



An
Bord
Pleanála

Inspector's Report ABP-301786-18

Development	Construction of 17 no. 4-5 bed, 2 storey detached houses on a site of 3.2 ha located within the attendant grounds of Shankill House, Ferndale Road, Shankill, Dublin 18.
Location	Shankill House, Ferndale Road, Shankill, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/0230
Applicant(s)	Charton Homes Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Charton Homes Ltd.
Observer(s)	Charles Lee and Catherine Moylan-Lee Liam and Brigid Mc Caul Michael Clancy and Lavina Gallagher

Stephen and Denise Bowcott

Date of Site Inspection

15.08.2018

Inspector

Erika Casey

1.0 Site Location and Description

- 1.1. The subject site has an area of 3.2 hectares and is accessed off Ferndale Road via an entrance defined by granite walls and pillars. The site is bound to the north and west by Rathmichael Haven and Rathmichael Dales, to the south by Hillfield Road and to the east by Ferndale Road. The site boundaries are defined by mature trees and fencing.
- 1.2. Shankhill House (Protected Structure RPS No. 1829), an early nineteenth century two storey over basement period house is located to the immediate north and the subject site forms part of the attendant grounds of the house. There are a number of outbuildings and a stable yard adjacent to the main house. The dwelling is largely screened by existing mature trees and not visible from Ferndale Road.
- 1.3. There is a separate application, now under appeal (Planning Authority Reference D17A/1015/ABP Reference 301684-18) for the retention of revisions to the access road to Shankhill House from Rathmichael Haven (originally permitted under Planning Authority Ref. D14A/0110) and the development of new entrance gates, new stone gate posts and stone entrance walls as well as associated site and landscaping works. The Board may wish to consider the two appeals concurrently.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 17 no. 4-5 bed, 2 storey detached houses ranging in size from c. 278 sq. metres and 4 garages (2 no. attached of 50 sq. metres and 2 detached of 26 sq. metres). The dwellings range in height from 8.75 metres to 9.36 metres. The development also provides for new boundary treatments, revisions to vehicular entrance to the east off Ferndale Road, all associated site development and landscaping and engineering works to create connections to main services.
- 2.2. No works are proposed to Shankhill House as part of the development. It is noted that under Planning Authority Reference D17A/1015, permission was refused for a change to the boundary of the curtilage of Shankhill House. Under the current

application, the revised curtilage boundary proposed under D17A/1015 is reflected in the red line boundary of the development.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 A Decision to Refuse Permission was issued in respect of the development on the 9th of May 2018. There were five reasons for refusal:

1. *The proposed development, as a result of the level of intensification of additional vulnerable road users on Ferndale Road, would endanger public safety by reason of being a traffic hazard or obstruction to road users or otherwise. Secondly the proposed development is premature and would result in haphazard and piecemeal development due to the lack of provision of adequate, safe facilities for pedestrians and cyclists on Ferndale Road. Thirdly, the precedent that the grant of permission for the proposed development would set for other relevant developments would adversely affect the use of Ferndale Road by traffic, contrary to Section 2.2 Sustainable Travel and Transportation of the Dun Laoghaire-Rathdown County Development Plan, 2016-2022, and the proper planning and sustainable development of the area.*
2. *It is the policy of the Planning Authority as expressed under Policy ST2 and ST3 of the County Development Plan, 2016-2022, to actively support sustainable modes of transport and ensure that land use and zoning are fully integrated with the provision and development of high quality public transportation systems. Having regard to the distance to social and community facilities to support this residential development, to the nature and standard of the local public road network, and the distance to a high quality public transport route, it is considered that future occupants of the proposed development would be primarily reliant on private car as a mode of transport, contrary to Policies ST2 and ST3 of the Dun Laoghaire-Rathdown County Development Plan, 2016-2022.*
3. *Having regard to the location and un-serviced nature of the subject site as well as to the future residential capacity of these lands as expressed in Section*

1.2.4 (Residential Land Supply) of the Dun Laoghaire Rathdown County Development Plan, 2016-2022, the development would be premature pending the significant infrastructural shortcomings in the area being addressed in addition to the upgrading of the existing local network to facilitate increased traffic and pedestrian levels as well as facilitating better linkages to the public transport infrastructure in the area. A coordinated approach is needed to avoid piecemeal and haphazard development.

- 4. Having regard to the proposed reduction in the size of the curtilage of the protected structure it is considered that the reduction would materially affect Shankill House; a protected structure, would seriously interfere with the setting of the protected structure and would contravene materially the landscaping scheme as agreed by compliance with condition No.2 of Planning Permission Ref. D14A/0110, contrary to the Sections 6.1.2 Archaeological Heritage and 6.1.3 Architectural Heritage of the Dún Laoghaire Rathdown County Development Plan, 2016-2022.*
- 5. The proposed boundary treatment works are not considered an appropriate design response to the constraints of the subject site located in a semi-rural area and beside Shankill House, a protected structure. Following the proposed development is considered contrary to Sections 6.1.3 Architectural Heritage, 8.2.4.9 Vehicular Entrances and Hardstanding Areas, and 8.2.11.2 Architectural Heritage - Protected Structures of the Dún Laoghaire Rathdown County Development Plan, 2016-2022.*

3.1.2 The decision includes an additional note which states:

“There are other outstanding issues including the lack of a detailed AA screening report, the lack of an ecology biodiversity plan and sewerage infrastructure constraints that would need to be addressed as part of any future application for housing on site.”

3.2. Planning Authority Reports

3.2.1. Planning Report (09.05.2018)

- The proposed density would be 5.3 dwelling units per hectare. In support of higher density on the site, Table 1.2.2 of the County Development Plan

identifies that the Rathmichael lands have the potential to provide 3,600 units subject to appropriate services being delivered. The current proposal does not meet these density requirements and is considered unacceptable.

- The nearest bus stop will be approximately 1.4 km away and the DART approximately 2.5 km away. These are not considered within easy walking distance and contrary to ST2 and ST3 of the County Development Plan.
- Shankhill House has an established setting under earlier permitted developments. Permission was refused to change the curtilage of Shankhill House under application reference D17A/1015. It is considered that the proposed boundary change would have a harmful impact on the setting and visual context of Shankhill House and is considered unacceptable.
- Concern is raised with regard to the proposed Type 3 and Type 4 boundary treatments. Type 3 boundary treatment involves the erection of a new wall that will be approximately 0.4 metres lower than the existing boundary wall. However, of greater concern is Type 4 boundary treatment. The drawings indicate that the existing boundary hedge will be removed as part of the implementation works, leaving a bare gap of approximately 1 m between the existing low rise wooden fence and the new paladin fence. Such a finish is likely to appear out of keeping in an area characterised by low rise wooden fences and stone brick walls.
- The AA screening report lacks detail and more detail is required regarding pollution controls on site during the construction phase along with the need for a site specific construction and environmental management plan.
- The lack of an up to date biodiversity plan is considered unacceptable and contrary to Policy LHB20 of the County Plan regarding Non Designated Areas of Biodiversity Importance. It is considered that an Ecological Impact Assessment Report is also required.
- The proposed house mix is not considered acceptable. There is a lack of one, two and three bed units. The development is contrary to sections 8.2.3.1 and 8.2.3.3 of the County Development Plan.

