



An
Bord
Pleanála

Inspector's Report PL06D.249147

Development	8 no. dwellinghouses, new access road and entrance, parking and other works at Arva, Glenageary Rd Upper, Glenageary Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0518
Applicant	Victoria Homes Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Appellant	Victoria Homes Ltd
Observer	1. Jennifer and C.P O'Gara 2. Helen Bradshaw
Date of Site Inspection	27 th November 2017
Inspector	Mairead Kenny

1.0 Site Location and Description

- 1.1.1. The site comprises a rectangular plot of land of stated area of 0.277 hectares at 137 Glenageary Road Upper. The site is surrounded by a number of different boundary treatments, which include a granite wall at the front boundary, timber panel fencing at the rear boundary and post and wire fencing at the side. Part of the eastern side of the site is defined by the flank wall of a dwellinghouse 'Swans' Hollow', which appears to be a converted and extended stable or out- building. That house is one of 5no. houses, which are accessed from a shared cul de sac off the main road and which are located to the east of the site. The three houses to the rear of that site are particularly low lying relative to the converted stable and to the rear of the site of the proposed development. To the west of the site is a pedestrian pathway which connects Silchester Park to Glenageary Road Upper. The pathway is marked on either side by grass planting. To the north and west of the site and of the path are dwellinghouses of individual design.
- 1.1.2. This is the site of a former dwellinghouse 'Arva', which it is stated was demolished following a fire. There is no evidence of the former dwellinghouse on site. The site is largely open and without particular features save for the presence of mature trees at the northern (rear) boundary as well as some trees along the other site boundaries. The existing trees along the northern boundary together with the timber panel fence prevent overlooking of that site. There are relatively open views towards the residential development to the east, albeit views to the upper floor level of the new houses and as well as a view towards a small section of the rear extension of Swans' Hollow. In the centre of the site are the stumps of trees which appear to have been recently felled. These trees were clustered together.
- 1.1.3. Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached.

2.0 Proposed Development

2.1.1. Permission is sought for development of 8 no. five bedroom houses as described on application of 8th of June 2017 consisting of

- 4 detached houses and 4 semi-detached houses
- unit 1 is of stated area of 225 m²
- units 2 – 8 are of stated area of 214 m²
- new access road and entrance gate at Glenageary Rd Upper and off-street parking
- connection to local authority public sewer
- boundary treatments landscaping and all site works.

2.1.2. The application submissions include a drawing of the drainage layout and a landscape plan.

3.0 Planning History

3.1. On site

3.1.1. Under **PL06D.241192** the Board on 17th of April 2013 upheld the decision of the planning authority (reg. ref. D12A/0074) to grant permission for a development comprising 4 no. detached two-storey houses with partial use of attic, widening of existing vehicle access and other works at Arva, Glenageary Rd Upper. Conditions included measures for protection of trees and precautionary mitigation measures for bats.

3.1.2. Under **PL06D. 236338** the Board on 21st July 2010 upheld the decision of the planning authority (reg. ref. 09A/0909) to refuse permission for a development comprising a part three-storey part two-storey part one-storey over basement 48 ensuite bedroom retirement home at Arva, Glenageary Rd, Upper. The reasons for

refusal related to height and scale and excessive form of development which would also give rise to overlooking and to substandard open space provision.

- 3.1.3. Under **PL06D.224837** the Board upheld the decision of the planning authority (reg. ref. D05A/1174) to grant permission for alterations to previously approved retirement home at Arva, 137 Upper Glenageary Rd. The reason for refusal related to likely resulting damage to trees and likely increase in demand for parking which would result in an excessive development. The parent permission for the development sought to strike a balance between scale and the amenities of the site.
- 3.1.4. Under **PL06D.215177** the Board on 8th June 2006 upheld the decision of the planning authority to grant permission for construction of a two-storey over part basement retirement home including relocation of site entrance.

