



An
Bord
Pleanála

Inspector's Report PL06D.247695

Development

Construction of 5 two storey dwellings (4 three-bed and 1 two-bed) together with 5 new vehicular entrances off Commons Road, boundary treatment, landscaping, SuDS drainage and all ancillary works necessary to facilitate the development.

Location

Brookville, Commons Road, Shankill, Dublin 18.

Planning Authority

Dun Laoghaire-Rathdown County Council

Planning Authority Reg. Ref.

D16A/0711

Applicant(s)

DHQ Investments Ltd

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party -v- Decision

Third Party -v- Decision

Appellant(s)

DHQ Investments Ltd

Brendan Lyons

Observer(s)

Mr & Mrs Bernard Harris

Date of Site Inspection

1st March 2017

Inspector

Hugh D. Morrison

1.0 Site Location and Description

- 1.1. The site is located on the southern side of Commons Road, a local road that runs on an east/west axis between the Shanganagh Road (R119), a north/south route between Ballybrack and Shankill, and the Bray Road (N11). The Shanganagh River flows to the north of this Road.
- 1.2. The site lies within a row of detached dwelling houses of various shapes and sizes. To the south east of the site lies Mill Lane, which, amongst other buildings, accesses the ruins of a historic mill.
- 1.3. The site itself is roughly “U” shaped with an existing two storey detached dwelling house, “Brookville”, within the centre of the “U”. This site extends over an area of 0.222 hectares and it is presently undeveloped and unused. The site lies at a lower level than Commons Road and Brookville. A stream flows alongside the southern and south eastern boundaries. These boundaries are denoted, variously, by a wall and vegetation and a timber post and rail fence and they are accompanied by trees. The western boundary is likewise denoted by a wall and vegetation and it is accompanied by trees. The frontage to the site is lined by trees and bushes and the boundaries with Brookville are denoted by retaining and upright walls.

2.0 Proposed Development

- 2.1. The proposal would entail the construction of 5 two storey dwelling houses in two blocks, i.e. Block A, which would comprise 2 dwelling houses to the east of Brookville, and Block B, which would comprise 3 dwelling houses to the west. Each of these dwelling houses would provide three-bed accommodation except the central one in Block B, which would provide two-bed accommodation. The total floorspace of these dwelling houses would be 605 sqm.
- 2.2. Each dwelling house would be served by an individual gated vehicular access off Commons Road, which would be accompanied by 2 car parking spaces to the front of each dwelling house. Gardens would be laid out, predominantly to the rear, and these would overlap to a large extent with a flood storage compensation area. The boundaries of these gardens would be denoted by means of mainly paladin fencing and SuDS provision would also be installed within this area. An existing foul sewer

and storm water drain would be diverted from part of its existing route along the western boundary of the site to a dogleg route to the rear and eastern side of Block B.

3.0 Planning Authority Decision

3.1. Decision

Refusal for the following reason:

The subject site is located within the flood plain of the Shanganagh River and within a Flood Zone A area as identified in Map No. 10, Flood Zone Maps, as set out in the 2016 – 2022 Dun Laoghaire-Rathdown County Development Plan (CDP). Section 5.1 of the Strategic Flood Risk Assessment (SFRA) (Appendix 13 of the CDP), indicates that with the exception of zoned Major Town Centres, District Centres and the Sandyford Business District, new development within Flood Zones A or B does not pass the Justification Test and will not be permitted. In addition, Section 5.3.3 of the SFRA (Appendix 13 of the CDP), which sets out the policy for the Shanganagh River catchment, indicates that development of the scale proposed (construction of 5 no. houses) is not an allowable development at this location. It is therefore considered that the proposed development would contravene Sections 5.1 and 5.3.3 of the SFRA as set out in Appendix 13 of the CDP. The proposed development is in an area which is at risk of flooding and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See reason for refusal.

3.2.2. Other Technical Reports

- Parks & Landscape Services: Drainage advice endorsed and further objection raised on the grounds of the absence of POS and a tree survey and inadequate landscape details and the incompatibility of the proposed flood mitigation measures and satisfactory landscaping of proposed rear gardens.
- Transportation: No objection, subject to conditions.

- Drainage: Objection raised on the grounds that the flood defence measures undertaken for the Shanganagh River afford 1 in 50 year rather than 1 in 100 year protection and, as the proposal would not qualify as “minor works”, it would not accord with Section 5.3.3 of Appendix 13 of the CDP. Notwithstanding this in principle objection, the details of the proposal are critiqued with respect to, amongst other things, their handling of an existing stream, siting and design of compensatory flood storage, and flow paths.