- Not all the gardens will have a depth of 11 metres. Given the distances between the new houses and the existing neighbouring properties, it is not anticipated that overshadowing will be a significant issue.

3.2.2. Other Technical Reports

Drainage Planning (30.04.2018):

- Recommends Further Information regarding:
 - How surface water run off for the development has been calculated.
 - That the applicant should justify why detention basins, bio-retention areas and soakaways have been omitted from the application.
 - That engineering drawings should be compatible with other drawings including landscaping.

Transportation Planning (30.04.2018):

- The site of the development is not acceptably served by supporting transportation infrastructure including public transport, cyclist facilities, footpaths and public lighting.
- It is considered that by reason of pedestrian/vehicle and cyclist/vehicle conflicts along the local road network serving the site, which is rural in character and lacking in acceptable pedestrian and cyclist facilities, the proposed development would endanger public safety by reason of traffic hazard.
- The site is remote from community and neighbourhood facilities and has poor connectivity to public transport, the distances to which significantly exceed the maximum acceptable walking distances for accessing the available forms of public transport.
- The development is premature and would result in low density, uncoordinated, piecemeal and unsustainable car dependent development.
- There is a possibility/probability that a road proposal, such as the Long Term Road Proposal of the Dun Laoghaire Rathdown County Development Plan 2016-2022 to improve the R116 Ballycorus Road and Rathmichael Road to just before the roundabout at the northern end of Ferndale Road, may in the future

apply to Ferndale Road from Rathmichael down to Old Connaught in order to permit/assist development of the substantial zoned lands at Rathmichael and Old Connaught, and also provide an alternative/relief/diversion route for M11/M50 traffic.

- This would totally alter the existing character and level of usage of Ferndale Road and, therefore, the applicant's proposal for an additional/intensified residential development access between the two existing accesses to Rathmichael Dales and Hillfield, which are only approximately 105 metres apart, is unacceptable to Transportation Planning. Any new planning approval would be required by Transportation Planning to access the site via Rathmichael Dales.
- Also the improved Ferndale Road would have a substantially wider cross section than just the existing road with the addition of footpaths on both sides. The improved Ferndale Road from Rathmichael down to Old Connaught in order to permit/assist development of the substantial zoned lands at Rathmichael and Old Connaught and also provide an alternative/relief/diversion route for M11/M50 traffic would have an approximate cross section of 6.5 m carriageway, 2 m verges, 2 m cycle tracks and 2 m footpaths. Any new planning approval would be required by Transportation Planning to take account of this likely future Ferndale Road cross section in the set back of new property boundaries and tree and hedge screen planting.

Conservation Officer (26.04.2018):

- The report states:

"It is our considered opinion that the curtilage afforded to Shankhill House under Ref. D14A/0110 provided a greater and more respectful curtilage and setting to the protected structure and as such was more sympathetic and in keeping with best conservation practice. This is our preferred boundary demarcation. To reduce the curtilage further as proposed would only serve to erode the appreciation and amenity of the Protected Structure. In the interest of protecting Shankhill House and its setting, the least impact on its setting is the boundary approved under D14A/0110. The Conservation Division recommends that should the development be considered favourably, the

boundary revision as proposed be omitted from any permitted development. This would be in accordance with Policy AR1 of the County Development Plan 2016-2022.”

Parks and Landscape Services (03.05.2018)

- Notes that the development proposals are generally acceptable and in accordance with development standards in respect of trees, provision of open space and landscape design.
- Recommends conditions with respect to tree management and landscape design.

Biodiversity Officer (30.04.2018)

- Recommends Further Information with respect to an Ecology Impact Assessment Report and Appropriate Assessment.

Housing Department (05.04.2018)

- No objection subject to condition.

3.3. Prescribed Bodies

An Taisce (16.04.2018)

- Refers to the planning history of the site and in particular the refusal issued by An Bord Pleanála in respect of Appeal Reference PL06D.246294.
- Consider that the development would set an undesirable precedent and that the density of the development is out of character with the immediate area.
- State that the development will result in a reduction of the curtilage of Shankill House and that there is an inadequate assessment of the increase in house numbers and the consequential impact on the setting of the protected structure.

3.4. Third Party Observations

- 3.4.1 12 no. third party objections received. Issues raised are similar to those in the observations made on the appeal and can be summarised as follows:

- Concerns regarding the density of the development and that it is out of character with the area. Consider that the scheme is contrary to the zoning objective and policies of the County Plan.
- That the development will have a negative impact on the residential amenities of the area in terms of overlooking and overshadowing and thus result in a devaluation of property in the vicinity.
- That the design of the houses is obtrusive and out of scale and that there is an inappropriate housing mix.
- That the development will result in an unacceptable traffic hazard and that the site is poorly served by public transport and pedestrian connections.
- The development will result in an unacceptable loss of trees and have a negative impact on the biodiversity of the area and natural habitat.
- There is insufficient infrastructure and community facilities to serve the development and that it will exacerbate flooding.
- Proposed boundary treatment particularly to Hillfield is unacceptable and development will result in the loss of privacy.
- The development will have an adverse impact on the setting of Shankhill House, a protected structure.
- Consider that development is contrary to a historic Section 38 sterilisation agreement.

4.0 Planning History

4.1 The site has an extensive planning history which is detailed in the Planning Authority Planner's Report. Of note are the following applications:

Planning Authority Reference D03A/0715/Appeal Reference PL06D.204608

4.2 Permission granted in February 2004 for the development of a 58 bedroom nursing home to incorporate existing mews buildings and the conversion of existing Shankhill House for staff accommodation at basement level and for a change of use from residential to office use at ground and first floor level at Shankhill House.

Planning Authority Reference D05A/0168

- 4.3 Permission granted in June 2005 for the development of 10 no. 2 storey over basement detached dwellings and 1 no. 5 bed 3 storey over basement detached dwellings and general refurbishment of Shankhill House. An extension of duration to this permission was granted in September 2012.