3.2. **Nearby site**

- 3.2.1. On a nearby site under **PL06D.246254** the Board on 6th of July 2016 overturned the decision of authority (reg. ref. D15A/0774) to refuse permission for development including alterations to Greythorn House, provision of 5 no. new 2 storey dwellings and other works at the 0.230 hectare site. The Board considered that the proposed development would represent innovative use of currently underused urban space and would not be injurious to the residential property in the vicinity.

4.0 **Planning Authority Decision**

4.1. **Planning and Technical Reports**

- 4.1.1. The **Planner's report** dated 2nd of the 5th August 2017 states that there is potential for higher density on this 0.277 hectare site which is 1091m from the DART station. Density of 29 units per hectare is below the minimum of 35 units and a greater mix in house type is required, which would also contribute to achievement of higher density.

Absence of permeability. Does not represent most advantageous and distinctive design approach. Public open space requirement of between 420 m² and 560 m² while 204 m² is provided. Fails to meet criteria for assessment under development plan standards and key criteria of the urban design manual in relation to quantity, quality and accessibility of public open space and play opportunities.

- 4.1.2. A tree report should be submitted. Insufficient detailing in respect of proposed retaining walls and the integration of engineering and landscape information. Private open space development plan minimum requirements are met.
- 4.1.3. Details of refuse storage and services are not provided. Further information recommended by Transport Planning and Drainage Planning including in relation to the vehicular access and requirement for a Flood Risk Analysis should be addressed in any future planning application.
- 4.1.4. Development does not adequately respond to the subject site's location, constraints and opportunities. Site has potential to achieve a quality residential development but subject scheme is not of sufficient quality in various respects and lacks a density, mix and range of residential units appropriate to the site and would have a negative impacts on site and surroundings. Permission should be refused.
- 4.1.5. **Drainage Planning** – further information requested. Calculations and drawings shall be submitted to explain in detail proposals for surface water management including the total volume of surface water harvested and how the discharge limits would be achieved. Infiltration tests shall be undertaken to verify that soakpits are feasible. Other comments relating to permeable paving, maintenance and possible need for upgrade of foul sewer. Given proximity to a flooding hotspot a site-specific Flood Risk Analysis shall be submitted.
- 4.1.6. **Parks and Landscape Services** – refusal recommended. Proposal does not meet development plan standards in respect of trees, biodiversity, open space, layout/

place-making and landscape design. Actual provision of open space is incorrectly stated and amounts only to 37% and 28% of required per capita provision. Open space is poorly located and there are no play opportunities proposed. Need for a tree report. Landscape design proposals are inadequate as detailed. A radical layout and design revisions is required and a request for further information would breach departmental guidelines to planning authorities and further information and permission should be refused.

4.1.7. **Transportation Planning** – notes that the development is stated to be maintained by a management company and that all development works are designed to meet the taking in charge standards. Further information is required in relation to detail of internal access roadway, proposals for SuDS, access and manoeuvring of large vehicles, lighting and construction management plan.

4.1.8. **Irish Water** – applicant shall provide information required by planning authority in relation to discharge of foul and surface water to the combined sewer and in relation to possibility of floods. Other comments in relation to a connection agreement.

4.2. **Third party observations**

4.2.1. The observations submitted may be considered under the following headings.

Design and related

4.2.2. Due to excessive heights the houses would be very prominent on streetscape and have an incongruous negative visual impact. Breach of building line. The development will also appear overbearing and incongruous and the three-storey is a mis-match with the single storey of Arva.

4.2.3. Inaccurate calculation of private open space, which is only 150 m². Open space requirement is not met. Felling of all trees as proposed is not acceptable.

