



An
Bord
Pleanála

Inspector's Report ABP-300574-18

Development	Demolition of buildings and construction of 5 no. two to three-storey terraced houses
Location	Mount Dillon Business Park, Brookville Park, Artane, Dublin 5
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2427/17
Applicant(s)	Michael Moran
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Darren Tighe
Observer(s)	1). Seán Haughey TD, 2). Derek Bridges & Others, 3). Greg Devlin & Others and 4). Coolock Residents' Association
Date of Site Inspection	4 th April 2018
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located off Brookville Park, which runs adjacent and parallel to the Malahide Road (R107 regional road) in the Artane area of north Dublin city, approximately 5.4km northeast of the city centre. The site occupies a backland area, set back from the primary streets and connected to Brookville Park by a laneway. It contains an 'L-shaped' single-storey building, built onto the western and northern boundaries and accommodating a range of commercial uses, including premises associated with motor repairs and printing. Parking for 18 vehicles, set down and turning areas are provided to the front of the commercial units.
- 1.2. The business park adjoins residential properties, including two-storey terraced housing in Ardbeg Park located to the west and the north, two-storey semi-detached housing along Brookville Park located to the east and two-storey flat blocks located in Mount Dillon Court to the south. A commercial premises adjoins the access laneway to the south. The boundaries to the site comprise block walls 2m to 3m in height and flanked along the southside of the access laneway by a hedge.
 - 1.2.1. The surrounding Artane area is characterised by two-storey housing from differing eras, positioned along a grid network of streets and served by laneways to the rear. A local neighbourhood centre is situated approximately 200m to the south of the appeal site, to the south of the Artane roundabout. Numerous frequent Dublin Bus services operate along the Malahide Road connecting the northern suburbs with the city centre. Ground levels in the vicinity drop steadily moving south.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the following:
 - demolition and removal of all buildings on site with a stated gross floor area (GFA) of 358sq.m;
 - construction of a three-storey detached building to provide for 5 no. three-bedroom dwellinghouses with a stated GFA of 857sq.m, each served by single-storey rear projections, rear garden space and solar panels at roof

level. The building would include dormer projections at roof level, blue/black slates and zinc cladding to the roof, aluminium clad windows and white render to the walls;

- provision of ten car parking spaces to the front of the dwellings, vehicular turning areas, shrub planting to boundaries, removal of hedge along the laneway and refurbished gateway set back from Brookville Park;
- all associated site works including connections to engineering services via the laneway.

2.1.2. Following a request for further information, the proposed development was amended to provide for a part-two, part-three storey detached building including 2 no. two-bedroom dwellinghouses and 3 no. three-bedroom dwellinghouses. The further information response submitted included shadow analysis drawings and a site services report addressing drainage and flood risk.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission with 19 conditions attached, the following of which are of note:

- Condition No.2: Section 48 Contributions;
- Condition No.4: (a) western end house to be reduced to single-storey and amalgamated with the adjoining house;
- Condition No.4: (b, c, d, e & f) clarification of glazing to windows;
- Condition No.5: landscaping plan to be submitted;
- Condition No.10: Part V Social Housing;
- Condition No.18: areas to be taken-in-charge.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (May 2017) noted the following:

- the development would not be discernible from the public realm and is in compliance with building height restrictions. The ground level for the proposed building is noted to be c.0.7m below the closest residential properties;
- there would be concerns regarding the impact of the development on neighbouring amenities with possible restriction of light, loss of outlook and potential for overlooking;
- vehicular access is proposed via the existing laneway, which varies between 3.4m and 5m in width. The proposed development is considered acceptable by the Roads & Traffic Planning Division of the Planning Authority;
- a Social Housing Exemption Certificate was granted for the subject site;
- further information was requested with respect to surface water drainage, flood risk, impacts on sunlight and daylight, potential for overlooking, details of surrounding features, glazing to rooflights, landscaping and clarification regarding legal title. The applicant was requested to amend the proposals to address any issues arising.

