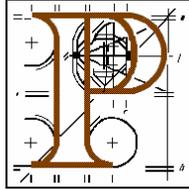


An Bord Pleanála



Inspector's Report

PL24.227976

PLANNING APPLICATION

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. No: DO6A/1367

Applicant: Alan and Lynda McFarlane

Planning Authority Decision: Grant with Conditions

APPEAL

Appellants:

1. Cabinteely & District Residents Ass.
2. Michael & Jacqueline Gribben
3. Philip & Ann Murphy
4. Aideen & Michael O'Brien
5. Paul & June Hayes

6. Alan & Lynda McFarlane

Type of Appeals: Third Parties –V- Decision

First Party - V- Condition No. 30

DATE OF SITE INSPECTION: 24th of July 2008

1.0 THE SITE

1.1 INSPECTION

I inspected the site and the surrounding area on the 24th of July 2008. The photographs of the site and the surrounding area are included in the Appendix of this report.

1.2 SITE LOCATION AND DESCRIPTION

The site is located south of Cabinteely village along the Brennanstown Road. This is a low density residential area, with the dwellings located on large curtilages with mature gardens. The Brennanstown Road is a leafy suburban area connecting Cabinteely to Carrickmines. The site is located at the junction of the road with Lehaunstown Lane. The Lane is a narrow road (4metres) which serves a number of large detached dwellings also. There is a right angle bend in the Brennanstown Road to the south of the site and another right angled bend in Lehaunstown Lane east of the site.

The site is 0.92 Ha and falls gently west to east across the site. It is L-shaped and is currently the curtilages of two dwellings, Navarone and Talblick. The site has 40metres road frontage along the Brennanstown Road and this forms the western site boundary. The Lehaunstown Lane forms the southern site boundary and this extends 140metres, and Talblick House is accessed from the Lane. The northern site boundary is another large detached dwelling called Mayerling. The subject site abounds Mayerling along two of its boundaries. To the east and north are newly developed lands, and lands to be developed, which are abounding a river valley. To south across Lehaunstown Lane from the site, is a collection of mews dwellings and dwellings in a courtyard layout, and these are low profile and or single storey units.

Both dwellings have mature gardens a number of fine specimen trees both along their respective boundaries and within their gardens.

2.0 THE PLANNING APPLICATION

2.1 PROPOSED DEVELOPMENT

It is proposed to demolish two dwellings, 'Navarone' and 'Talblick' and to construct 76No. residential units with a gross floor area of 8801sqmetres (excluding basements which have a gross floor area of 4365sq.metres). The accommodation proposed includes:

- 1No. one bed apartment
- 55No. two bed apartments
- 16No. three bed apartments
- 4No. three bed townhouses

within two blocks, Block A and Block B over basement carparking on a site measuring 0.9208Ha(2.27acres). On the permitted drawings, the proposed dwellings are located at the northern end of the site. The Blocks range in height from 4-5 stories (12-15metres)

The basement carpark includes 111No. spaces, 150No. bicycle spaces, attenuation area,, refuse storage, plant rooms.

Vehicular and pedestrian access is from the Lehaunstown Lane, and a pedestrian access from the Brennanstown Road.

A mini-roundabout on the Brennanstown/ Lehaunstown Lane junction, and the widening and resurfacing of Lehaunstown Lane and a pedestrian crossing from Brennanstown Road.

In accordance with Part V of the *Planning & Development Act 2000* the applicant will make available 20% of the gross floor area to the local authority.

2.2 **SUBMISSION RECEIVED**

There were a number of third party submissions received and the concerns expressed can be summarised as follows:

- Increased of traffic
- Poor sightlines at the junction of Lehaunstown Lane with Brennanstown Road
- Inadequate parking provision will result in off-site parking resulting in congestion
- Drawings misleading
- Severe overlooking onto adjoining properties
- The proposed density of 82.5units per Ha is excessive given its location outside the 0.5km catchment of the LUAS.
- It is permitted to use the infrastructure of a refused development (D04A/0988)
- Excessive height
- Overshadowing
- Childcare
- Devaluations
- Schools
- Cherrywood LAP
- Incongruous with neighbouring residences along the Brennanstown Road
- Footpath into village is unsafe

2.3 **PLANNING AUTHORITY REPORTS**

Housing (19/10/06)

Insufficient detail submitted. Further information required in relation to Part V of the Planning Acts.

Water Services (19/10/06)

The watermain is to be extended

Parks

The Open space is not properly integrated into the overall scheme.