Planning Authority Reference D08A/1191/Appeal Reference PL06D.232498

- 4.4 Permission was refused by the Board in August 2009 for a development comprising the construction of a 2 storey nursing home consisting of 58 bedrooms. The reason for refusal stated:

“Having regard to the restricted size of the site, the lack of external open space to serve future occupants, the scale of the proposed development, including associated parking and sewage treatment areas, the proximity to site boundaries and the subdivision of the curtilage of Shankhill House, a protected structure, it is considered that the proposed development would be out of character at this location would result in an unsatisfactory standard of residential amenity for future occupants of the nursing home and would result in the over development of the site. Furthermore, the subdivision of the curtilage of Shankhill House in the manner proposed would be contrary to the policies of the planning authority, as set out in the Dun Laoghaire Rathdown County Development Plan, 2004-2010 relating to the protection of Architectural Heritage and would, therefore, be contrary to the proper planning and sustainable development of the area.”

Planning Authority Reference D14A/0110

- 4.5 Permission was granted in June 2014 for a development consisting of the construction of new wrought iron entrance gates to a height of 1.8 metres, new stone gate posts, new stone walls and a new access road from Rathmichael Haven into lands at Shankhill House on a site of approximately 1.32 hectares. Condition no. 2 of this decision is of note and stated:

“Prior to the commencement of development the applicant shall agree in writing with the Planning Authority a revised Landscape Plan that includes a range of additional

and appropriate planting, including the use of native tree species at a range of specified sizes, that is, transplants, feathered, multi stem and extra heavy matures.

Reason: In order to improve the setting of the protected structure.”

- 4.6 It is detailed in the Planning Authority Planner’s Report that this condition was imposed on foot of recommendations of the Parks and Landscaping Department and Conservation Officer who were of the view that the proposed internal boundary fence should be planted to create a softer setting for Shankhill House and provide a stronger distinction between the curtilage of the protected structure and the permitted residential development to the south.

Planning Authority Reference D15A/0403

- 4.7 Permission granted in October 2015 for a development comprising the construction of 10 no. 5 bed 2 storey detached houses ranging in size from c. 360 sq. metres to c. 480 sq. metres. New boundary treatments including the provision of a new boundary around the curtilage of Shankhill House, all associated site development, landscaping and services provision.
- 4.8 This permission differed from that previously granted under D05A/0168 in that the quantum of housing was reduced by 1 unit and the development was serviced by connection to the public mains. The house design also differed.

Planning Authority Reference D15A/0809/Appeal Reference PL06D.246294

- 4.9 Permission was refused by the Board in July 2016 for a development comprising 50 no. dwellings, new boundary treatment to the east and north and new vehicular entrance to the east from Ferndale Road. The Board overturned the recommendation of the Inspector and stated in their decision:

“The site of the proposed development is located in an area lacking in community facilities and with poor connectivity and remote from public transport, neighbourhood facilities and at a location poorly served by supporting infrastructure including adequate footpaths, public lighting and wastewater treatment facilities. It is considered that residential development of the scale proposed would result in uncoordinated, piecemeal and an unsustainable car dependent form of development which would be contrary to the Ministerial Guidelines set out in the Sustainable Residential in Urban Areas Guidelines issued by the Department of the Environment,

Heritage and Local Government in May, 2009. Furthermore, it is considered that, by reason of pedestrian/vehicle conflict along the local road network serving the site, significant sections of which are rural in character and lacking in public footpaths, the proposed development would endanger public safety by reason of a traffic hazard. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, notwithstanding the residential zoning of the site, the Board did not share the Planning Inspector's conclusions in relation to the principle of development of the scale being proposed on this site in the absence of a more co-ordinated approach to development in the area and pending the provision of infrastructural improvements to the area, including to roads, footpaths and sewerage that would support a development of the nature and scale being proposed."

Planning Authority Reference D17A/1015

- 4.10 A split decision was issued in respect of a development comprising the retention and revisions to the access road to Shankhill House from Rathmichael Haven (originally permitted under file ref. D14A/0110) and the development of new entrance gates, new stone gate posts and stone entrance walls as well as associated site and landscaping works.
- 4.11 Permission was granted for the retention of revisions to the access road to Shankhill House from Rathmichael Haven (originally permitted under file ref. D14A/0110) and for the proposed development of new entrance gates, new stone gate posts and stone entrance walls.
- 4.12 Permission was refused for the proposed site works, specifically the reduction in the curtilage of the protected structure for the following reason:
- "Having regard to the proposed reduction in the size of the curtilage of the protected structure it is considered that the reduction would materially affect Shankhill House, a protected structure, would seriously interfere with the setting of the protected structure and would contravene materially the landscaping scheme as agreed by compliance with condition no. 2 of Planning Permission ref. reference D14A/0110."*

Applications in the Vicinity

4.13 There have been a number of other permissions in the vicinity of the site that have been refused permission that are of note.

Planning Authority Reference D16A/0414

4.14 Permission refused in July 2016 for the demolition of an existing dwelling and the construction of a residential development comprising 28 dwellings at Greenacre, Ballybride Road, Rathmichael, Co. Dublin. Reasons for refusal related to:

- The development would be premature pending the significant water and drainage infrastructural shortcomings in the area being addressed.
- Having regard to the distance to social and community facilities to support the development, to the nature of the local public road network and the distance to high quality public transport routes, it is considered the future occupants of the development would be primarily reliant on the private car as a mode of transport. The proposed development would contravene policies ST2 and ST3 of the County Plan.
- The development is premature because of the lack of adequate, safe facilities for vulnerable road users. The development would adversely affect the use of the road network in the vicinity by reason of traffic hazard.
- Development would be premature by reference to the existing deficiency in the provision of sewerage facilities and the period within which the constraints may reasonably be expected to cease.
- Existing trees and hedgerows have not been suitably incorporated into the development and that the open space proposals and boundary treatment proposals were deficient.

Planning Authority Reference D16A/0403

4.15 Permission refused in July 2016 for a development comprising 41 dwellings on a site located at the corner of Lordello Road and Ballybride Road, Rathmichael Co. Dublin. Reasons for refusal were similar to those under Planning Authority Reference D16A/0414 in that the development was considered premature pending the significant water and drainage infrastructural shortcomings in the area being addressed in addition to the upgrading of the existing local road network to facilitate increased traffic and pedestrian levels. The development was also refused on the

basis that it would primarily be reliant on the private car and thus contrary to policies ST2 and ST3 of the County Plan and that it was premature by reference to the deficiency in the provision of sewerage facilities.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A – *To Protect and/or Improve Residential Amenity.*

5.1.2 Shankhill House is listed in the Record of Protected Structure (RPS 1829). The site is located near to two recorded monuments No. 026-050 and No. 026-51. There is an objective to protect trees and woodland at this location.