The final report of the Planning Officer (November 2017) reflects the decision of the Planning Authority. The Planning Officer notes the following:

- subject to conditions, the Engineering Department (Drainage Division) are satisfied with the response relating to surface water drainage and flood risk;
- limited information was provided regarding sunlight and daylight and it would appear appropriate to reduce the western end unit to single-storey to protect adjacent residential amenities;
- there is a lack of clarity within the information provided to address overlooking from proposed windows to adjacent residential properties and conditions would be necessary to address this.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) – additional information was initially requested. Final report stated no objection subject to conditions;
- Roads & Traffic Planning Division - no objection subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third-Party Submissions**

3.4.1. A total of six submissions were received, all from local residents in the immediate vicinity of the appeal site and the issues raised are covered within the grounds of appeal and observations below.

4.0 **Planning History**

4.1. **Appeal Site**

4.1.1. The Planner's Report on the file refers to pre-planning correspondence having taken place in relation to two possible residential development options for the site.

4.1.2. The following planning application relates to the appeal site:

- ABP Ref. PL29N.128080 (DCC Ref. 2263/01) - permission refused in June 2002 for three temporary storage units due to their impact on local amenities.

4.2. **Surrounding Sites**

4.2.1. Reflective of the urban context, there have been numerous applications in the immediate area for both residential and commercial developments.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect, provide and improve residential amenities'.

5.1.2. Relevant planning policies for the proposed housing development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Policy QH1 of the Plan seeks to build upon and enhance standards outlined in 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), amongst other National Guidelines. Relevant housing policies in this case include:

- QH7 – promote densities having regard to design, architecture and context;
- QH10 – discourage gated-residential development;
- QH13 – ensure housing is adaptable and flexible;
- QH22 - ensure new housing respects existing housing.

5.1.3. Design principles for infill development are set out in Section 16.2.2.2 of the Development Plan. Design standards for houses are set out in Section 16.10.2 of the Plan and matters to be considered in assessing proposals for backland development and infill housing are outlined under Sections 16.10.8 and 16.10.10 of the Plan, respectively. Section 16.9 of the Plan requires roads and services to adhere to the Design Manual for Urban Roads and Streets (DMURS).

5.1.4. The Plan refers to the Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (Building Research Establishment [BRE] Report 2nd Edition, 2011) when considering impacts on sunlight and daylight.

5.1.5. Section 16.7.2 of the Development Plan sets out building height limits for development, including a 16m restriction in this part of the outer city.

5.1.6. Other relevant sections of the Development Plan include the following:

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.9 – Urban Form & Architecture;
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);

5.1.7. In this part of the city (Area 3), a maximum of 1.5 car parking spaces per house is allowed for, based on standards listed in Table 16.1 of the Plan. Section 16.38.9 of the Development Plan outlines ‘design criteria’ relating to the layout of car parking spaces.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal against the decision of the Planning Authority was received by the Board on behalf of a resident of Brookville House, which is situated close to the

entrance to the appeal site on Brookville Park. The main issues raised within the grounds of appeal can be summarised as follows;

Design & Context

- proposals, including building height, would be overly-dominant and out-of-character and scale with the surrounding two-storey housing and would have a detrimental impact on the visual amenities of the area;
- density of the development is too high for this site and the proposed building mass and layout does not relate appropriately to the surrounding low-rise residential context, which would in turn lead to overdevelopment of the site;
- housing proposed would not be flexible or adaptable to occupants' changing needs;
- proposed development would not comply with urban design and quality housing policies contained within the Development Plan, including those relating to backland development and infill development;

Residential Amenity

- proposals would lead to overshadowing of gardens, loss of light and overlooking of neighbouring properties in Ardbeg Park and Brookville Park.
- siting of the proposed building proximate to boundaries with residential properties would have an overbearing impact on neighbouring properties;
- proposals contravene zoning objectives for the appeal site and would result in loss of privacy for neighbouring residents;
- amenities and safety of residents would be undermined during the construction period;

Traffic, Access & Services

- use of a narrow laneway to access the proposed houses, with insufficient width to accommodate two passing vehicles would result in traffic hazard during construction and operational phases, particularly during peak periods;
- the surrounding area has limited capacity to absorb the additional associated traffic that would arise given new developments in the area and the existing

traffic circulation routes, with only a left-turn exit available from Brookville Park onto the Malahide Road northbound carriageway;

- the existing entry point off Brookville Park is only 3.4m in width, well short of the 5.5m width required;
- restricted vehicular access to serve the proposed development would result, including access for service and emergency vehicles;
- noise disturbance would arise for neighbouring residents as a result of traffic using the laneway;
- drainage details for the proposed development are not sufficient;

Other Matters

- the appellant claims that they own part of this laneway included within the application redline boundary;
- proposals would lead to devaluation of neighbouring properties;
- precedent for refusal of the subject development is provided by the refusal of permission for three temporary storage units on the appeal site, due to their impact on local amenities (ABP Ref. PL29N.128080). Reference is also made to two neighbouring infill housing developments (ABP Ref. PL29N.209496 - 48-50 Ardbeg Park & DCC Ref. 4421/16 – 29 & 31 Drumcondra Road Lower), where planning permission was refused, inter alia, with respect to impacts on local amenities.