Environmental Services

Transportation Department (09/11/06)

Brennanstown Road remains a substandard and deficient environment onto which new build traffic can be introduced. No appropriate road safety audits or safety risk assessments accompany the application. How is the necessary road works to be funded. Further Information is required regarding safety issues and the geometrics of how to upgrade the Brennanstown Road.

Planning (15/11/06)

The proposed density is considered to be excessive given the scale and character of adjoining developments. Inadequate open space provision. Parking provision is acceptable, but additional visitor parking is required. Greater passive surveillance is required in respect of the open space areas. Separation distance from the eastern site boundary is insufficient. The proposed blocks are considered to excessive in height and scale. Additional Information is recommended.

Housing (29/05/07)

To reserve 14No. units for Social and Affordable Housing is acceptable.

Parks(11/06/07)

No objection subject to conditions

Parks(29/08/07)

The design of the open space areas remains unaltered and does not integrate with the development.

Final Planning Report (07/02/08)

The content of the lengthy report is noted by this Inspector. Following a series of requests for further information and the submission of revised proposals, the planning authority and the varies departments had no objection to the proposal. The only outstanding issue was the height of Block B due to the fall of in ground levels towards the river valley to the east of the site, and a condition omitting the third floor of Block B was recommended, reducing the revised scheme to 67No. units, and an overall density of 73units per Ha. A permission to grant is recommended.

2.4 FURTHER INFORMATION

On the 15th of November 2006 the planning authority requested extensive further information requiring revised proposals relating to the entrance to the basement carpark, omission of surface carparking spaces, reduction in height and length of Block A, reduction in the overall density, sun shadow assessments, steep the townhouses further north into the site, revised foul drainage proposals compliance with Part V, accurate details of adjoining properties, proposal regarding the Brennanstown road, a landscape Masterplan and retention of trees.

The applicant responded on the 23rd of May 2007, which included revised proposals and contextual drawings of the scheme and revised public notices. As per Drawing AO426-204, the applicant intends ceding land to the Council to facilitate road improvements.

Clarification of further information was requested on the 19th of June 2007 regarding road improvements and funding of same, foul drainage, *Ready Steady Play*.

According to the submission received on 20th of August 2007, the Lehaunstown Lane/ Brennanstown roundabout would form part of the proposed development which links the roundabout to the proposed development. The roundabout is independent of the Council's upgrading works along Brennanstown Road. There will be lands ceded by both the applicant and Tudor Homes. The value of the applicants lands will be offset against development contributions. The entire response received was considered to be insufficient by a number of internal departments and a further request for clarification was issued by the planning authority on the 17th of September 2007 relating to the junction works of Lehaunstown Lane/ Brennanstown Road, road improvements along Lehaunstown Lane, connection of adjoining lands to public sewer.

A final submission was made by the applicant on the 11th of January 2008 providing the revised details requested by the planning authority, including an agreement to attach a condition ceding the required lands with immediate effect.

2.5 PLANNING AUTHORITY'S DECISION

The planning authority **GRANTED** the proposal on 7th of February 2008 subject to standard planning conditions.

30. The revised plans indicating the redesign of proposed Block B, to allow for the omission of the third floor element, shall be submitted for the written agreement of the planning authority prior to the commencement of the development.

Reason: In the interest of the proper planning and orderly development of the area.

3.0 PLANNING HISTORY

There is no relevant planning history relating to the subject site.

There are relevant planning histories relating to lands in the general vicinity.

D06A/0713 (PL06D.218627)

Permission refused for 173No. units on 3.2Ha at Glendruid and Knockenree, Brennanstown Road, with a proposed roundabout on the Brennanstown Road. It was considered to be premature until the adoption of a local area plan, the Brennanstown road was considered to be substandard in terms of pedestrian facilities, the proposed entrance was located on an acute bend, premature in the absence of a road layout for the area, detract from the visual amenities of the area due to its unsympathetic design, fails to meet with prescribed design criteria as per section 5.5.2 of the development plan, poor foul drainage proposals, and poor surface water proposals.

D04A/0988 (PL06D.209727)

Permission refused for a mixed development of 702 residential units, educational, retail and community facilities on 9.3Ha, made by Tudor Homes. The decision to refuse was upheld by An Bord Pleanála. The proposal was considered to be premature in the absence of a LAP, Dominating visual impact, contrary to the higher density policies, premature in the absence of a road layout for the area, traffic hazard, substandard private and public open space areas, and substandard infrastructure provision.