3.3. Prescribed Bodies

- Irish Water: No objection, subject to conditions.
- NPWS: No objection, subject to conditions which would require the eradication of giant hogweed and the retention of the hedgerow on the western boundary and the retention of the trees beside the stream.

3.4. Third Party Observations

See under third party grounds of appeal and observer's comments set out below.

4.0 Planning History

- D06A/1166: Demolition of existing dwelling house and construction of 4 lower ground floor apartments and 12 three storey townhouses with a 25 space semi-basement car park: Refused on the grounds of residential amenity, streetscape/visual amenity, traffic generation, public health, and flood risk.
- D07A/0260: Demolition of existing dwelling house and construction of 8 duplexes, 4 penthouse apartments, and 3 houses with a 27 space basement car park: Permitted.
- D07A/0260E: Extension in time period: Refused on the grounds of advice set out in the PSFRM Guidelines and apartment standards set in the CDP 2010 – 2016.
- D14A/0722: Construction of 6 semi-detached dwelling houses: Refused on the grounds of inadequate public and private open space, residential amenity, and flood risk.

- D15A/0507: Construction of 6 semi-detached dwelling houses: Refused on the ground of flood risk. The subsequent appeal (PL06D.246189) was declared to be invalid.
- V/077/16 Part V exemption certificate to shadow current proposal granted.

5.0 Policy Context

5.1. Development Plan

Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 (CDP), the site is shown as lying within an area that is zoned “A”, wherein the objective is “To protect and/or improve residential amenity.” Under Appendix 13 of this Plan, which undertakes a Strategic Flood Risk Assessment (SFRA) of the County, the site is shown as lying within a Flood Zone A area.

5.2. Natural Heritage Designations

Loughlinstown Woods to the north of the site is a proposed NHA.

6.0 The Appeal

6.1. Grounds of Appeal: First Party

The applicant draws attention to the location of the site, which is conveniently placed with respect to the N11 QBC and the Shankhill DART Station. The proposal for this fully serviced urban site would accord with residential policies of the CDP and it would comply with relevant development standards.

They then respond to the reason for the draft refusal as follows:

- The appropriateness of the reliance placed by the planning authority on the non-statutory SFRA in Appendix 13 of the CDP is questioned, i.e. the application of a strategic/plan level approach to a small site.
- Circular PL2/2014 is of particular relevance, as its discussion of small scale infill development revises Paragraph 5.28 of the PSFRM Guidelines. With respect to the definition of this term, the Board held, under PL06D.244667

that 4 dwelling houses lay within this definition. Accordingly, the 5 now proposed would do so, too.

- The said Circular also states that significant flood issues are unlikely to arise, unless flow paths are obstructed or a significant additional number of people would be introduced into a flood zone area. Neither of these factors would be applicable.
- Flood defence measures to the Shanganagh River have been undertaken. It is unclear whether or not the Eastern District CFRAM Study takes account of these measures.
- Notwithstanding the site's draft Flood Zone A status, it continues to be subject to zone "A" for land use purposes.
- The Drainage critique of the soakaway is responded to: Attention is thus drawn to the following:
 - The capacity of the proposed system and the possibility of connecting an overflow from it to the 225 mm diameter storm water drain is flagged.
 - The drainage arrangements for the proposed hard standings and roofs are discussed.
 - The watercourse along the eastern side of the site only drains this site and one other property and so any requirement to provide a riparian strip is considered to be unduly onerous.
- None of the existing trees on the site are the subject of a TPO and they are not considered to contribute positively to the character of the area. Under the proposal, the site would be landscaped.

The applicant's engineer further responds:

- Proposed on site flood storage would be capable of coping with a 1 in 1000 year flood event. While the fall in this site from front to rear would militate against a "level-for-level" design, a volume-for-volume would be provided in accordance with Construction Industry Research and Information Association

(CIRIA) advice set out in “Development and Flood Risk – Guidance for the Construction Industry” (C624).

- Finished ground floor levels would be 0.8m above the 1 in 100 year flood event. The outfall to the Shanganagh River would be fitted with a non-return valve to prevent flooding of the site from this River and the channel within this site, which feeds the outfall, would be designed to act as an attenuation system for water leaving the site.
- While existing off-site flood defence measures may be upgraded to mitigate against 1 in 100 year flood events, specific flood resistance/resilience measures would be designed-in to the proposed dwelling houses to secure this level of protection for them from the outset. These measures are specified.