6.2. **Observations**

- 6.2.1. Observations to the appeal were received from a local public representative, expressing their support for local residents in opposing the proposed development, and also from three groups representing local residents. The issues raised within the observations from the local residents' groups are largely covered within the grounds of appeal above, but also included the following:

Design & Context

- would represent a deviation from the existing commercial uses on site;
- boundary treatments details are required;

Residential Amenity

- proposals would result in restricted views for residents;
- both of the proposed two-storey end units are requested to be reduced to single-storey;

Traffic & Access

- there is an absence of pedestrian paths serving the development;

Flood Risk & Services

- there is a history of flooding and surface water drainage problems on site and within the immediate area, and this needs to be considered, particularly as recent flooding in the area was alleviated through a temporary solution on the appeal site;
- accompanying the observations is a weather bulletin and correspondence from DCC Environment and Transportation Department (Drainage and Wastewater Services Division) referring to a query relating to a recent flood event in the area;
- the proposals lack due consideration for an existing foul sewer serving the adjacent housing and running through the site. A survey had been commissioned to clarify drainage arrangements;
- there is an absence of details relating to waste and refuse management, electricity, gas, telecommunications, lighting and water supplies to serve the proposed development;

Other Matters

- queries are raised regarding the details of the application, including the ground levels shown on the cross-section drawings running through the site and the neighbouring properties.

6.3. Planning Authority Response

6.3.1. The Planning Authority did not respond to the grounds of appeal.

6.4. Applicant's Response

6.4.1. The applicant's response to the grounds of appeal can be summarised as follows:

- proposal is for a modest scheme based on the advice of the Planning Authority and compliant with building height, plot ratio and site coverage standards;
- proposals provide for a sustainable use of a backland site, in compliance with the housing policies and standards of the Development Plan;
- proposed development has been carefully designed to address potential concerns relating to overlooking, overshadowing, access to light and visual impact;
- applicant would be willing to provide obscure glazing / screens at upper levels;
- precedent for granting the development is noted based on a grant of permission for 7 houses at 127 Malahide Road, where a relaxation in development standards was allowed for (DCC Ref. 3615/16);
- scope exists for increased heights to the surrounding housing stock;
- replacement of the existing commercial operations on site would be beneficial to the amenities of the area;
- the existing parking and traffic situation would improve as a result of the subject proposals.
- appeal is commercially motivated and vexatious.

7.0 Assessment

7.1. Introduction

- 7.1.1. The proposed development would comprise the demolition of existing commercial buildings and the construction of a residential development comprising five houses accessed via the existing laneway off a slip road to the Malahide Road in north Dublin City. At the outset, I am satisfied that the principle of developing the proposed houses on the subject 'backlands', which are zoned 'Z1 - Sustainable Residential Neighbourhoods', is acceptable, subject to planning and environmental considerations addressed below. I note that the Engineering Department (Drainage

Division) of the Planning Authority has advised that matters relating to flood risk and servicing have been adequately addressed by the applicant within the further information response. Consequently, I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Impact on Residential Amenities;
- Design & Layout;
- Access, Traffic & Parking;
- Other Matters.

7.2. Impact on Residential Amenities

7.2.1. Section 16.10.8 of the Dublin City Development Plan 2016-2022 notes that backland development can cause a significant loss of amenity to existing properties via loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. In granting permission, the Planning Authority attached conditions to address the impact of the proposals on No.104 Ardbeg Park and Nos.4 & 5 Brookville Park, and also to reduce the potential for overlooking and loss of privacy to neighbouring residential properties. The grounds of appeal assert that the proposed development fails to respect surrounding amenities, as it would excessively overshadow and overlook neighbouring properties and it would have an overbearing impact when viewed from neighbouring properties. Within the further information submission, the applicant attempted to further address the impact of the proposed development on neighbouring amenities.