5.1.3 There is a specific local objective (126) pertaining to the site which states:

“To refuse planning permission for any new developments which include on site wastewater treatment facilities within this catchment, until groundwater issues in the area are resolved or ameliorated.”

5.1.4 There is a Long Term Road Proposal in the Dun Laoghaire Rathdown County Development Plan 2016-2022 to improve the R116 Ballycorus Road and Rathmichael Road to the north of the site.

5.1.5 Chapter 1 of the Plan sets out the core strategy. Under Table 1.2.4 Housing Land Availability, the subject site is located within an area defined as ‘Rathmichael Lands, identified as having capacity for 3,600 units across 85 hectares. It is stated in the Plan:

“The Old Connaught-Woodbrook Water Supply Scheme is a strategic scheme required to provide storage and distribution capacity for a wide area extending from Cherrywood into north County Wicklow to unlock the potential of major development nodes at Woodbrook, Old Conna, Ballyman, Rathmichael and Fassaroe.”

5.1.6 Other relevant policies in the plan include:

Section 8.2.3.4 (vii) Infill: *“New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical*

character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”

Section 2.1.3.4 Existing Housing Stock Densification: *“Encourage densification of the existing suburbs in order to help retain population levels - by ‘infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc.*

In older residential suburbs, infill will be encouraged while still protecting the character of these areas.”

Policy RES 3: *It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development.*

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

5.1.7 **Section 8.2.3.2** of the Plan set out quantitative standards for residential development.

5.1.8 **Section 2.2** addresses **Sustainable Travel and Transportation**. **Policy ST2** states:
“It is Council policy to actively support sustainable modes of transport and ensure that land use and zoning are fully integrated with the provision and development of high public quality transportation systems.”

5.1.9 **Policy ST3** notes that effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised.

5.2 **Architectural Heritage Protection Guidelines**

5.2.1 Chapter 13 sets out guidance regarding curtilage and attendant grounds. It states:

“By definition, a protected structure includes the land lying within the curtilage of the protected structure and other structures within that curtilage and their interiors. The notion of curtilage is not defined by legislation, but for the purposes of these

guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure.”

5.2.2 The guidelines note:

“In many cases the curtilage of a protected structure will coincide with the land owned together with it but this is not necessarily so. For example, in the case of a town house, the main house, the area and railings in front of it, cellars below the footpath, the rear garden and mews house may be considered to fall within its curtilage even where the mews house is now in a separate ownership.”

5.2.3 It is further detailed:

“Proposals for new development within the curtilage of a protected structure should be carefully scrutinised by the planning authority, as inappropriate development will be detrimental to the character of the structure.”

5.3 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas

5.3.1 The guidelines provide guidance regarding residential density and note that in residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of amenities and privacy of adjoining dwellings, the protection of established character and the need to provide infill. Generally on greenfield sites net densities in the range of 35-50 dwellings per hectare are promoted and it is stated that development at net densities less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency.

5.4 National Planning Framework 2018

5.4.1 The National Planning Framework promotes the consolidation of urban areas and compact growth with a focus in promoting 50% of future growth into the 5 key cities. It notes that a major new policy emphasis on renewing and developing existing settlements will be required, rather than continual expansion and sprawl of cities and towns out into the countryside. The target is for at least 40% of all new housing to be delivered within the existing built up areas of cities, towns and villages on infill and/or brownfield sites. The NPG reinforces national policy towards higher densities in key urban areas and states:

“Activating these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.”

5.5 Natural Heritage Designations

5.5.1 The nearest Natura 2000 site is the Rockabill to Dalkey Island SAC located c. 3.7 km to the east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- Notes that there is a concurrent appeal in respect of a development Planning Authority Reference D17A/1015 (Appeal Reference ABP 301684-18) and that when viewed together, represent the vision for the lands which is a mutually compatible scheme for both sites.
- The development responds to the chronic shortage of housing currently experienced in Dublin and provides a sustainable residential density on zoned land within walking and cycling distance of Rathmichael Village, Shankhill, Loughlinstown, Dublin Bus, DART and Luas services and a number of schools. The nature of the site’s semi-rural character can be better protected in a lower density planning application.
- The proposal provides for a balance between an existing permission on the site for 10 dwellings granted under Planning Authority Reference D15A/0403 and the proposal for 50 units refused by the Board under Appeal Reference PL06D.246294. The current proposal is aimed at making a more efficient use of this site within the existing constraints as outlined by the Board in its previous decision.
- The infrastructure of the area can support a development of the scale and nature proposed. The site will be serviced. The proposal is a design led approach to determining the appropriate density for the site. The development will meet the demand for family sized homes.

- The proposal is in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in urban areas as it ensures the reasonable protection of the amenities and privacy of adjoining dwellings whilst ensuring an appropriately scaled infill development. The proposals fits in with the surrounding pattern and scale of development and will reduce the demand for one off housing in the vicinity. The housing mix is in line with previous planning decisions in the vicinity. Considers that the development fully complies with all relevant national and regional policy.
- The proposed development would create a negligible increase in traffic on the adjoining road network. The level of intensification would not endanger public safety or impact on vulnerable road users. Cognisance should be had to the planning history of the site. There is almost no difference between the granted 10 dwelling scheme and the proposed 17 no. dwelling scheme. No negative precedent is set by the proposed development.
- The existing footpath along Ferndale Road is adequate to deal with the existing and proposed low level of pedestrian use. Proposes as part of the appeal submission that additional footpath widening could be implemented along Ferndale Road as this section of the road has been taken in charge. States that the applicant is willing to make a further contribution to DLRCC to fund the necessary footpath widening. This proposal in addition to the offer to provide a 2 metre footpath along the frontage of the site owned and controlled by the applicant will then connect to the footpath widening works from Rathmichael House to the church. This will also benefit residents in Hillfield. Applicant also proposes a number of traffic calming measures to be carried out at the Applicant's expense.
- Considers that the site is well located and serviced in terms of existing local amenities and local infrastructure. Public transport is within a 10-15 minute walk from the site and the DART and Luas are within a 25 minute walk. Cycle times to public transport are also low. The site is not remote when compared to the walking distances to services, including public transport, from housing areas across Ireland.