6.2. Grounds of Appeal: Third Party

The appellant considers that the reason for the draft refusal is, unlike its predecessor, insufficiently comprehensive and so the following grounds are cited:

- The applicant has insufficient legal interest in the site, i.e. they do not own the tail race and bounding trees and, as the most easterly of the proposed dwelling houses would encroach into this portion of the site, they would be unable to carry out the development wholly within their lands. As the consent of the other owner has not been obtained, this application is invalid.
- The aforementioned tail race would historically have connected to a mill race that accompanied the mill on Mill Lane, which is a protected structure. AHP Guidelines advise that tail races as features associated with mills should be considered in conjunction with the same. The RMP 026-031, to the south, references this mill too. Under the proposal the tail race would be the subject of works, which would adversely impact upon the archaeological and sylvan character of the area. No archaeological impact assessment has been undertaken.

- No survey of trees on the site has been undertaken and yet they may have originally been connected to Loughlinstown Woods a pNHA. Their loss would disrupt wildlife habitats, with a possible risk to protected species.
- The proposed clearance of the site would radically alter the outlook from the appellant's dwelling house. One bedroom window would be 3m from the common boundary, which instead of being tree lined would be open. A loss of residential amenity would thus ensue.
- The current site is smaller than its predecessor and yet the stated area is higher at 0.22 hectares rather than 0.2 hectares.

The layout of the proposal is critiqued on the basis that it is driven by engineering considerations.

The proposed 5 individual drive-ins and the proposed dwelling houses, which would be higher than the retained central dwelling house "Brookville", would fail to contribute positively to the streetscape. The absence of a RSA of the said drive-ins is also of concern.

No site specific flood risk assessment has been undertaken. Instead the applicant relies upon a description of the site as an infill one to justify its proposed development within a Flood Zone A area. And yet this development would pose a significant risk of flooding on not only the appeal site but on adjoining residential properties, too (cf. to the flow path analysis of the County Council's Drainage consultee).

6.3. Planning Authority Response

Attention is drawn to the advice of the Drainage consultee, which is reiterated.

6.4. Observations

While no objection is raised to the principle of development on the appeal site, the observer considers that the proposal would be too dense and it would thus constitute over-development. The following observations are made:

- Previous applications included the existing dwelling house "Brookville".
However, the applicant sold this dwelling house to the observer in 2015 and

so the opportunity to properly incorporate it into any overall development has been forfeited.

- The submitted plans do not consistently show the rear extension to the Brookville and the extent of the rear garden in these plans and “on the ground” needs to be formally reconciled.
- Attention is drawn to the fact that existing site levels are lower than the adjacent Commons Road and yet the finished ground floor levels of the proposed dwelling houses would be considerably above these levels with adverse implications for their relationships with Brookville.
- Proposed Block A to the east of Brookville should be re-specified as a single dwelling house, re-sited to achieve a greater clearance distance from Brookville and re-configured to be shallower. Only then would it be compatible with the existing residential amenities of Brookville. Additionally, this dwelling house should be re-designed to distinguish it from Block B and to reduce any anachronistic risk to Brookville.
- Similarly, Block B to the west should be re-specified as a pair of semi-detached dwelling houses, re-sited to achieve a greater clearance distance from Brookville and re-configured to be shallower. Only then would they be compatible with the existing residential amenities of Brookville. Additionally, there would be no need to divert existing storm and foul sewer lines.
- Exception is taken to the submitted contiguous elevations, on the basis that they invite comparisons that are unwarranted in view of means of enclosure and trees that exist “on the ground”.
- Over topping of the flood defence measures provided in connection with the River Shanganagh would lead to swift flooding of the Commons Road.
- The proposal would not be minor development and so it should be subject to the PSFRM Guidelines’ Justification Test.
- The use of the proposed rear gardens as flood storage compensation areas would be inappropriate.
- No site specific flood risk assessment has been undertaken.

- Notwithstanding the applicant's concern over the density of the proposal, it would still fall short of CDP aspirations in this respect. High density and the minimisation of flood risk appear to be mutually exclusive objectives.
- Hard landscaping proposals are critiqued on the basis that the proposed walls should be raised to 2.4m in height and the use of paladin fencing should be deleted in favour of walls, all in the interests of residential amenity.
- No tree survey has been undertaken.
- The proposal would lead to the devaluation of Brookville.
- Essentially, the proposal would be contrary to Item (vii) listed in the Section 8.2.3.4 of the CDP.