7.2.2. The side wall to the west-end of the building would be positioned on the side boundary with the rear garden to No.104 and the side wall to the east-end unit would be positioned approximately 0.8m to 1.5m from the rear boundary with Nos.4 & 5 Brookville Park. The further information submission reduced the height of the two end units on the proposed building from three-storey to two-storey and given the height and proximity of these units to neighbouring gardens, as a starting point I would consider this necessary to address the impact on neighbouring amenities. The Planning Authority subsequently requested via condition, that the western end

house be reduced to single-storey in height and amalgamated with the adjoining house. Despite this condition, the grounds of appeal and observers to the appeal consider that the proposed development would continue to have an overbearing impact on neighbouring properties. I note that the garden level to No.104 would be 0.7m above surface level within the proposed development and a 2.7m-high boundary wall would be provided along the boundary with No.104 (as per Section a-a on Drawing No. 1020-PP-FI01). The existing building on site is constructed onto this boundary and would be removed as part of the development. While I recognise the difference in levels (c.0.7m), given the proximity of the west-end unit along the rear garden serving No.104, I consider that the siting of the proposed two-storey end house would have an overbearing appearance when viewed from No.104, therefore, the west-end unit should be reduced in height. Accordingly, the reduction in height to single-storey, as requested via condition by the Planning Authority, would be necessary, although I consider that there would be scope to either amalgamate the end unit with the adjoining unit or provide a single-storey house. Revised drawings should be requested via condition to address this. Given the 0.8m set in from the side boundary with Nos.4 & 5, the c.21m depth of the rear gardens to these neighbouring properties and the distance from the rear windows of the houses (approximately 18m to 24m) to the proposed building, I am satisfied that the proposed development would not have an overbearing impact when viewed from properties to the east, nor would it result in excessive overshadowing of gardens to these properties.

- 7.2.3. Given the 13.5m separation distance between the two-storey and three-storey elements of the proposed building to the rear boundary with No.106, I am satisfied that the proposed building would not give rise to undue levels of overshadowing to No.106, the nearest property to the north. The proposed building would be positioned to the southeast of No.104 and a minimum of c.4m from the rear wall to the existing house. To attempt to clarify the extent of overshadowing and loss of light that would arise from the proposed development to No.104, the applicant submitted a set of shadow cast analysis drawings. However, the response does not quantify the extent of overshadowing of amenity space or the extent of light restricted to living rooms within No.104, as per the BRE standards and the Development Plan. As stated above, to address the potential overbearing impact of the development,

the two-storey west-end unit was requested to be reduced in height to single-storey and I consider this measure would also be essential to ensure excessive overshadowing of the rear garden to No.104 would not occur.

7.2.4. The proposed building, as submitted with the further information response, would include a window at first-floor and second-floor level on both ends of the building, each of which would be fitted with obscure glazing. These windows are not identified on the floor plans (see Drawing No. 1020-PP-FI01), but it is clear that they would serve non-habitable rooms. Side-facing windows should be conditioned to comprise obscure glazing with restricted opening to avoid potential overlooking of neighbouring properties. The rear windows serving bedrooms and bathrooms at first-floor level are proposed to comprise 'opaque glazing / inward opening glazing set behind vertical larch cladding rails' to limit direct overlooking of neighbouring properties. These windows would be approximately 13.5m from the rear boundary with No.106 Ardbeg Park and given this separation distance and the 2.7m-high rear boundary (as per Section C-C Drawing No. 1020-PP-FI01), and as a consequence I do not consider that these windows require mitigation measures to address overlooking. The same would apply to the front and rear rooflights and all windows along the front elevation, which would not directly overlook neighbouring gardens due to building orientation, separation distance, boundary treatments and existing screen planting. In summary, I am satisfied that the proposed development would not result in excessive overlooking of neighbouring properties and a condition should be attached to omit opaque glazing, screening and other design features to the front and rear windows and to ensure obscure glazing and restricted opening to any side elevation windows.

7.2.5. In conclusion, subject to conditions, it is considered that the proposed development would not have a detrimental impact on the residential amenities of neighbouring dwellings by virtue of overshadowing, overlooking or an overbearing impact. Accordingly, the proposed development should not be refused for this reason.