Impact on residential amenity

- 4.2.4. Inadequate rear garden depth and inadequate private open space provision for the substantial 5 bedroomed dwellings. This creates material overlooking of neighbouring properties as well as providing insufficient private open space for future residents.
- 4.2.5. Overlooking from the rear facing 1st and 2nd floor windows in nos. 5-8 and lack of contiguous rear elevation. Overlooking from 1st and 2nd floor windows of units 1-3 of a private garden.
- 4.2.6. Rowan Rock is particularly vulnerable to insensitive development and house no. 8 in particular will cause excessive overlooking, overshadowing and excessive overbearing visual impact and is contrary to development plan policy regarding new infill development. Loss of amenity/privacy to rear of Rowan Rock due to height and fenestration. Rowan Rock is 1.1335 m lower than the site Arva and is reliant on windows which face towards that site and as such there will be significant overshadowing.

Flooding

- 4.2.7. Owners of Rowan Rock, Crannmore and Tinoran suffered severe flooding most recently in 2014. Significant works at Glenageary Rd Upper have been undertaken to improve the situation. Location of the attenuation tank under the proposed road adjacent to the existing wall are cause for concern as is the significant roof area and increased hard landscaping and lack of detailed information from a suitable engineer. Lack of effort to designing green roofs or similar to reduce impact of surface water. Concerns about the lack of drainage facilities in the north-eastern end of the site, which is indicated as being the overland flow route.

4.3. Decision

4.3.1. The planning authority decided to refuse permission for 2 reasons:

- Selected housing typology has unduly constrained achievement of higher densities, which is required under the development plan which also requires a variety of house types (RES3 and RES7). Set an undesirable precedent for similar site, would contravene policies of development plan and would be contrary proper planning and sustainable development.
- Inadequate provision of public open space would constitute a substandard form of development, which would seriously injure the amenities of property in the vicinity and of residents of the proposed development.

5.0 Grounds of Appeal / Observations

5.1. Grounds of Appeal

5.1.1. The main points of the 1st party appeal include:

- the 0.277 ha site has been vacant since 2000 and has an extensive planning history, which is summarised
- the footprint, height, scale and building line of the permitted under reg. ref. D12A/0074 (PL06D.241192) is similar to that of the proposed development while the access and drainage arrangements were also similar
- recently at Greythorn house (PL06D.246254) the Board decided that a development (at a density of 26 units per hectare) would result in a number of positive outcomes and was deemed acceptable - in the current case at a similar location the planning authority determined that the density of 29 units hectare is too low and this is inconsistent
- the layout facilitates retention of the mature trees on site that are protected

- planning officer identifies that the existing density in the surrounding area is relatively low and states that the subject site is underutilised
- the development plan requirement to promote a minimum of 35 units per hectare includes the caveat that there is a balance between the reasonable protection of existing residential amenities and established character of areas
- the amenities of adjoining properties were taken into account to ensure that the scheme would have minimal impact on neighbouring properties as is reflected in the site layout in image 5 above
- achievement of the density 35 units would require an additional 2 units but in view of reason to relating to public open space the only realistic way to provide 10 units would be an apartment development, which due to the construction costs is not economic, would impact on residential amenities and would require development of a basement car park which would impact on trees
- reference is made to the proposed SDZ at Clonburriss
- higher densities are suitable at certain locations but not this site and a higher density would not complement the established dwelling type - the development permitted under reg. ref. D12 A/074 is a density of half of that now proposed
- regarding the mix of units the application of the policy in RES7 to each and every application is not considered practical but appears to be the approach of the planning authority
- the proposed houses will add to the mix of houses in the area without having a negative impact on the balance of population or family types
- to achieve the target in the core strategy an intensification of the rate of development is required

- the appellant does not agree that the proposed development would constitute a substandard form of development which would seriously injure the amenities of property in the vicinity and residents of those development and the Board is asked to assess the development in terms of the context of what exists in the wider area and in the context that each site is considered on its merits and the proposed development is an appropriate form for this site
- further considerations relating to reason 2
- site drainage and related matters could be addressed by condition.