6.5. Further Responses

The appellant has responded to the applicant's grounds of appeal, as follows:

- The proposal would not constitute a minor development and so there is no basis for it to be exempted from the PSFRM Guidelines' Justification Test.
- Section 8.2.10.4 refers to the SFRA in Appendix 13 and so this Appendix should be seen as forming part of the statutory CDP.
- The aforementioned Section refers to the need for a site specific flood risk assessment on sites where there is a known flood risk, such as the appeal site. No such assessment has been undertaken. Furthermore, any remedial measures need to be demonstrably consistent with local ecological interests.
- That the proposal would accord with zoning objective "A" for the site does not obviate the need for the flood risk to be properly addressed.

The applicant refers to PL06D.244667. This case is not considered to be comparable to the current one as the planning authority took issue with the density of the development.

- The onus is upon the applicant to demonstrate that their proposal would not pose a flood risk. Thus, it is unsatisfactory that:
 - The influence of flood defence measures to the River Shanganagh on flood risk is left open ended.

- Exactitude with respect to infiltration rates is deferred to the construction phase.
- Flood attenuation provision for a 1 in 30 year storm event falls short of the 1 in 100 year norm.
- The applicant's engineer comments on a previous proposal, that of D15A/0507, which had a different layout from the current one. The raised finished ground floor levels would address any residual flood risk as far as the proposed dwelling houses are concerned, but not that of adjacent ones such as the applicant's.

7.0 Assessment

I have reviewed the proposal in the light of national planning guidelines, the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Conservation, archaeology, and ecology,
- (iii) Land use and density,
- (iv) Flood risk and drainage,
- (v) Development standards,
- (vi) Amenity, and
- (vii) AA.

(i) Legalities

1.1 The appellant contends that the applicant has insufficient interest in all of the site edged red to carry out the proposal. In this respect, attention is drawn to the tail race stream, which flows alongside the south eastern boundary, which he states is not included in Land Registry documents for the remainder of the site.

1.2 The applicant has not commented upon this contention. I note that the appellant has not submitted any documentary evidence of any other ownership of the tail race stream. I note, too, that it is possible that this stream is the subject of

separate Land Registry documents in the applicant's name. In these circumstances, I consider that reliance can reasonably be placed upon Section 34(13) of the Planning and Development Act, 2000 – 2015.

- 1.3 The appellant also draws attention to the stated area of the site (0.22 hectares) and he compares this with the previously stated area of a larger site (0.2 hectares), i.e. one which included Brookville.
- 1.4 The applicant has not commented upon the aforementioned discrepancy. I note that the submitted urban place map states that the site, including Brookville, is 0.22 hectares and so, as the current site excludes Brookville, its area is less, i.e. c. 0.2 hectares.
- 1.5 The observer expresses concern that the extension at Brookville is not consistently depicted on the submitted plans and that discrepancies exist between the rear boundary shown to this property and that which is evident "on the ground".
- 1.6 In relation to the former concern, I note that the said extension is only omitted from the urban place map, which was last revised in 2014, possibly prior to the construction of this extension. In relation to the latter concern, while the issue cited is a civil matter, I note that the more generous boundary is denoted by the red edge of the application site.
- 1.7 I conclude that there are no legal impediments to the Board assessing and determining the proposal in the normal manner.

(ii) Conservation, archaeology, and ecology

- 2.1 The appellant draws attention to the conservation and archaeological interest that is attendant upon the area to the south of the site. Thus, Shanganagh Castle is on the Record of Monuments and Places (RMP 026-031001) and it is a protected structure (RPS 1845). On Mill Lane, a mill, mill pond, and corn kiln are all protected structures, too, (RPS 1778, 1779, and 1780). The appellant also draws attention to the tail race stream from this mill, which flows through the site. He cites Section 13.3.2 of the Architectural Heritage Protection Guidelines, which advises that a mill may have features of interest, such as a tail race stream, within its curtilage and/or attendant grounds. He thus expresses concern

that the proposal, which would affect such a stream, is not informed by any conservation or archaeological impact assessment.