7.3. Design & Layout

7.3.1. Policy QH21 of the Development Plan seeks 'to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation'. It is noted by the

Planning Authority that the proposed development complies with standards relating to internal layout and room sizes outlined in the guidance document 'Quality Housing for Sustaining Communities'. Furthermore, it is also noted that the proposed houses would be provided with c.61sq.m private open space to the rear and this would meet the 60sq.m required based on Development Plan standards. Windows (c.0.84sq.m) serving bedroom 1 (c.12.75sq.m) to each house, fall short of the Development Plan standards, which require an area of glazing amounting to 20% of the respective habitable room floor area. A condition should be attached to increase the size of bedroom 1 rear-facing windows to meet the Development Plan standard (2.55sq.m).

7.3.2. The grounds of appeal assert that the building would be overly-dominant and out-of-character and scale with the surrounding two-storey housing and would have a detrimental impact on the visual amenities of the area. There is a well-defined and established urban grain in the immediate vicinity with two-storey housing fronting onto streets and green spaces and backing onto service laneways. The proposed development would introduce a three-storey building into the immediate two-storey cityscape. The appeal site or surrounding area is not provided with any conservation status and the proposed building height (c.9.7m) complies with building height restrictions for the outer city (16m). I do not consider that the introduction of a three-storey structure into this cityscape would unduly impact on the character or visual amenities of the area, particularly given the variation in land levels, which drop by c.0.7m into the site from the housing to the north and west. However, I would have concerns regarding the proposed array of roof profiles serving the building. The roof ridge height appears to be dictated by the positioning of two windows serving circulation space in the side elevations at second-floor level (see proposed side elevations on Drawing No.1020-PP-FI01). Floor to ceiling heights serving the circulation space and bedroom at second-floor level measure between c.2.2m and 3.35m. A condition should be attached omitting the second-floor level side windows and requiring the roof ridge height to be dropped by a minimum of 1m and to provide a uniform and consistent pitch to the roof slope. The general proportions of the new houses complement those of the adjacent dwellings, and the reduction in roof ridge and more cohesive roof design would allow the proposals to sit better into the surrounding cityscape. I also recognise that the transition from single-storey to three-storey along the western end of the building would appear abrupt when viewed

from the front, but this transition is essential to address residential amenity issues raised above. The proposals provide for extensive use of white render to finish the building and I would recommend a condition to introduce an element of brick to the material finishes. Limited details relating to landscaping and boundary treatments have been provided and a condition should be attached to address same.

- 7.3.3. In conclusion, subject to conditions, I am satisfied that the design and layout of the proposed houses would provide for a suitable level of amenity for future occupants, would not conflict with the established pattern and character of development in the area and would not have a detrimental impact on the visual amenities of the area. Accordingly, the proposed development should not be refused for this reason.

7.4. Access, Traffic & Parking

- 7.4.1. Section 16.9 of the Plan requires roads and services in housing developments to adhere to the Design Manual for Urban Roads and Streets (DMURS). I note that this Manual does not purport to provide guidance relevant to every scenario, including retrofitting of existing streets. The proposed housing would be accessed via the existing laneway off Brookville Park directly and solely serving Mount Dillon Business Park. According to the plans submitted (see Drawing No.1020-PP-F101), the access measures 3.4m at the entrance off Brookville Park, however, during my site visit I noted that a pier had been removed and that the entrance between the splayed piers measured approximately 4.5m. The widest part of the laneway inside the entrance is approximately 5.1m, and this would gradually reduce to a width of approximately 3.8m moving into the site. The proposed development would include two gates at either end of the access lane off Brookville Park.
- 7.4.2. The grounds of appeal assert that the laneway is too narrow to allow two vehicles to pass and the proposed use of the laneway would have a significant negative impact on traffic movement on the neighbouring road network. I note that at present the laneway is reasonably well used by staff and patrons of the existing commercial units on site and that gates currently exist to restrict access outside of business hours. The Roads & Traffic Planning Division of the Planning Authority considered the proposals to be acceptable, including the fact that there would be sufficient space for two cars to pass along the laneway. The Roads & Traffic Planning Division also noted that the traffic generated by the proposals would be no greater than that