- Photomontages submitted indicate that the development would have no impact on the visual amenity of the area or on the setting of Shankill House.
- The application provides for the relocation of the granted boundary line of Shankill House from that granted under D15A/0403. This area is to remain as public open space and will remain part of the curtilage of Shankill House – just in different ownership.
- It is detailed that the area where the boundary has been moved will remain as permanent landscaped open space maintained by a management company. Submit that maintaining existing and proposed planting in a single area of public open space is preferable. The overall aim of the two planning applications is to create a softer setting for Shankill House and to provide a stronger distinction between the curtilage of the protected structure and the adjoining residential scheme.
- Consider that Shankill House is adequately served by garden areas. Additional land is not required. The area of curtilage proposed to be retained to serve Shankill House is generous and has in fact increased due to the acquisition of land to the west of the entrance. Furthermore, the additional open space is not required in order to meet the public open space requirements of the 17 houses. The application seeks to finalise a boundary between the curtilage of Shankill House and the attendant grounds that makes planning and conservation sense.
- The proposed red line revision does not reduce the extent of landscaping and planting to be undertaken. The landscape plans submitted provide for a heavily landscaped area of open space and boundary planting to serve the scheme which will protect and improve the setting of Shankill House.
- Notes that in the event that the Board concur with DLRCC decision, that the Board could impose a condition requiring the applicant to revert to the 2015 boundary for both concurrent planning appeals or request revised plans under section 37 of the Act. Drawing submitted under concurrent appeal ABP 301684 setting out how the revised boundary would alter both applications. State if permission is refused, that the applicant will proceed to construct the development as permitted under D15A/0403.

- Undue overlooking of adjoining residential properties has been avoided through building separation and careful positioning of dwellings on the site and angling of habitable windows. Existing trees to be retained, together with supplementary new planting will also act as a natural screening device. Overshadowing does not occur due to site levels and setbacks between properties. There are no protected views in the vicinity of the site. The current scheme would have less of a visual impact on views from Hillside into and across the site than the existing permission would.
- Notes that the issue of sterilisation has been assessed in detail under previous applications pertaining to the site. Having regard to the extent of open space to be provided for within the development and retention of existing trees supplemented with additional planting, the relaxation of the sterilisation agreement for the purposes of permitting this application is reasonable.
- Updated Appropriate Assessment Screening Report submitted with the appeal which concludes that it is possible to rule out likely significant effects on all European sites. Updated Biodiversity Report/Ecology Impact Assessment Report also submitted. Further information regarding drainage and water services also provided including surface water attenuation calculations.
- Paladin fencing is proposed as part of the overall design of boundaries around the scheme. These are provided to secure the site and are accompanied by detailed proposals for boundary planting.

6.2. Planning Authority Response

- Notes that under condition 2 of D14A/0110 the applicant was required to submit a landscape plan, including the use of native tree species for agreement with the Planning Authority. The reason for this condition was to improve the setting of the protected structure. A compliance submission in relation to this condition was approved in September 2017.
- Under application D15A/0403, the curtilage of Shankhill House was reduced from that previously shown in D14A/0110. However, the area agreed for woodland tree planting as per condition 2 of D14A/0110 was contained within the reduced site as shown on plans submitted with D15A/0403.

- The current application seeks to reduce the boundary and curtilage/attendant grounds of the protected structure further so that the area of woodland planting as agreed under condition 2 of D14A/0110 would no longer fall within the curtilage of the protected structure.
- Historically mapping indicates that Shankhill House was surrounded by trees and woodland to the north east. For ease of management and protection, the Planning Authority strongly asserts that the woodland planting as outlined under Condition 2 of D14A/0110 should continue to fall within the site boundary of Shankhill House. Not doing so would seriously interfere with the setting of the protected structure.
- Planning application Ref. D15A/0403 was approved under an old Development Plan 2010-2016 and at a time when there was a lot of uncertainty about the housing sector and market in general. It has since become clear that there is a significant shortfall of housing in Dublin and that in order to make the city more sustainable there needs to be a significant increase in the densities being applied. Rathmichael, as outlined in the planning report, currently lacks the infrastructure needed to support these densities but there are plans in the near future to change this such as the Luas expansion to Bray, Cherrywood and other significant road improvement plans etc.
- Whilst the appellant purports that this application and appeal somehow acts as a compromise between D15A/0403 and the refused Ref. D15A/0809, allowing it would in fact set an even more difficult precedent for the local authority to follow. Rathmichael is a prime area of residential development and once the necessary infrastructure is in place, will offer a key development opportunity for Dun Laoghaire Rathdown County and the City at large. For these reasons and the considered reasons for refusal given in the decision notice, the planning inspector is respectfully asked to dismiss this appeal and not grant planning permission for this development.

6.3. Observations

6.3.1 4 no. observations were made by Stephen and Denise Bowcott, Michael Clancy and Lavina Gallagher, Liam and Brigid Mc Caul and Charles Lee and Catherine Moylan-Lee. Issues raised by the observers can be summarised as follows:

- Concerns regarding validity of the public notices.
- The density of the development is out of character with the area and represents the overdevelopment of the site. Concern that development will result in overshadowing, overlooking and overbearing impacts and result in significant loss of residential amenity with consequent negative impacts on adjacent property values.
- Consider that the development is a contravention of the zoning objective as the development does not promote a high level of amenity nor protect and complement existing amenities and character. The dominant form and scale of development is inappropriate, visually obtrusive and results in the loss of privacy.
- The development is premature pending necessary upgrade to local infrastructure and utilities. Note that the area has been subject to flooding and that the development will exacerbate this.
- Consider that the boundary treatment between the development and Hillfield is unacceptable and will result in a loss of privacy to existing residents.
- Object to loss of trees and that this will have a detrimental impact on the natural landscape and be injurious to the character and biodiversity of the site.
- State that the development will exacerbate traffic congestion and revisions to entrance will result in a traffic hazard. Note lack of public transport serving the area which would result in unsustainable traffic movements as development would be car dependent. Consider that pedestrian environment along Ferndale Road is poor due to lack of public lighting and pedestrian crossings and vehicles parking along the footpath.
- Concern that the development will impact negatively on the natural habitat and Asian deer population.

- Consider that the development would have an adverse impact on the setting and character of Shankill House, a protected structure, by virtue of the excessive density of development proposed.
- Concern regarding lack of appropriate housing mix within the development and notes previous enforcement issues pertaining to the site.