- 2.2 I note that the mill concerned is a protected structure. I note, too, that other features associated with this mill are protected structures, i.e. a mill pond and a corn kiln. The tail race stream is not, however, a protected structure. Furthermore, the presence of dwelling houses and their grounds between the site and these protected structures serves to obscure any relationship that may have formerly existed between this stream and the same. I, therefore, consider that the circumstances envisaged by the Guidelines no longer pertain to the site in its context. That said, if the Board is minded to grant this proposal, then a condition should be attached, which requires that a photographic survey of the stream be undertaken prior to the commencement of development.
- 2.3 The appellant also draws attention to the sylvan character of the site and the proximity of Loughlinstown Woods to the north, which is a pNHA. He expresses concern that the proposal is not informed by a tree survey and that the loss of trees and bushes from the site would change the aforementioned character and its associated wildlife habitat with possible implications for protected species.
- 2.4 During my site visit, I observed the trees and bushes on site. While none of the trees are the subject of a TPO, the NPWS advises that trees beside the stream should be retained to protect against bankside erosion and to ensure that their amenity value persists. The proposal would *prima facie* entail the loss of these trees. Whether there would be scope to retain them and yet still address the need for flood risk mitigation measures is a question that remains outstanding. While the trees on the site do contribute to the sylvan character of the area, the proposal would entail replacement planting along the frontage of the site with Commons Road and so, in time, a continuing contribution would resume. No evidence is before me as to any protected species that may avail of the habitat provided by the site in its existing state.
- 2.5 I, therefore, conclude that the site is *prima facie* of limited conservation and archaeological interest and that while existing trees on the site would be removed some replacement planting would occur under the proposal. The scope for further such planting remains to be explored.

(iii) Land use and density

- 3.1 The site lies within an area that is zoned objective “A” in the CDP. Under this zoning objective, residential development is permissible in principle and so there is no land use objection to the proposal.
- 3.2 If the area of the site is accepted as being 0.2 hectares, then the proposal for 5 dwelling houses would be equivalent to a density of 25 dwelling houses per hectare. The Sustainable Residential Development in Urban Areas Guidelines advise that net densities of less than 30 dwelling houses per hectare should generally be discouraged on suburban / “greenfield” sites in the interests of land efficiency. This advice is seen as being particularly relevant to sites in excess of 0.5 hectares. I consider that there is thus some latitude available and so objection to the proposal on the grounds that it would exhibit an inadequate density of development is not obligatory. In the light of the constraints upon the site, which are discussed below under the (iv) heading of my assessment, I do not consider that objection on density grounds would be reasonable in this case.
- 3.3 I conclude that the proposal would be appropriate from a land use perspective and that, given the constraints upon the site, objection to its relatively low density would be unreasonable.

(iv) Flood risk and drainage

- 4.1 Appendix 13 of the CDP is a Strategic Flood Risk Assessment (SFRA) of Dun Laoghaire – Rathdown. Under Flood Zone Map 10 of this Appendix, the site is shown as lying within Flood Zone A, which under the PSFRM Guidelines is the Zone wherein the probability of flooding from rivers is highest, i.e. greater than 1% or 1 in 100. Proposals for highly vulnerable uses within this Zone, such as dwelling houses, are thus required to be the subject of the Justification Test set out in the said Guidelines.
- 4.2 Under Section 5.3.3 of the SFRA, the Shanganagh River is discussed. That portion of this River which flows to the north of the site is denoted as 6 in the accompanying Figure 5-3. The commentary on this portion states the following:

The area along Mill Lane has flooded in the past, both before and after construction of the defences. The defences consist of a combination of reinforced concrete walls and embankment. The walls were designed to provide 1 in 50 year standard of

protection, which is below the required standard of protection for Flood Zone A so it must be assumed that the lands are undefended and development should only proceed in accordance with the general FRA recommendations. Development should be limited to Class 1 Minor Developments (see Section 4.6 for more details) until such times as the defences are brought up to the 1 in 100 year standard.

- 4.3 Minor development is discussed in Paragraph 5.28 of the PSFRM Guidelines, as amended by Circular PL 2/2014. This Paragraph states that such development can include “small scale infill” and it comments that significant flood risk issues are unlikely to arise, “unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances.”
- 4.4 Section 4.6 of the SFRA strikes a more cautious note. It comments as follows on infill development, which is sited on greenfield or undeveloped land, to the effect that it “has generally been found to generate an un-justifiable level of risk, either through introducing additional people into the flood plain, blocking surface water and overland flow paths or requiring works which are likely to have a negative impact on flood risk elsewhere.” Accordingly, new stand-alone development is not permitted within Flood Zone A for highly vulnerable uses.
- 4.5 The planning authority’s reason for refusal reflects the aforementioned advice of the SFRA set out in Sections 5.3.3 and 4.6.
- 4.6 The applicant challenges the planning authority’s reliance upon the SFRA on the basis that it does not form part of the statutory CDP. The appellant has responded to this point by drawing attention to Section 8.2.10.4 of the CDP, which cites both the Flood Zone Maps and Section 4.6 of Appendix 13. Accordingly, I consider that the planning authority’s reliance upon the SFRA is justified.
- 4.7 The applicant cites a proposal for the replacement of 1 dwelling house with 4 new ones on a site to the south east of Shanganagh Bridge, downstream from the current site. This proposal was the subject of appeal PL06D.244667, under which it was accepted that the proposal did constitute minor development. The applicant thus contends this is a precedent for the current proposal.