5.2. Observations

Helen Bradshaw

5.2.1. Resides at Swans' Hollow. The development is deficient in open space, would give rise to overlooking of neighbouring properties and would break building line. Overlooking from 1st and 2nd floor rear windows of numbers 5 to 8 is specifically mentioned. Reference also to lack of contiguous elevations of rear of 5 to 8 as viewed from adjoining properties to the North. Seriously injurious to my amenity and privacy. Rear garden length inadequate and not compliant with development plan standards of 11 m which is the minimum requirement.

5.2.2. Concerned about lack of drainage facilities and in the event of attenuation tanks blocking that there will be overland flow of water to the north-east corner of the site. Refers to need for flood surveys in view of flood in Monkswell properties in 2011.

Excessive density.

Jennifer and C.P. O'Gara

5.2.3. Reside at Rowan Rock, which shares a mutual boundary with the north-eastern of the proposed site. Objection to height and positioning of house 8 as shown on 16 –

116 – PD – 003. This is stated to be 1 m from the mutual boundary and will cause an excessive overbearing visual impact as the gable of the proposed house would rise 11 m from ground level of our house and would create an imposing massing effect and overshadowing on the single-storey return of our main kitchen living area. Windows and 1st and 2nd floors of house 8 would result in substantial overlooking. In the event of a grant of permission should be reduced to two-storey and the distance should be increased sufficiently so as to prevent the existing massing effect and substantial overlooking and any overlooking windows should be conditioned as opal glass.

- 5.2.4. Concerns about potential for flooding as our site is lower and we are likely to be affected by poor drainage. Reference to flooding of nearby properties in recent years. Potential to destabilise existing stone wall on the eastern boundary and risk of flooding to adjacent properties need to be considered under further information.
- 5.2.5. Regarding traffic we are concerned there is no provision for visitor of parking and there will be an overflow of parking onto Glenageary Rd Upper which will result in a traffic hazard as the access point is in a natural acceleration zone. Appropriate parking requirements to prevent traffic hazard should be insured.
- 5.2.6. Regarding the 1st party appeal the appellant has failed to indicate that our house is also one-storey. Also we disagree that the height scale and proximity of the current proposal is similar to that permitted previously under DA12A/0074.

6.0 Responses

6.1. Planning Authority response

- 6.1.1. The grounds of appeal did not raise any new matter which would justify a change of attitude to the proposed development.

6.2. Other

6.2.1. None.

7.0 Policy Context

7.1.1. The provisions of the Dun Laoghaire Rathdown Development Plan 2016-2022 apply. This was adopted taking into account the Sustainable Residential Development Guidelines for Urban Areas, which has the associated Urban Design Manual.

7.1.2. Policy OSR7 is the policy of the planning authority to ensure that tree cover in the county is managed and developed and in this regard significant groups of trees worthy of retention have been identified. There is an objective to protect and preserve trees and woodland on the site.

7.1.3. Section 8.2.8.6 refers to the undertaking of arboricultural assessments.

7.1.4. The site is zoned objective A, to protect and / or improve residential amenity.

7.1.5. There are no relevant conservation objectives.

7.1.6. A range of policies refer to residential development including to increase residential density and to provide for a mix of housing unit types and tenures (RES3 and RES7).

8.0 Assessment

8.1.1. I consider that the issues in this appeal may be considered under the following headings:

- Density, mix, open space and related issues
- Impact on existing residential amenities

- Tree protection
- Drainage and flood risk
- Other issues
- Appropriate Assessment.