6.4. Further Responses

Department of Culture, Heritage and the Gaeltacht (08.08.2018)

- If it is accepted by a planning authority that a reduced curtilage would not significantly affect the character of a protected structure, the extent of this curtilage should be researched and formally agreed not just in terms of aesthetic contribution to the character of the main building and any other structures within the curtilage, but also allow for its sustainable future use. This curtilage should then be maintained in future proposals unless sound reasons are agreed with the planning authority for altering it.
- To the north, south and west the demesne lands associated with Shankill House have been built on with modern housing. The present curtilage is concentrated to the east and south of the house. The Planning Authority has expressed an opinion that the area to be left as curtilage in permitted development D15A/0403 would be acceptable. It is not clear if that curtilage was agreed formally with the developer.
- The applicant seeks retention of a revised boundary (D17A/1015) and to use this revised boundary for housing development (D18A/0230). The revisions decrease the curtilage remaining to the protected structure, with the unauthorised boundary now at the line of the ha ha wall and laurel hedge bounding the front garden instead of extending to and including the entrance driveway, and include a very limited amount of ground to the east which does not extend as far as the shelter belt running diagonally north west to south east. In both D15A/0403 and D18A/0230 three houses would be sited between Ferndale Road and the rising parkland fronting the house, with none between the shelter and the house.

- The area removed from the curtilage marked D15A/0403 would become public open space in D17A/1015 and the curved layout of the current entrance driveway would be altered northward to allocate larger front garden to the proposed houses than in D15A/0403, further decreasing the remnant curtilage. The outcome of revising the boundary permitted in D15A/0403 is to give priority to the proposed housing and limit the options for boundary landscaping with the curtilage to safeguard the amenity of the protected structure for a sustainable use(s).
- In conclusion, the redrawn boundary has benefited the lands proposed for development and adversely affected the amenity remaining to the protected structure, assigning this part of the curtilage to public open space and permanently dividing it from the protected structure.
- Should the Board consider the proposed design of D18A/0230 to be acceptable in principle, the Department recommends that the boundary demarcating the curtilage revert to that permitted by D15A/0403 with two revisions. These revisions would retain the lands up to and containing the diagonal shelter belt within Shankill House curtilage and include the square of land to the north of Shankill House bounding with Rathmichael Haven.

7.0 **Assessment**

7.1.1 The main issues in this appeal are those raised in the grounds of the appeal and observations and it is considered that no other substantive issues arise. Appropriate Assessment and EIA Screening also needs to be addressed.

7.1.2 It is noted that there is a concurrent application located directly to the south of the site – Appeal Reference ABP301684-18 and in this context, the Board may wish to consider both appeals in tandem. The issues can be dealt with under the following headings:

- **Principle of Development**
- **Traffic and Sustainability**
- **Curtilage of the Protected Structure**
- **Impact on Residential Amenity**

- **Other Issues**
 - Boundary Treatment
 - Flooding
 - Ecology
- **Appropriate Assessment**
- **EIA Screening**

7.2 Principle of Development

7.2.1 The subject site is located on lands zoned Objective A: *To protect and/or improve residential amenity*. There is a current permission pertaining to the site for 10 detached dwellings - Planning Authority Reference D15A/0403. A residential development at this location is, therefore, acceptable in principle.

7.2.2 In terms of density, the proposed development equates to c. 5.3 dwellings units per ha. A detailed case is set out by the applicant regarding the appropriateness of the density having regard to the planning history of the site and the prevailing pattern of development in the area. It is noted in the appeal that a previous proposal for 50 dwellings on the subject site was refused and that the subject application provides a more efficient use of the site. It is considered that the proposal is an appropriate balance between the permitted development and the refused scheme. It is detailed that the development is fully in accordance with relevant policy including the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas as it ensures the reasonable protection of the amenities and privacy of adjoining dwellings whilst ensuring an appropriately scaled infill development.

7.2.3 It is noted, however, that since the previous decision to grant 10 dwellings on the subject site, there has been a fundamental policy shift in the current Dun Laoghaire Rathdown County Development Plan 2016-2022. Under the core strategy of the plan, the subject site is located within an area defined as 'Rathmichael Lands', identified as having capacity for 3,600 units across 85 hectares.

7.2.4 It is acknowledged in the Plan that these lands are unserviced and will require water, drainage (including the Old Connaught-Woodbrook Water Supply Scheme), public transport and road infrastructure to unlock their development potential. The subject lands nonetheless form part of the County's strategic land reserve and it is the clear

intent that they be developed in the long term at average densities in the order of 42 units per hectare, subject to the provision of the necessary physical and social infrastructure.

- 7.2.5 In considering the appropriateness of the development, cognisance must also had to the National Planning Framework and the clear policy guidance that activating strategic areas and achieving effective density and consolidation rather than more sprawl of urban development is a top priority.
- 7.2.6 With regard to the Guidelines for Planning Authorities on Sustainable Residential Development, whilst these note that a balance has to be struck between the reasonable protection of amenities and privacy of adjoining dwellings, the protection of established character and the need to provide infill, they also clearly state that development at net densities less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency.
- 7.2.7 Having regard to the foregoing, notwithstanding the existing permission for 10 dwellings on the subject site, I consider that the proposal for 17 units is an unsustainable density that would potentially be prejudicial to the future development of the lands as per the objectives of the core strategy set out in the County Development Plan 2016-2022. The development is premature pending a coordinated approach to this strategic land reserve, would set an undesirable precedent and result in piecemeal and haphazard development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 7.2.8 I note concerns have been raised by one observer regarding a historic sterilisation agreement that pertains to the lands and that the development would contravene this. This issue was previously addressed in the Inspector's Report under Appeal Reference PL06D.246294. It is detailed that the previous condition requiring a sterilisation agreement was imposed due to a lack of public open space to serve permitted development to the north of the site in Rathmichael Haven. The report notes that these dwellings have no access and derive no benefit from the lands currently within the curtilage of Shankhill House and that having regard to the zoning of the site, their development should not be curtailed by an outdated agreement. I would concur with this assessment and, having regard to the planning history of the

site, this previous condition imposed in 1984 should have no bearing on the future development of the lands.

7.3 Traffic and Sustainability

- 7.3.1 The reasons for refusal in the decision by Dun Laoghaire Rathdown County Council refer to the fact that the development would result in an inappropriate level of intensification of vulnerable road users including pedestrians and cyclists thus endangering public safety; is premature due to the lack of provision of adequate safe facilities for such users including the upgrading of the existing local network to facilitate increased traffic and pedestrian levels; would set an undesirable precedent and adversely affect the use of Ferndale Road; and that having regard to the to the distance to social and community facilities, that the development would be car dependent.
- 7.3.2 The applicant sets out a detailed response to these issues. An Engineering Report prepared by Roughan O' Donovan submitted with the appeal submission outlines that that the additional pedestrian and cyclist traffic generated by an additional 7 houses over the 10 permitted on the site would be negligible and would not result in a level of intensification that would endanger public safety. The appeal submission also includes proposals to provide additional footpath widening and traffic calming measures that would facilitate the development and address the concerns of the Planning Authority. It is detailed that these measures would more than offset the small increase in traffic, pedestrians and cyclists that the development would generate. With regard to the location of the site and its remove from social and community facilities, it is argued that the site is in reasonable proximity to such facilities and that they can easily be reached by walking and cycling.
- 7.3.3 I would concur based on the technical information submitted by the applicant, that the development of 17 houses is unlikely to generate a significant increase in the volume of cyclists and pedestrians over the scheme of 10 dwellings previously permitted on the site. However, notwithstanding the proposals to introduce additional footpath widening and traffic calming measures to enhance the environment for such vulnerable road users, I am of the view that the site is removed from essential social and community infrastructure and public transport. As detailed in the Roughan O' Donovan Report, the nearest public bus service is approximately 14 minutes walk

from the site, whilst Shankhill Village is over 16 minutes away. The nearest shop and school are 13 and 11 minutes away by foot respectively. The Luas and DART are approximately 25 minutes away.