4.0 THE APPEAL SUBMISSIONS

4.1 *Third Party Appeals*

There are five third party appeals and one first party appeal. The third party appeals have been brought by:

1. Cabinteely and District Residents Association
2. Michael and Aideen O'Brien, Cedar Lodge, Brennanstown Road
3. Philip and Ann Murphy Mayerling Brennanstown Road
4. Paul and June Hayes, The Lawns, Lehaunstown Road
5. Michael and Jacqueline Gribben, Glendruid Mews, Brennanstown Road

In order to avoid undue repetition, as the concerns raised are similar in content, I will summarise their grounds of appeal collectively.

Grounds of Third Parties Appeals

The local authority's plans for the Brennanstown Road remain undecided. The road is currently at capacity and unable to take the additional traffic. The scale of the proposal will add an additional 600No. movements at the proposed roundabout and onto the local road network. There is serious congestion in the area especially at peak flow times.

The proposed roundabout at Lehaunstown Lane is on an acute bend and is considered to be a traffic hazard. The sightlines to the south at the Lane are obstructed by a third party dwelling (Glendruid Mews) located at the junction. Traffic signals at this junction was refused by the planning authority and ABP under D04A/0988, and Benreef were refused a roundabout at Lehaunstown Lane to serve 173No. dwelling units. In addition, the works required to provide the roundabout at Lehaunstown Lane are outside of the site boundary and the ownership of the applicant. Therefore, the applicant cannot implement the proposal or the conditions imposed by the planning authority. The Brennanstown Road should be upgraded in line with an overall Transportation Plan and LAP, in conjunction with the delivery of the Luas line extension in the area. The road improvements should not be provided on a piecemeal basis which could ultimately undermine the overall plan for the area.

The footpath does not exist. There is no footpath into the village along the Lehaunstown Lane side.

The height and scale of the proposal is excessive. The adjoining residential properties should have to endure a five storey block of apartments overlooking their gardens and dwellings. The proposal wraps around existing dwellings, the proposed balconies and roof gardens will overlook adjoining properties. The existing trees along the site boundary which currently provide screening, will be lost due to the significant construction works associated with the proposed underground carpark.

Given the existing character and pattern of development along the Brennanstown road, the proposal will be seriously injurious to the visual amenities of the area.

The density is excessive. A reduction from 76 to 72 units is insufficient, and will not improve existing or proposed amenities. The site is at the periphery of the public transport corridor, and it is remote from the village of Cabinteely. The surrounding and adjoining density is low density housing. The permitted density of the scheme is 72.76 units per hectare, which is alien to Lehaunstown lane and double the guidelines of the RPGs. The proposal seriously undermines the development potential of adjoining properties due to the proximity and height of the scheme along the opposing site boundaries. This is further evidence that the proposal represents overdevelopment of the site.

The proposal should be considered and refused in the same light as similar proposals in the area, namely D06A/0713 and D04A/0988.

The proposed scheme's private open space is unsuitably positioned as it will be permanently overshadowed. Block A is inappropriate for the long and narrow 'Navarone' site creating an overdense mass when viewed from Lehaunstown lane and adjoining properties. The revised drawings have brought the proposed buildings closer to adjoining properties whereby the separation distances permitted by the planning authority are in fact 13 and 16.82m, contrary to national and local planning guidelines. The proposal will result in oppressive overlooking onto adjoining residential properties from the proposed 20 No. south facing balconies, and diminish the level of sunlight currently entering the back gardens.

Lehaunstown Lane is one access to extensive lands, 307Ha of undeveloped lands, of which are zoned but there is no LAP for the area. Therefore the proposal is premature in the absence of such a plan. This factor is highlighted in the Transportation report on file.

In the event the Board decides to grant permission a number of conditions are requested by a number of the third parties:

- Block A to be moved back into the site, the five storey element be reduced to four storeys, and the four storey element be reduced to three.
- No works should commence on site until the traffic controls along the Brennanstown Road are in place in the interests of pedestrian and car safety.
- A crèche
- Reduce the parking provision to one space per unit.

4.2 **FIRST PARTY APPEAL**

The applicant is appealing Condition 30 of the planning authority's decision. The content of the appeal is noted and it is considered to be somewhat repetitive and can be summarised as follows:

Condition 30: *That revised plans indicating the redesign of Block B, to allow for the omission of the third floor element, shall be submitted for the written agreement of the planning authority prior to the commencement of the development.*

The proposed site does not form part of an overall objective associated with the adjacent Greenfield lands to the east. There are no current development plan objectives stating the subject site should be developed holistically with the lands to the east.

The height of Block B was never raised as an issue at preplanning meetings or in the letters of additional information.

Block B would not prejudicial the development of lands to the east, there is an 11metre separation distance to the party boundary.