8.2. Density, mix, open space and related issues

- 8.2.1. Reason 1 of the decision of the planning authority refers to policies RES3 and RES7 of the development plan relating to the achievement of a minimum density of 35 units per hectare and to the provision of a wide variety of housing and apartment types, sizes and tenures. The decision of the planning authority refers to the selected housing typology which is considered to have unduly constrained the achievement of higher densities.
- 8.2.2. I refer the Board at the outside to the extant permission for 4 no. detached dwelling houses at this site. I agree with the first party appellant that there is a similarity between the current proposal and the previously permitted development in terms of the access and layout. The appellant has also made the point that the current proposal of 8 no. units represents a doubling of the density over the permitted development.
- 8.2.3. I refer the Board to the similarity in terms of the development plan requirements pertaining under the 2010 – 2016 plan and the recently adopted development plan, which covers the period 2016 – 2022. Both have requirements to promote higher densities and that as a general rule the minimum density shall be 35 units per hectare. Locations which are closer to a railway station are deemed to warrant a higher density at a minimum of 50 units per hectare. As the subject site is more than 1 km from Glenageary Dart station and more than 1 km from the Dun Laoghaire

town centre, the appropriate minimum density under the development plan in the current application is 35 units per hectare.

- 8.2.4. I refer to the Inspector's report under PL 06D.241192 which concluded that the proposal is in compliance with policy RES3 in relation to residential density. The Inspector considered that the proposed density of development of 15 units per hectare is acceptable and appropriate at this location. This statement was made in the context of consideration of the pattern of development in the area and the streetscape and is related to a conclusion that the proposed development would generally integrate into this suburban location. I note that the prevailing development plan policy context insofar as it relates to density is unchanged.
- 8.2.5. I agree with the general thrust of the planning authority consideration in relation to the suitability of this site to accommodate a development of 35 units per hectare minimum. I refer later to the trees on site but in general I would describe this site as being relatively unconstrained due to its open nature including the part on the western side.
- 8.2.6. I note that the appellant refers to this density being achieved if a further two number units was incorporated. I disagree with the appeal submissions which state that achievement of this density would require development of basement parking and/or would involve construction of apartments and that the level of development required for economic feasibility. I consider that there are other options including a development of two terraces in lieu of the detached and semi-detached houses, which could result in provision of 10 number units in total on the site. Such an arrangement could be achieved even utilising the general principles of the layout proposed.
- 8.2.7. If the Board considers that it is appropriate to require provision of a minimum density of 35 units per hectare at this site, the Board may wish to consider requesting a revised proposal which would incorporate terraced housing or duplex units. Such a

request would meet the requirement for density and would also trigger the requirement under Part V for social and affordable housing thus ensuring mixed tenure within the site, which is in accordance with policy RES7.

8.2.8. I conclude that this is a reasonably unconstrained site, which is located in an area where it is appropriate to achieve higher densities and that there is potential for a greater mix of units on the site. However, having regard to the planning history relating to this site including the fact that there is a live permission for a substantially lower density development, permitted both by the planning authority and the Board, I am reluctant to advise the Board to uphold the decision of the planning authority to refuse permission for a reason relating to policy RES3. I consider that a similar logic would apply in relation to policy RES7, in relation to which the development plan context is largely unchanged.

8.2.9. Finally on this matter I refer the Board to the appellant's comments relating to a nearby site Greythorn House. I consider that there is little similarity between the current proposal and the permission granted at Greythorn House for development of stated density of 26 units per hectare (PL 06D – 246254), as the latter incorporated retention and refurbishment of an existing house and is set within a different urban context and in any case it is appropriate that the merits of the current appeal be adjudicated independently.

8.2.10. I recommend that the Board reject reason 1 of the decision of the planning authority.

8.2.11. Reason 2 of the decision of the planning authority relates to inadequate provision of public open space resulting in a form of development which is substandard and which would seriously injure the amenities of property in the vicinity and of the residents of the proposed development. I referred the outset to the requirement for all residential developments of over five units to provide public open space of 15 m² to 20 m² per person. There is a presumed occupancy rate of 3.5 persons per dwelling unit and only where there is exceptionally high quality open space is less

than 20 m² per person allowable, in which cases financial contribution may be acceptable. I refer the Board to the planning authority calculations which establish a minimum requirement of 420 m².