7.3.4 Whilst these distances can be reduced by cycling, I note that there is an absence of any dedicated cycling route from the site along Ferndale Road, and it is not a particularly safe or conducive environment to encourage cycling. In this regard, I would concur with the view of the Transport Planning Department that the subject development will be primarily car dependent which is contrary to the principles of sustainable development and the policies set out in the County Development Plan, notably Policy ST 2 and ST3 which actively support sustainable modes of transport and to ensure that land use and zoning are fully integrated with the provision of high quality public transport systems.

7.3.5 As noted above, the subject lands are identified in the County Plan under the core strategy as part of the strategic land reserve to serve the future housing needs of the County subject to the upgrade of the necessary physical infrastructure. It is identified in the Planning Authority response to the appeal and in the report by the Transport Planning Department dated 30.04.2018 that there are plans to significantly enhance public transport and road infrastructure in the Rathmichael area. It is noted that the Luas expansion to Bray will enhance the accessibility of the site and that the long term road proposal set out in the Development Plan to improve the R116 Ballycorus Road and Rathmichael Road may extend along Ferndale Road in order to facilitate the development of the zoned lands at Rathmichael and Old Connaught and provide an alternative diversion route for M11/M50 traffic. It is detailed that the improved Ferndale Road would have a 6.5 metre wide carriageway, 2 metre verges, 2 metre footpaths and 2 metre cycle tracks. Concerns are raised that the development may prejudice the delivery of this future enhanced layout.

7.3.6 In this context, I consider that the development is premature pending the delivery of this essential road infrastructure, in particular appropriate safe facilities for cyclists and may be prejudicial to the delivery of the necessary upgrade works to the Ferndale Road to facilitate the future development of lands at Rathmichael and Old Connaught.

7.4 **Curtilage of the Protected Structure**

- 7.4.1 As detailed above, permission was refused under D17A/1015 for the reduction in the size of the curtilage of Shankhill House. That proposed reduced curtilage is reflected in the red line boundary of the subject application. It is proposed to include as part of this application an area of open space which corresponds to the open space area that was previously defined as the curtilage under application D14A/0110 deemed necessary to protect the setting of Shankhill House. It is detailed that the relocation of the site boundary will ensure that the open space area, now defined as the open space to serve the 17 dwellings, will be retained and maintained by a management company. This will give greater surety regarding its future upkeep.
- 7.4.2 In considering the appropriateness of this approach, it is necessary to consider the planning history of the site. Under Planning Authority Reference D14A/0110 permission was granted for a new access road and entrance gates and walls. In their assessment of this development, it was determined by the Planning Authority that it was necessary to soften the appearance of the boundary treatment to the access road with supplementary landscaping and planting in order to provide a more appropriate setting for Shankhill House and a stronger distinction between the curtilage of the protected structure and the permitted residential development granted under D05A/0168 to the south.
- 7.4.3 Condition 2 was attached to the decision which required the applicant to submit a detailed landscape plan for this area. A compliance submission in respect of this condition was submitted and agreed by the Planning Authority.
- 7.4.4 Subsequent to this decision, the Planning Authority granted permission for a development comprising of 10 no. dwellings to the south of the site – Planning Authority Reference D15A/0403. The development boundary of this permitted development differs from that approved under D14A/0110. Under this application, part of the landscaped area agreed by way of compliance under condition 2 of D14A/0110 is located within the development boundary of the 10 houses and forms part of its open space provision. The balance of the open space land remains within the curtilage of the protected structure, forming a buffer along the permitted access road.

- 7.4.5 Under the current application, it is proposed to locate all of the landscaped area agreed under condition 2 of D14A/0110 within the development boundary. The landscaped area forms the open space to serve this proposed development.
- 7.4.6 The applicant sets out a number of arguments in support of this proposal, noting that there is no clear curtilage to Shankhill House and that although the two land parcels may be in different legal ownerships, an appropriate curtilage will be retained. It is also detailed that the proposal is advantageous as it will ensure that the open space area is effectively managed and also that moving the boundary will provide for the proper retention of existing landscape features.
- 7.4.7 I note that applicant's arguments that the open space area forming the curtilage of Shankhill House as previously agreed under D14A/0110 will be retained, albeit incorporated into the current development proposal. Whilst I acknowledge that the development of this open space area as one entity under the ownership of one management company would be advantageous, I am of the view that the complete severance of the curtilage as proposed in the current application as part of a separate site for future development is not appropriate from a planning perspective. This view is endorsed by the submission from the Department of Culture, Heritage and the Gaeltacht who are opposed to the permanent division of the open space forming the curtilage of the protected structure.
- 7.4.8 Under application D14A/0110 there was a clear conservation, landscape and planning rationale for the provision of this landscaped buffer zone that would soften the entrance driveway and provide a clear distinction between the original house and new development area to the south. Whilst the extent of this curtilage was reduced in the subsequent 2015 application pertaining to the 10 dwellings, a large buffer zone was retained within the red line boundary of the original house and its independent access with the balance of the lands forming the open space area serving the 10 dwellings. Under the current proposal, the landscape buffer area will be completely severed and will only be developed and landscaped appropriately as part of the open space to serve the housing area. Given my concerns regarding the principle of the development, this may not come to fruition and there is no certainty that this development will proceed or be developed in its current format.

7.4.9 Due to the revision in the extent of the curtilage associated with Shankill House, there are limited opportunities to appropriately landscape the boundary between the protected structure and the development site to the south, thus potentially compromising the amenity and setting of the house. This in my view is a piecemeal approach to the future development of the site and in this context, the proposed reduction in the curtilage would be contrary to the proper planning and sustainable development of the area. I consider that any reduction to the curtilage should provide for a sufficient buffer and landscape zone within the site boundary of Shankill House. In this context, the proposed reduction in the curtilage would be contrary to condition 2 imposed in respect of D14A/0110 and contrary to the proper planning and development of the area.