arising from the current activity at the site. I acknowledge that the housing would replace commercial premises and that the proposed development would be unlikely to attract significant additional traffic. I would have reservations regarding the proposal to maintain or refurbish gates along this laneway, as these would have significant potential to restrict the freeflow of traffic along Brookville Park. I also note that Policy QH10 looks to discourage gated-residential development and I would recommend the gates are omitted via condition. While I note that observers to the appeal have highlighted that a pedestrian footpath would not be provided along the access laneway, I am satisfied that based on the terms of DMURS, the restricted use of the lane for the subject houses and the restricted traffic speeds that would be available along the laneway, significant pedestrian safety concerns would not arise. A condition should be attached to require a footpath to be provided along the front of the housing and along the eastern boundary with the rear of properties along Brookville Park, as scope for same is available. I am satisfied that the laneway can safely and conveniently serve as the vehicular and pedestrian access to and egress from the proposed houses and the proposed development would not result in traffic hazard.

7.4.3. Two car parking spaces per house would be provided on the appeal site to serve the five proposed houses, which complies with the Development Plan quantitative standards. Concerns were raised in the grounds of appeal regarding the potential for the development to increase parking congestion in the vicinity. It was also stated that the immediate area already suffers from parking congestion. The proposed housing would be within 70m of a Quality Bus Corridor (QBC) and I note that a maximum of 1.5 car parking spaces per house is allowed for in Development Plan. Visitor parking spaces have not been identified. The existing facility on site has space for approximately 18 vehicles marked out. The Roads & Traffic Planning Division of the Planning Authority had no objections to the extent of car parking to be provided. While it would normally be a requirement to reduce the parking in this context, it is clear that given the site constraints and the need to ensure manoeuvring areas for emergency and service vehicles are free from obstruction, I consider the extent of parking would be appropriate to serve the development.

7.4.4. Subject to conditions, I am therefore satisfied that the access and egress to serve the proposed development can be accommodated without giving rise to concerns for

the safety and convenience of persons using the laneway, as well as at the entrance to the laneway off Brookville Park. The proposed development should therefore not be refused for this reason.

7.5. Other Matters

- 7.5.1. The grounds of appeal raise matters relating to the ownership of the laneway accessing the site. I note the applicant's responses to these matters both accompanying their response to the grounds of appeal and in response to the Planning Authority's request for further information. Such issues are civil matters, and, accordingly, I do not propose to adjudicate on these issues, but I would highlight that Section 34(13) of the Act states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.
- 7.5.1. Having regard to the lack of a significant impact on the residential or visual amenities of property in the vicinity, as discussed above, there is no evidence to support the appellant's and observers' contentions that the proposals would negatively affect property values in the area.

8.0 Appropriate Assessment

- 8.1.1. A report Screening for Appropriate Assessment was not submitted as part of the planning application or appeal.
- 8.1.2. The closest Natura 2000 sites to the appeal site are the North Bull Island Special Protection Area (SPA) (Site Code: 004006) and the North Dublin Special Area of Conservation (SAC) (Site Code: 000206), both of which are located approximately 2.8km to the east of the site at Dollymount strand. South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) is located approximately 3km to the south at Clontarf. Other Natura 2000 sites within 15km of the appeal site include; South Dublin Bay SAC (000210), Malahide Estuary SAC (000205), Malahide Estuary SPA (004025), Ireland's Eye SAC (002193), Ireland's Eye SPA (004117), Rockabill to Dalkey Islands SAC (003000), Rogerstown Estuary SAC (000208), Rogerstown Estuary SPA (004015), Howth Head SAC (000202), Howth Head Coast SPA (004113), Lambay Island SAC (000204) and Lambay Island SPA (004069).