8.2.12. I agree with the planning authority that the landscape strip beside the access road, which is of stated area of 204 m² would not meet with the development plan requirements. I consider that the inadequate amount of public open space, which is provided is not of sufficient high quality to allow for any exceptional circumstances and payment of a financial contribution and my conclusion is that the public open space requirement under the development plan is not met. Having regard to the small number of housing units proposed, I consider that there could be some flexibility on this matter however and I do not see it as one which would necessarily warrant refusal in the circumstances where all other matters are satisfactorily resolved.

8.2.13. The decision of the planning authority in reason 2 refers to serious injury to the amenities of property in the vicinity. This phrase is incorporated in the context of public open space. However, I see no specific reference in the planners report to direct impacts such as overlooking or overshadowing. In that context and having regard to references in the planners report to design and layout, linkage, permeability, lack of sense of open space, my conclusion is that the injury to residential amenities is considered to arise on the basis of concerns related to the wider area, rather than direct impacts on particular residential properties. Broadly, it appears to me that reason 2 is related to concerns associated with residential amenity for future occupants and to urban design.

8.2.14. I refer the Board again to the similarity between the current proposal and the previously permitted scheme in terms of layout, contribution to streetscape, access, permeability and associated matters and having regard to the planning history and

the live permission, together with the small-scale nature of this site, I do not recommend that permission be refused for reasons related to urban design.

8.2.15. I recommend that the Board reject reason number two of the decision of the planning authority as it relates to public open space and the amenities of future occupants.

8.3. Impact on existing residential amenities

8.3.1. I turn now to the specific matters raised by third parties which include overlooking, overshadowing and the alleged overbearing nature of the development.

8.3.2. Regarding the potential for overlooking of adjoining properties, I find little evidence to support this claim and I note that it is not explicitly referenced in the planner's report which was prepared in support of the decision of the planning authority.

8.3.3. Houses numbered 1 to 4 at the front overlook residential development to the east. Centrally positioned along the eastern site boundary is a single-storey house Swans' Hollow, which is an old stone building. There is one small window facing towards the site. Subject to appropriate boundary treatment I do not foresee any issues with the overlooking of that property, which is 12.358 m from the front of the proposed house number four. Having regard to the separation distance (generally over 20 m) from the proposed houses 1-4, I do not consider that there is any potential for significant overlooking of residential property. The rear of these houses would have a view on to a narrow pedestrian route, which is part of Silchester Park.

8.3.4. Regarding the potential impact of houses 5-8, these for the most part back onto the driveway to a dwelling house. The application drawings indicate that a new boundary wall would be put in place and it appears from the drawings that all of the trees would be removed. Having regard to the separation of at least 7 m and subject to appropriate boundary treatment, I do not consider that the overlooking of the existing driveway would constitute a serious intrusion onto the residential amenities of the

house to the north. However, it would be appropriate in my opinion to specify a detailed condition relating to the boundary wall at this location to ensure that the height of the wall is sufficient to prohibit overlooking.

8.3.5. I refer now to the house immediately to the east, which is a newly constructed dwelling house Rowan Rock. The observers are concerned that due to its height and its location on higher ground there would be excessive overlooking and the development will have an excessive and overbearing visual impact. At the time of site inspection I noted that the northern end of Rowan Rock at ground level contains an extensive glazed area. I refer the Board to the relationship between proposed house number eight and Rowan Rock, which I would describe as orderly and conventional and not likely to give rise to adverse impacts on residential amenity.

8.3.6. In terms of the difference in levels, the roof ridge height of Rowan Rock based on the previous application submission is 40.27, thus the house at site eight would be 3 m higher at roof ridge. I agree with the third party submission that a two-storey unit would be more appropriate at this location having regard to the level differences and the 1.32 m separation between the site boundary and the flank wall of number eight. I consider that this could be addressed by condition in the event of a grant of permission. It would be appropriate that any replacement dwelling house at this location be subject of a separate planning permission in my opinion.