There is no residential property to the east and therefore the current proposal is in compliance with the current zoning objective. Block B will afford visual continuity and continuity with the future development of adjoining lands. The lands are owned by Tudor Homes, and they had no objection to the proposal, and they had no objection to Block B being originally proposed at 8metres from the party boundary.

Block B was revised during the course of the planning application assessment, in accordance with the requirements of the planning authority. It was also the subject of sun shadow analysis, and it was considered to be acceptable.

The overall scheme was reduced from 76 to 72 units during the assessment of the planning application providing a revised density of 78units per hectare. This density is appropriate given the policies of the current development plan (section 5.1.4 relating to densities relative to pedestrian catchments of rail or Luas stations. The site is approximately 600metre from Cabinteely village, and Cornelcourt is in close proximity to the village. There is a footpath along Brennanstown road to the village centre which provides safe pedestrian access. Planning appeal references, D05A/1390 – P106D.216828 granted 103units per hectare at Auburn Road Cabinteely, and D04A/1316 – PL06D.211789 granted 146.7units per hectare at Palm trees, Johnstown Road.

Under Section 142(2) of the *Planning and development Act 2000*, the Board is invited to considered the revised proposals submitted by the applicant which includes the removal of one penthouse apartment (fourth floor), removal of one unit on the third floor and use the space as a terrace garden, with the overall height of the Block B being 12.05metres and reducing the overall proposed density to 76units per hectare.

4.3 **APPEAL RESPONSES**

First Party Response to Third Party Appeals

There are a multitude of responses received from the First party's agent which have been noted by the inspector, and do not raise any new issues and address the concerns of

each appellant presented by their third party submissions. The bulk of the issues are subjective.

Many of the issues raised by the third party's have been dealt with comprehensively by the applicant and the planning authority during the extensive assessment of the planning application and have been influenced by previous refusals in the area most notably Benreef Ltd, which impacted on the applicant's approach to the traffic issues associated with the proposal. The applicant negotiated with Tudors Homes to cede lands to the Council for improvements to Lehaunstown lane and is prepared to cede their own lands to the council for road improvements to Brennanstown Road. Most of the response includes extensive tracts of the planning application details cut and pasted into the text, therefore, it is not necessary to summarise these details as the content of same has been previously noted by this inspector. There are no new issues arising.

The Brennanstown Road Improvement Scheme involves making Brennanstown Road one-way (eastbound) over a short section just west of the Lehaunstown junction. This system will redistribute traffic away from the area and removes traffic away from the village. Therefore the road and the village can accommodate the small level of traffic generated by the proposed development. Speed ramps will be used to calm the traffic. It is intended to provide pedestrian facilities from Lehaunstown Lane to the village along the southern side of Brennanstown Road, by narrowing the road and thus slowing traffic. The final layout is illustrated on Drawing No. RAI-001. Lehaunstown Lane will be widened and upgraded as part of this planning proposal and include traffic calming and the construction of a roundabout (Drawing No. RAI 004, 5 and 6) . The lands to be ceded to the Council have been valued at €902,000, and the road works to be carried out by the applicant are estimated to be €160,000, which should be offset against levies because it will benefit other persons.

The application cannot be considered premature in the absence of a Lap because there are no clear timescale for the adoption of the LAP as per the Development Management Guidelines. The Draft documents has yet to be presented to the Elected Members.

Reductions in the height of the proposal were carried out during the course of the application in particular to Block A. The planning authority has imposed a condition reducing the Height of Block B, which is under appeal by the applicant. The appellants have not submitted an expert evidence to indicate that overlooking or overshadowing will occur on their respective properties, little weight should be given to the matter of devaluation of properties resulting from the proposal.

There is no overshadowing or loss of daylight associated with The Lawns and Glendruid, given the units are north facing. The issue of overlooking is unique given the small and over-eye level windows associated with The Lawns. It is impossible to see into them from the road level.

Third Party Response to First Party Appeal

There is no need to define Lehaunstown Lane with Blocks of apartments. The amount of daylight into the Glendruid Mews is going to be seriously impeded by Block B. the high densities permitted in the wider area are not comparable to the existing case, as this case has a sensitive receiving environment in terms of existing residential amenities.

The cases cited are located adjoining important civic buildings, and the Palm Trees development abuts industrial zoned lands.

The proposed density is clearly excessive given the remote location of the site from planning and existing public transport routes. The suggestion by the applicant to introduce a terrace garden onto Block B at third floor level will worsen rather than improve the residential amenities associated with the adjoining Mayerling.

Planning Authority's Response

There are no further comments to make.