4.8 I note that the said appeal would have entailed a net increase of 3 dwelling houses on the site. I note, too, that only the front portion of this site lies within Flood Zone A, while the rear portion, where the dwelling houses would be/are now sited, lies within Flood Zone C. Thus, the size of the proposal and the underlying flood risk conditions of the site differed from those that are the subject of the current appeal. Accordingly, the two proposals are insufficiently comparable for the former to be a persuasive precedent for the latter.

4.9 The applicant considers that the proposal would constitute “minor development”, which as noted above includes small scale infill development. Clearly, the Board has previously accepted that a net increase of 3 dwelling houses can be considered to be minor development. The question therefore arises as to whether 5 can still be considered to be minor development.

4.10 Section 5.28 of the PSFRM Guidelines, as amended, refers to the scenarios under which small scale residential infill could be considered to raise significant flooding issues.

- One such scenario is the introduction of significant additional numbers of people into a flood risk area. The proposed dwelling houses would provide 1 x two-bed and 4 x three-bed accommodation and so they would be capable of accommodating 4 or 5 person households. Potentially, 24 people could reside on the site, a not insignificant number of people. Accordingly, I am not inclined to consider the proposal to be minor development.
- Another such scenario is that important flow paths would be obstructed. The SFRA states that existing defences afford protection from 1 in 50 year floods. Under a 1 in 100 year flood, observers anticipate that these defences would be breached. The appellant draws attention to the absence of a site-specific flood risk assessment and so the opportunity to trace out flow paths and evaluate the same has not been realised.

4.11 The applicant has responded by stating that the proposed dwelling houses would be designed to be flood resistant, e.g. finished ground floor levels would be 0.8m above the 1 in 100 year flood level. Furthermore, the capacity of the flood storage area would be able to cope with a 1 in 1000 year flood.

- 4.12 A comparison of the engineering site layout plan (drawing no. 15090-1) and the landscape plan (drawing no. 300) indicate that the proposal would seek to effectively seal the site to the front from fluvial floodwater. Nevertheless, a flood storage area is proposed for the rear portion of the site, as a means of compensating for the front portion of the site, which would be elevated and thus its contribution to the flood plain would be negated. Non-return valves would be fitted in the overflow from this area into the storm water drain, which passes through the site into Commons Road, and to the stream that discharges to the River Shanganagh. (The applicant states that this stream is fed by run-off from the site and one neighbouring property, presumably the appellant's "Wooden House" to the south).
- 4.13 During my site visit, I observed that whereas Brookville is an enclosed site, the appeal site is open to the roadside. Thus, if a 1 in 100 flood were to occur at present, then I anticipate that fluvial flooding would enter the site from Commons Road. In the absence of a site-specific flood risk assessment, the extent of the site's existing role in this respect has not been quantified. Under the proposal the site would be effectively sealed from such flooding and so it is unclear how any intended flow path to the flood storage area would occur. The corollary of these measures would be that the fluvial flooding that would otherwise occur on this site would go elsewhere. Thus, the SFRA's advice, that further development be deferred until the flood defence measures for the River Shanganagh are augmented to cope with a 1 in 100 year flood, is, in my view, both pertinent and prudent.
- 4.14 The aforementioned absence of a site-specific flood risk assessment and the associated implications, in terms of not being in a position to assess increased flood risk elsewhere, mean that the proposal is unable to pass the Justification Test set out in Box 5.1 of the PSFRM Guidelines.
- 4.15 The County Council's Drainage consultee expresses concern over the siting of the proposed flood storage area in lands allocated for private open space. They state that such an area should be safeguarded by being separate from such space. As discussed, under the fifth heading of my assessment, I share this concern and I agree with their cited alternative approach.