- 8.1.3. The nearest pathway to the aforementioned designated sites from the appeal site is the Naniken River, which runs below surface approximately 200m to the south of the site and flows through St. Anne's Park prior to entering Dublin Bay. With the exception of the South Dublin Bay and River Tolka Estuary SPA, the North Bull Island SPA and the North Dublin SAC, I am satisfied that the other sites within 15km of the appeal site can be 'screened out' on the basis that significant effects on these European sites could be ruled out as a result of the separation distances from the appeal site, the urban terrain and given the absence of any hydrological or other pathway to the appeal site.
- 8.1.4. I note the location of the Naniken River and the fact that it drains to the South Dublin Bay and River Tolka Estuary SPA, the North Bull Island SPA and the North Dublin SAC. The Conservation objectives for the South Dublin Bay and River Tolka Estuary SPA and the North Bull Island SPA seek to maintain the favourable conservation condition of various estuarine and coastal bird species and wetland habitats. The Conservation objectives for North Dublin SAC seek to maintain the favourable conservation condition of petalwort and the following habitats: mudflats and sandflats, annual vegetation of drift lines, salicornia and other annuals colonizing mud and sand, Atlantic salt meadows, Mediterranean salt meadows, embryonic shifting dunes, shifting dunes along the shoreline with *ammophila arenaria* ('white dunes'), fixed coastal dunes with herbaceous vegetation ('grey dunes') and humid dune slacks.
- 8.1.5. The subject proposals would not have the potential for loss or fragmentation of protected habitats. Having regard to the Source-Pathway-Receptor model, there would not be a direct pathway between the proposed development and the Natura 2000 sites. I note that significant surface water attenuation is proposed within the site by way of an underground attenuation pipes and permeable paving with connections to existing piped services. In addition, given the distance from the Natura 2000 sites across built-up urban lands and the proposed connection to existing foul network, I am satisfied that the proposals would not result in a reduction in the quality of the SPA wetland habitats or the SAC habitats or the status of protected birds or plant (petalwort) species, and subsequently would not have a significant effect on the conservation objectives of the designated sites.

8.1.6. The proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the North Bull Island SPA (Site Code: 004006) and the North Dublin SAC (Site Code: 000206), in light of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a Natura Impact Statement is not therefore required.

9.0 Recommendation

9.1. I recommend that planning permission should be granted for the reasons and considerations set out below, subject to compliance with conditions hereunder.

10.0 Reasons and Considerations

10.1. Having regard to the 'Z1' land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2016-2022, and to the nature and scale of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 on the 1st day of November 2017, 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. Details of the materials, colours and textures of all the external finishes to the proposed building, to include brick, shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. A revised building design shall be submitted to and agreed in writing with the planning authority prior to the commencement of the development, which shall incorporate:
 - (a) omission of first-floor level from the proposed western-end house and either amalgamation of the resultant single-storey floor area into the adjoining house or the formation of a new house to Development Plan standards;
 - (b) omission of second-floor (roof) level side windows, to provide a reduction in the roof ridge height by a minimum of 1m and to provide a uniform and consistent pitch to the roofslope;
 - (c) obscure glazing and restricted opening to side-facing windows above ground floor;
 - (d) obscure glazing and/or screening to the front and rear-facing windows and rooflights shall be omitted, with the exception of obscure glazing serving bathroom windows;
 - (e) enlarged windows serving bedroom (no.1) to provide a minimum glazing amounting to 20% of the respective bedroom floor area;

Reason: To provide an appropriate level of amenity for future occupants, to protect the residential amenity of adjoining properties and to safeguard the visual amenities of the area.

4. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to

commencement of development, to include the following: -

(a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;

(b) proposed locations of landscape planting in the development, including details of proposed species and settings;

(c) details of any proposed street furniture, including bollards, lighting fixtures and seating;

(d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme. A footpath shall be provided along the front of the houses and the eastern boundary with the rear of properties along Brookville Park. The gates along the access lane off Brookville Park shall be removed and no replacement gates shall be installed.

Reason: In the interest of visual amenity, social integration, pedestrian and traffic safety and to comply with the policies of the development plan for the area.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001-2018, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Part 1 of Schedule 2 of those Regulations shall take place within the curtilage of the houses, without a prior grant of planning permission.

Reason: In order to protect adjoining residential amenity.

6. Water supply and drainage arrangements shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health.

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and access road, shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

8. The car parking spaces to be provided within the development shall be individually marked and assigned to the residential units.

Reason: In the interest of residential amenities

9. Public lighting shall be provided in accordance with a scheme, 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

10. 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.

11. Proposals for an estate/street name, house 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 numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer

has obtained the Planning Authority's written agreement to the proposed name.

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

12. (a) 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 for each house unit 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.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

13. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances following submission to the Planning Authority and agreement in writing with the Planning Authority.

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

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in

accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

15. 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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála 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 of the area.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. 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.

18. 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 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.

Colm McLoughlin
Planning Inspector

6th June 2018