7.4.10 If the Board are minded to grant permission, the applicant could be requested to submit revised drawings indicating a revision in the red line boundary to retain a landscaped buffer zone adjacent to the access road that would correspond with the development boundary as previously agreed under D15A/0403.

7.5 **Impact on Residential Amenity**

7.5.1 Concerns have been raised by a number of the observers regarding the potential impact of the development on the residential amenities of the area. The applicant has provided a comprehensive response to this issue and I would concur that the development given its layout, low density and separation distances from adjacent properties is unlikely to materially impact on the residential amenities enjoyed by adjacent dwellings. I note in particular the separation distances of dwelling no.s 12 and 13 from existing properties located to the north and north west of the site which range from 27.8 metres to 31 metres. This is considered adequate to protect the amenity of these dwellings from adverse overlooking or overshadowing.

7.5.2 Objections have also been raised regarding the potential loss of trees on the site and the consequential adverse impacts this will have on the amenities of the site. I note that a comprehensive tree survey and arboricultural report has been submitted with the application. Whilst the development will result in some tree loss, it is evident from the Tree Impacts Plan submitted to the Board on the 5th of June 2018 that the majority of trees to be removed comprise category U trees and are of low amenity

value. I also note that the Parks and Landscape Department raised no concerns in this regard.

7.5.3 Concerns have also been raised regarding the scale and bulk of the dwellings and the overall design approach. Whilst the dwelling design is somewhat generic in character, they are consistent with the style and pattern of development in the vicinity and in this context, I consider they have no adverse impact to adjacent residential amenities. I have some concerns regarding the layout of the scheme and in particular the siting of dwellings 16 and 17 and their relationship with the proposed open space area.

7.6 **Other Issues**

Boundary Treatment

- 7.6.1 Concerns have been raised by the Planning Authority regarding the proposed boundary treatments. As detailed in the application, 4 different types of boundary treatment are proposed. Particular concerns have been raised regarding type 3, the boundary treatment to Rathmichael Haven and to Type 4, the boundary treatment to Hillfield Access Road. I have some concerns regarding the use of paladin fencing and its appropriateness given the context of the site. I am satisfied however, that should the Board be minded to grant permission, this issue could be addressed by way of condition requiring revised boundary treatment.

Flooding

- 7.6.2 As detailed in the Planning Authority Planner's Report the subject site does not lie within an area identified as being at risk of flooding according to the maps produced by the CFRAM and Preliminary Flood Risk Assessment mapping program. It is clarified in the engineering response submitted with the appeal that the closest flood event on floodmaps, is approximately 280 m south of the subject site on Ferndale Road where the road crosses the Rathmichael River. This area is subject to localised flooding and does not impact the subject site. I note that no concerns were raised by the Drainage Department with respect to flooding and in this regard, I am satisfied that the subject site is not subject to a flood risk.

Ecology

- 7.6.3 A updated Ecological Impact Assessment is submitted with the appeal response. The report concludes that based on the survey there is no potential for localised short term or long term interference with any priority habitat, corresponding Annex 1 habitat, the breeding places of any protected species or Red listed species through proposed development.
- 7.6.4 Concerns were raised by some of the observers regarding potential impacts on the Sika Deer species. The report notes that field surveys indicated the presence of deers on the site and that loss of the grassy areas and verges will result in the loss of a foraging resource. The report notes, however, that there are extensive areas of suitable habitat for Sika Deer located to the north east and south east of the site and connectivity to these areas along the wooded section of the site will be retained post construction. I am satisfied that, subject to the mitigation measures set out in the

Ecological Impact Assessment Report, the development would have no adverse impact on the biodiversity or ecology of the site.

7.7 **Appropriate Assessment**

7.7.1 The nearest Natura 2000 site is the Rockabill to Dalkey Island SAC located c. 3.7 km to the east of the site. Concerns were raised during the assessment of the application by the Biodiversity Officer of Dun Laoghaire Rathdown County Council that the AA Screening Report lacked detail and that more detail was required regarding the pollution controls during the construction phase along with the need for a Site Specific Construction and Environmental Management Plan. An updated Appropriate Assessment Screening Report and Construction and Environmental Management Plan are submitted with the appeal submission.

7.7.2 The Screening Report concludes that a number of European sites in Dublin Bay are connected to Killiney Bay and, therefore, lie within the zone of influence of foul effluent discharges during the operation of the proposed development and surface water discharges carrying silt or pollutants during either the operation or construction of the proposed development. Surface and foul water generated during construction and operation could potentially carry silt, oils and other chemicals into the local combined sewer network and or Shanganagh WWTW which discharge to Killiney Bay. The sites potentially affected are identified as North Dublin Bay SAC (000206), South Dublin Bay SAC (000210) and Rockabill to Dalkey Island SAC (03000). The report notes that it is considered that there is no likelihood of significant effects due to factors including:

- The coastal water in Killiney Bay and Dublin Bay are classified as unpolluted by the EPA.
- It is an objective of all Development Plans within the Shanganagh WWTW catchment to include SUDS for all new developments.
- The inclusion of SUDS features in the proposed drainage design.
- It is extremely unlikely that during construction a pollution event would occur of the magnitude that would have an adverse effect on water quality in Dublin Bay.

7.7.3 Furthermore, the Construction Environment Management Plan concludes that there is no predicted local risk to water quality from the proposed construction activities and also no possibility of that water reaching Killiney Bay.

7.7.4 It is reasonable to conclude that on the basis of the information on the file including the Screening Report, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites 000206, 000210 and 003000, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and the submission of a NIS) is not, therefore, required.

7.8 **EIA Screening**

7.8.1 Having regard to nature of the development comprising 17 dwelling houses and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 **Recommendation**

8.1 It is recommended that permission be refused permission for the reasons set out below.

9.0 **Reasons and Considerations**

1. Having regard to the location of the site and their identification for future residential capacity as set out in the Core Strategy of the Dun Laoghaire Rathdown County Development Plan under Section 1.2.4 (Residential Lands Supply), the development is considered premature pending the significant infrastructural constraints in the area being addressed in addition to the upgrading of the local road network to facilitate increased traffic and pedestrian levels and enhanced linkages to public transport infrastructure. The development is considered prejudicial to the delivery of a sufficient quantum

and density of development on these lands in tandem with the necessary social and physical infrastructure. The development would set an undesirable precedent, represents a piecemeal and haphazard form of development and would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed reduction in the size of the curtilage and site area relating to Shankhill House would have a material adverse impact on the setting and character of the protected structure and would be contrary to the proper planning and sustainable development of the area.

Erika Casey
Senior Planning Inspector

13th September 2018