected structure on site.

10.8 Other Issues:

10.8.1 The appeal site is part of the curtilage of an existing protected structure and is characterised by its open nature and a significant number of mature trees on site. The proposal does entail a tree survey report outlining the condition of trees on site and the trees to be retained and those to be removed. The tree survey indicates that 54 trees are to be removed due to being in poor condition (dying, dead or dangerous) and 23 trees are being removed as a consequence of the proposed development. The proposal does entail retention of significant number of existing mature trees. It is notable that the revised plans submitted, which entail the omission of three dwellings (no.s 27, 34 and 43) do allow for the retention of more trees with the number of trees being removed as result of the development reduced to 15. In addition a revised landscaping scheme was also submitted providing for a high degree of new planting on site. I would consider that the scope and information provided regarding existing trees on site is satisfactory and would consider that the proposal in regards to tree retention to be satisfactory. I would consider that subject to adequate tree protection measures during construction (subject to conditions), that the proposal would be satisfactory in regards to tree retention.

10.8.2 It is notable that under permission ref no. ZA/1064 under permission granted was for 14 houses on lands to the west (existing Rathmichael Dales and Rathmichael Haven developments) that Condition no. 1 included a requirement for sterilisation under Section 38 of lands part of the grounds of Shankill House. One of the refusal reasons notes that “the proposed

development does not warrant the relaxation of this agreement as the proposed development would have a negative impact on the residential amenities of the area due to the extent of the land shaping works and the extent of tree loss". It would appear that this condition was originally applied due to the lack of public open space in the permitted development (Rathmichael Dales/Haven). I would question the logic of restricting the development of the appeal site by imposing the sterilisation agreement. As noted earlier the proposal is satisfactory in regards its general layout and is generous by Development Plan Standards in regards to the provision of public open space (revised plans provide an increase in public open space levels). I would consider that based on its merits the proposal provides for a satisfactory design in regards to visual amenities of the area, and the setting and character of the existing protected structure. The original motivation of the condition was due to the lack of public open space for the permitted development to the north (Rathmichael Dales/Haven). In the case of permitted development, such are large detached dwellings with a significant level of private open space. These dwellings are very much separated from the appeal site and Shankill House by existing boundary treatment and derive no significant benefit and have no access rights to the lands currently within the curtilage of Shankill House including the extent of the appeal site. In addition the appeal site is a zoned site with a degree of development potential that should not be curtailed by an outdated agreement that merits reconsideration.

10.8.3 It is noted that site is not currently served by public foul drainage infrastructure. It is proposed to construct a c.850m public foul sewer in the Ferndale and Ballybride Road to connect to the existing foul sewer at the junction of Ballybride Road and Ballybride Manor. It is also proposed to construct a holding tank on site which will have the ability to hold back flows and discharge off peak to the foul network. There does not appear be any objection to the proposal from Irish Water and the Drainage Planning report requires further information. It would appear that issues within Drainage Planning report can be dealt with by way of further information or possible a condition in the event of grant of permission being considered.

10.8.4 The Development Applications Unit of the DoEHLG recommends that further Information be sought in relation to Archaeological Impact Assessment. The Board may wish to seek further information or apply an appropriate condition Board should they be disposed to a grant of permission.

10.8.5 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

RECOMMENDATION

I recommend a grant of permission subject to the following conditions.

REASONS AND CONSIDERATIONS

Having regard to the design, scale and layout of the proposed development and subject to the following conditions, it is considered that the proposal has adequate regard to the visual amenities of the area, and that the proposal would be acceptable in terms of residential amenity and traffic safety, would not damage the setting of a protected structure and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Board on the 14th day of March, 2016, 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. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The applicant shall agree the full details of foul sewerage and surface water provisions in writing with the Planning Authority prior to the commencement of development

Reason: In the interest of public health.

5. Proposals for an estate/street name, house and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interests of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

6. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

Reason: In order to ensure the development of the public open space areas, and their continued use for this purpose.

7. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscaping plan submitted to the Board on the 14th day of March, 2016. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

8. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

9. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

10. 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 interests of sustainable waste management.

11. 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.

12. Prior to commencement of development, the applicant shall submit full details of a properly constituted Owner’s Management Company for the written agreement of the planning authority. This shall include a layout map of the development showing those areas to be maintained by the Owner’s Management Company. Membership of this Company shall be compulsory for all purchasers of property in the development. Confirmation that this Company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit. All roads and services within the privately managed areas shall be completed to the planning authority’s taking in charge standards.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

13. Prior to undertaking works to be carried out on the public road (including on footpaths, road markings and signage), the applicant shall obtain a Road Opening Licence from the Road Maintenance and Control Section.
Reason: In the interest of the proper planning and sustainable development of the area.
14. Prior to commencement of development, details of the materials, colours and textures of all the external finishes for proposed dwellings and boundary treatment, shall be submitted to, and agreed in writing with, the planning authority. Samples of materials to be used shall be made available on site for inspection by the planning authority. Works to the Protected Structure shall be undertaken concurrently with the adjoining development. A schedule for the phasing of the development shall be submitted to the planning authority for its written agreement prior to commencement of development.
Reason: In order to safeguard the special architectural or history interest of the building.
15. Prior to the commencement of development or any related construction or tree felling on the site, the applicant shall lodge a Tree Bond to a minimum value of €10,000 (ten thousand euro) with the planning authority to ensure the protection of trees on the site and to make good any damage caused during the construction period. The bond lodgement shall be coupled with an Arboricultural Agreement, empowering the planning authority to apply such security, or part thereof, to the satisfaction protection of any tree or tress on or adjoining the site or the appropriate and reasonable replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development. Any replacement planting shall use large semi-mature tree size(s) and species or similar as may be stipulated by the planning authority.
Reason: To protect the sylvan charter of the site.
16. (a) Prior to the commencement of development, the developer shall engage the services of a qualified Arborist as an Arboricultural Consultant, for the entire period of construction activity. The applicant shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site on a monthly basis, to ensure the implementation of all of the recommendations in the submitted tree report.
- (b) After the period of three years post practical completion, the developer shall submit an Arboricultural Assessment Report and Certificate, signed by a qualified Arborist, to the planning authority's Parks and Landscape Services. Any remedial tree surgery, tree felling works recommended in that Report

shall be undertaken by the developer at their own expense, under the supervision of Arborist. The Tree Bond shall not be released as and until the Report, Certificate and any remedial works have been fully undertaken, to the satisfaction of the planning authority's Parks and Landscape Services.

Reason: To ensure the protection and long term viability of trees to be retained on site.

17. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

18. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) Notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) Employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) The nature and location of archaeological material on site.
- (ii) The impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding and further archaeological requirements (including, if necessary, archaeological excavation) prior to the commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Board Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may existing within the site.

19. 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.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Colin McBride
20th June 2016