8.3.7. Subject to that amendment and details of the proposed retaining walls at the northern boundary, I am satisfied that the proposed development would not adversely affect the residential amenities of the area.

8.4. **Tree protection**

8.4.1. The appellant refers to the objective to protect trees on the site and states that the layout facilitates retention of the mature trees. The appellant refers also to the similarity between the permitted and proposed layouts. I have supported that

contention above. However, on the specific matter of tree protection there are in my opinion material differences as identified below.

- 8.4.2. I refer the Board to the landscape master plan submitted with the application which indicates a number of proposed trees but does not identify any which are to be retained. There appears to be validity to the 3rd party comment that the proposal is to fell all trees on the site. I note that the Parks and Landscape Services Department refers to the lack of the tree survey but considers that in the context of the development as proposed a request for further information should not issue. I have examined the history files associated with this application. I note that the permitted development of four number dwelling houses provided for the protection of the majority of trees, which are at the northern and southern boundaries. The Board addressed this matter in a condition and also attached a precautionary condition relating to the protection of bats.
- 8.4.3. The permitted houses numbered three and four under the previous application and appeal were provided with a number of different pockets of open space and for the most part the root spread of the trees would not have been impacted by the development.
- 8.4.4. I do not consider that similar conclusions can be drawn in relation to the current proposal. The retention of the boundary trees at the northern side of the site in particular is not in my opinion compatible with the proposed use of four number relatively short rear gardens in association with the large dwelling houses.
- 8.4.5. Furthermore and of equal significance is the fact that the applicant in this case has not presented any details of the trees which are to be retained notwithstanding the development plan objective to protect the trees on this site. If the Board were so minded it could request further information on this matter. In the situation where the first party appeal acknowledges the objective but presents no proposals to address it, I do not recommend this course of action. In addition, I am unconvinced that it is

feasible based on the current layout to secure protection of the trees in a manner which is sustainable. I refer in particular to the north-western end of the site. However, all of the trees on site all need to be subject to expert examination.

- 8.4.6. The Board may wish to consider whether the removal of all trees as proposed warrants a refusal of permission. Having regard to the development plan objective and the layout including the short gardens to the rear of units 5-8, I consider that such a conclusion might reasonably be drawn and such is my recommendation.

8.5. **Drainage and flood risk**

- 8.5.1. A number of matters raised by the Drainage Planning Section of Dun Laoghaire County Council and by Irish Water refer. It is not refuted by the applicant that there has been recent flooding (in 2014) of the lands to the east. In one letter of objection to the planning authority it is stated that three houses have suffered severe flooding in the past and that in 2014 there was significant ingress. In the meantime significant works to Glenageary Road are stated to have been undertaken to improve the situation. The specific wording of the first party appeal is that the site has never flooded and secondly that if further detail is required on the proposed sustainable drainage system, this could be dealt with by condition or a request for further information.
- 8.5.2. I refer the Board to a number of aspects of the proposals for surface water drainage, which are inadequately detailed in the application submission. The proposal is stated to comprise on-site attenuation by way of a SuDS and to facilitate connection to a future surface water sewer in the pedestrian walkway to the west of the site. In principle I have no objection to this proposal. However there is also a reference in the application to a diversion of overland flow to the north-east corner of the site in certain situations. This is not clarified and the diversion would appear to be to the lower grounds close to an area where there has previously been flooding.

- 8.5.3. The Council's Drainage Planning Section states that the surface water management system and the possibility of connecting to the indicated combined sewer requires more details. There is very restricted capacity in the combined sewer and flow restricting device able to deal with the limit of 1 L per second maximum allowable will apply. In that context in that context it is necessary to ensure proper design and maintenance and to ensure that the design of the on-site surface water attenuation does not exceed the capacity available in the sewer.
- 8.5.4. The site is stated to be located within a flood hotspot based on map 7 of the development plan. Added to that the drainage planning section refers to the proximity to a flooding hotspot and identifies a requirement for a site-specific flood risk analysis including to address excess surface water generated within the development site
- 8.5.5. The Board will note that the observations, which were not circulated to the applicant include reference to flooding risk. The matter of flooding risk does not constitute a "new issue" in this appeal which would warrant prior circulation to the applicant in event that the Board decides to refuse permission for that reason. The Board could however request further information. In the event that my recommendation regarding tree protection is dismissed then it might be appropriate to request more information on surface as set out in the Council official's report.