- 4.16 The proposal would be served by the public water mains and foul sewerage system. Surface water from 4 of the 5 proposed dwelling houses would drain to soakaways that would be sited within the proposed flood storage area. Surface water from the remaining dwelling house would discharge directly to the stream, which flows through the site.
- 4.17 The applicant states that the infiltration rate would be confirmed on-site. They outline how the size of each soakaway is based on a 1 in 30 year flood. However, larger soakaways could be specified and, if deemed necessary, then an overflow to the storm water drain could be added, too.
- 4.18 I conclude that the site in its entirety lies within Flood Zone A and the proposal is for a highly vulnerable use under the PSFRM Guidelines. This proposal would not be self-evidently minor development and, in the absence of a site-specific flood risk assessment, it would fail the Justification Test set out in Box 5.1 of the PSFRM Guidelines. Neither the possibility of increased flood risk elsewhere nor the potential on-site difficulties of safeguarding a flood storage area within an area of effectively rear gardens have been addressed. Existing flood defences alongside the River Shanganagh River afford protection against 1 in 50 year floods only. Under the proposal, the site, which is presently open to flooding from this River, would be effectively sealed and so the unintended consequence of development would be an increased risk of flooding elsewhere. Accordingly, the moratorium on such development cited by the SFRA in advance of improvements to the said flood defences is persuasive and so objection to the current proposal is warranted.

(v) Development standards

- 5.1 The proposed dwelling houses would comply with the relevant recommended minimum room widths and areas set out in the Quality Housing for Sustainable Communities Best Practice Guidelines.
- 5.2 Each dwelling house would be served by a gated vehicular access from Commons Road and two off-street car parking spaces. The appellant expresses concern that these accesses are not the subject of a RSU.
- 5.3 During my site visit, I observed that each of the existing dwelling houses on the southern side of Commons Road is served by a vehicular access. I also

observed that the County Council has proposed a road safety improvement scheme for this Road, which was the subject of a public consultation exercise earlier this year. I thus consider that the proposal would continue the existing pattern of residential accesses off Commons Road, which, due to its straight alignment, enjoys good visibility as it passes the site, and any speeding issues would be addressed by the proposed road safety improvement scheme.

- 5.4 The level of car parking provision proposed would accord with the relevant CDP standards. The finished ground floor levels of each of the dwelling houses would be 10.294m OD. An adjacent spot height on Commons Road is 8.81m OD. The submitted plans do not make explicit how this difference in levels would be handled, i.e. would the dwelling houses have steps/ramps up to their front doors and/or would the car parking spaces be sloped.
- 5.5 Each of the dwelling houses would be served by extensive areas of private open space to the rear. The submitted landscaping scheme indicates that the initial portion of these areas would be laid out as patios, beyond which the levels would slope downwards into an extensive basin area. As this area would be a flood storage area, it would need to be capable of functioning as one in its entirety and so, unusually, the common boundaries between the private open space allocated to each dwelling house would be denoted by means of a paladin fence and hedging. The tail race stream along the south eastern and southern boundaries of the site would, likewise, be placed in what would effectively be a more pronounced ditch.
- 5.6 The appellant comments that the design of the site to the rear of the proposed dwelling houses would be dictated by engineering considerations and the observer considers that the dual use of this portion of the site would be inappropriate, as evidenced, for example, by the means of enclosure to the common boundaries.
- 5.7 I note the appellant's commentary and I share the observers concern that the majority of the proposed private open space would not be consistently available for the use of future residents of the dwelling houses and that its form would militate against its optimum use as garden areas. How its flood storage function could be safeguarded over the longer term remains an open question. A partial

answer would be to remove, by condition, the normal domestic exempted development rights from these areas so that the planning authority would have full control over any future proposals for extensions, outbuildings, and hard surfacing. The re-working of levels would be more difficult to control.

5.8 I conclude that the proposed dwelling houses would accord with relevant development standards. I conclude, too, that insufficient information has been provided with respect to how levels would be handled to the front of these dwelling houses and issues would arise over the amenity value of the private open space allocated to each dwelling house and the potential for conflict over the use of this space for the purposes of both gardens and flood storage.

(vi) Amenity

6.1 The appellant resides in the dwelling house adjacent to the southern boundary of the site. He expresses concern that the outlook from a bedroom window that overlooks the site would be opened up, under the proposal, with a consequent loss of privacy.

6.2 During my site visit I observed that the outlook in question is relatively open at present and that, if the retention of trees discussed under the second heading of my assessment were to be forthcoming, then little change would occur in the same.

6.3 The observers reside in Brookville. They express concern over the streetscape impact of the proposed dwelling houses, which would be noticeably higher than their “centrepiece” Brookville. Unlike previous proposals, the opportunity for an integrated form of development has effectively been forfeited with the subdivision of Brookville from the site. Thus, if anachronism is to be avoided, then Block A should be reduced to a single dwelling house, which would differ in design from those in Block B, and Block B should be reduced to a pair of semi-detached dwelling houses. Both Blocks should be resited further away from Brookville. Only under such a scenario could the amenities of this extended dwelling house be safeguarded.