8.6. **Other issues**

- 8.6.1. In relation to the future management of the development it is described as being maintained by a management company. The Council's technical reports indicate however that the scheme is generally designed to comply with taken in charge standards, although aspects of the detail of roads and related matters are considered to require further submissions. I consider that the nature of these matters are such that a planning condition would be appropriate.

I refer the Board to Circular PD1/08 which has been referenced in the Sustainable Urban Design Guidelines. This identifies a requirement that each planning authority have a policy on taking in charge. Section 8.2.3.5 of the development plan indicates that in the case of residential developments which are not proposed to be taken in charge evidence will be required that management companies are to be set up by the time of completion of the estate. In the event of a grant of permission I consider that this matter can be addressed by condition.

The application is one to which the requirements under Part V of the Act do not apply. A certificate of exemption has been granted in respect of social and affordable housing on the basis that the development does not exceed 9 houses and in accordance with section 96 of the act as amended the provision of social and affordable housing in accordance with the housing strategy will not apply. Therefore in the event of a grant of permission, no condition on this matter is required. The permitted development is also excluded from any requirements under Part V under the then prevailing legislation.

8.7. Appropriate Assessment

- 8.7.1. Having regard to the nature of the proposed development, which comprises only relatively minor construction works in a suburban location on serviced lands I am satisfied that 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.

9.0 Conclusions and Recommendation

- 9.1.1. I consider that the decision of the planning authority to refuse permission including for reason related to the lack of housing mix an inadequate density have merit but

having regard to the planning history I do not recommend that the Board uphold the decision as set out in reason 1.

- 9.1.2. Regarding the limited provision of public open space, I consider that this is a matter on which there could be some flexibility having regard to the small size of the scheme. While the requirement for public open space is not adhered to in this instance, I consider that the more substantive reason for concern relates to the removal of all trees on the site where there is a specific objective to protect trees. In this regard I am not satisfied that the layout proposed is compatible with the protection of trees. The first party appeal has acknowledged the development plan objective but the applicant is not presented any proposals to retain trees. In this context I consider that a refusal of permission is reasonable.
- 9.1.3. Having regard to the proposals for surface water drainage, the history of flooding in the area and the lack of a site-specific flood risk assessment and detailed proposals for surface water management, I consider that it is not demonstrated that the development would not contribute to flooding of adjacent lands. This matter constitutes a second reason for refusal.
- 9.1.4. The proposed house number eight would be overbearing and is likely to give rise to overlooking. This could be addressed by condition requiring a further permission.
- 9.1.5. I am satisfied that none of the issues set out in the recommendation below constitute new issues which would be appropriate to refer to the applicant in the first instance.
- 9.1.6. I recommend that permission be refused for the reasons and conditions set out below.

9.2. **Reasons and Considerations**

1. Under Policy OSR7 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 it is the policy of the planning authority to ensure that tree cover in

the county is managed and developed. The site is subject to an objective identified on Map 7 of the development plan to protect and preserve trees and woodlands. Having regard to the layout of the proposed development including the proximity of houses to the northern site boundary, it is considered that the proposed development would militate against the protection of trees on the site and therefore contravenes the provisions of the development plan and is thus contrary to the proper planning and sustainable development of the area.

2. Having regard to the proposals for surface water disposal and the constraints in the drainage network in the area, the Board is not satisfied that the proposed development would not give rise to flooding of adjacent lands.

Mairead Kenny
Senior Planning Inspector

30th of November 2017