6.4 The rectangular footprints of each of the proposed dwelling houses would have a considerably greater depth than width. The resulting size of the two storey form of these dwelling houses would be eased by the design of the roofscape, which

would comprise front and rear gables to the main double pitched roof and an adjoining ancillary roof element with lower eaves and ridge lines, dormer windows, and a hidden flat roof. Consequently, the overall scale of the dwelling houses would be eased considerably.

6.5 The existing streetscape is composed of a diverse array of dwelling houses.

Brookville would, due to the “U” shape of the site, be the inevitable “centrepiece” to the proposal. Its eaves and ridge lines would be lower than those that would be exhibited by the aforementioned gables. The impetus for the “added” height arises from the need for a higher finished ground floor level to mitigate against the flood risk arising from the River Shanganagh. If the flood defences associated with this River were to be improved to afford protection against a 1 in 100 year flood event rather than simply a 1 in 50 year one, then presumably the said finished ground floor level could be lower and thus the height of the overall dwelling houses, too. Accordingly, in streetscape terms a more comfortable relationship between Brookville and these dwelling houses would be contingent upon the improvement of flood defences.

6.6 The observer seeks that the dwelling houses on either side of Brookville be distinguished by means of different designs. However, I am not persuaded that this would be appropriate in streetscape terms as, given the density of the proposal, the measure of consistency that these dwelling houses would introduce would be preferable to that of a more varied design approach.

6.7 Brookville has been the subject of a part two storey/part single storey rear extension on the eastern and central portions of the rear elevation of the original dwelling house. The habitable room windows in this extension are concentrated in the southern rear elevation and the western side elevation. The former elevation would overlook the private open space allocated to Block A at a distance of 7m, while the latter elevation would correspond with Block B over a distance of 9.4m. I consider that, in relation to the former, the elevated position of Brookville above the area in question and the presence of retaining and upright walls would ease the lines of sight available between what would, in practise, be an upper floor bedroom window and this area. I consider that, in relation to the latter, the open south westerly aspect between Brookville and Block B would both relieve the sense of enclosure that would result from the

introduction of this Block and ensure that adequate lighting levels are maintained.

6.8 I conclude that the proposal would be incompatible with the visual amenities of but compatible with the residential amenities of the area.

(vii) AA

7.1 The site does not lie in or near to a Natura 2000 site. The site is a suburban one, which under the proposal, would be connected to the public sewerage system. Surface water from 1 of the proposed dwelling houses would discharge directly into the stream, which flows through the site to the River Shanganagh. This River flows into a portion of the Irish Sea, which is designated a SAC (Rockabill to Dalkey Island (site code 003000)). Thus, there is a potential source/pathway/receptor route between the appeal site and this SAC.

7.2 I consider that, provided good management practices are pursued at the construction stage, no significant effects upon either the integrity or the conservation objectives of the said SAC would arise at this stage. Likewise, as surface water only would discharge to the stream, no significant effects upon either the integrity or the conservation objectives of the said SAC would arise at the operational stage.

7.3 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of 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.

8.0 Recommendation

In the light of my assessment I recommend that the proposal be refused.

9.0 Reasons and Considerations

Having regard to the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, including the Strategic Flood Risk Assessment (SFRA) in Appendix 13 of this Plan, it is clear that the entire site lies within a Zone A Flood Risk Area and yet the flood defences for the adjacent River Shanganagh River only afford protection against 1 in 50 rather than 1 in 100 year flood events.

The proposal is for the construction of 5 dwelling houses on this site and so a residential, and thus highly vulnerable, after use is envisaged. This proposal is not self-evidently “minor development” as defined by Paragraph 5.28 of the Planning System and Flood Risk Assessment (PSFRM) Guidelines as amended by Circular PL 2/2014. It would lead to the introduction of a significant number of residents to the site and, in the absence of a Site-Specific Flood Risk Assessment (SSFRA), neither the appropriateness of the proposed compensatory flood storage area within an area of private open space nor its ability to intercept flood flows has been demonstrated.

Accordingly, the proposal would fail the Justification Test set out in Box 5.1 of the PSFRM Guidelines. In the absence of a SSFRA, the applicant has not established that the proposal would not lead to an increased flood risk elsewhere in the surrounding area. Furthermore, in advance of improvements to the above cited flood defences, all but “minor development” risks being premature, under the SFRA. The proposal would thus be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

20th March 2017