5.0 STATUTORY FRAMEWORK

The following publications have been considered during the assessment of this appeal;

National Spatial Strategy 2002-2020

Regional Planning Guidelines for the Greater Dublin Area 2004

Guidelines for Planning Authorities on Residential Density 1999

The proposed development is subject to the policies and objectives contained in the **Dun Laoghaire Rathdown County Development Plan 2004-2010**

Chapter 15 – Land Use Zoning Objectives

The site is zoned A **‘to protect and or/ improve residential amenity.**

Residential Development

To provide an adequate range of residential development with vibrant and sustainable communities served by a wide range of dwelling units, where residents will be within walking distance of shops, services, employment, education, leisure, community facilities and amenities and to underpin this with enhanced public transport.

Policy RES4: The Council will promote higher residential density provided that additional development respects and is not injurious to the existing built form, scale, character, heritage and residential amenity of the area concerned. Where a site is located within approximately 1km of the pedestrian catchment of a rail station or LUAS line or 500m of a QBR, higher densities will be sought.

Policy RES 5: The Council will conserve existing housing stock of the county, to densify existing built up areas, and to retain and improve residential amenities in existing residential developments

6.0 ASSESSMENT AND REVIEW

Brennanstown Road in Cabinteely includes large detached houses within large curtilages and it is sylvan in character. The two dwellings which are the subject of this appeal, *Navrone* and *Talblick*, are two such dwellings with large mature gardens which include a number of notable maturing trees. Neither of the houses are of significant architectural value, and I have no objection to the demolition of same. Having considered the planning application details, I note the applicants complied in full with the requirements of the planning authority and that the permitted proposal has been strongly influenced by the requirements of the planning and roads officials of the local authority.

From the outset, given the negative planning histories relating to high density developments within the vicinity of the site, in particular Benreef Limited's proposal on adjoining lands, which was refused by the planning authority and the ABP for a multitude of reasons, along with D04A/0988 on lands to the east of the site, also refused by the planning authority and upheld by An Bord Pleanála¹, I consider it important to establish why the planning authority took such a turnabout and granted the proposal, given the prevailing relevant planning histories in the area.

Although this is a smaller scale development than the two cases cited above, it is nonetheless, similar in principle in terms of the proposed density and includes multiple storey residential units. The cited cases were refused by the planning authority and An Bord Pleanála because they were considered to be premature in the absence of a Local Area Plan, and would therefore materially contravene an objective of the current County Development Plan, and also premature in the absence of a road layout for the Brennanstown Road.

There is still no adopted LAP for this area. The road layout for the Brennanstown Road went on public display September –November 2007, and to my knowledge it has not been formally adopted to date. The public transport facilities remain unaltered in the area since the previous decisions. I believe the foremost reason for the planning authority's turnabout on this proposal lies with the planning authority's Brennanstown Road Improvements Plan, and how this proposal complies with the Plan.

The applicant has presented robust road improvement proposals following ongoing discussions with the planning authority, which included the ceding of lands to the local authority. The road improvement proposals include the widening of Lehaunstown Lane, the construction of a roundabout at the junction of the two roads, the provision of signage and speed ramps, and a footpath along the eastern side of Brennanstown road. Lehaunstown Road will be widened from its current 4metre width and no footpaths to a 6metre carriageway with 2metre footpaths on either side for a distance of 110metres. It is proposed to narrow the Brennanstown Road in the vicinity of the proposed

¹ I am familiar with this appeal, as I reported to the Board on the case.

roundabout in order to slow traffic and provide a footpath on the eastern side of the road. These are extensive works to the value of €160,000 and include the ceding of lands to the local authority to the estimated value of €902,000 by both the applicants and Tudor Homes.

Initially, the Transportation Department of the planning authority, recommended refusal of the proposal because the Brennanstown Road was considered to be a substandard and a deficient transportation environment onto which to introduce new build traffic, and unless major road improvements were implemented, the proposal should be refused. The Transportation Department also acknowledged that there was a flood of planning applications awaiting the Cherrywood Rathmichael Local Area Plan and the upgrading of the Brennanstown Road should be an integral part of the Plan. The planning authority requested further information from the applicant, which included amongst other things, detailed road improvements proposals and a Traffic Risk Assessment. Upon receipt of the information, details of funding and implementation of the proposals were then requested from the applicant. When these issues were presented by the applicant, the planning authority then requested further detailed information regarding lighting, speed ramps, road drainage, cycle routes, planting, tactile paving, and landscaping. Following receipt of this information on the 11/01/08, the Transportation Department, prepared a detailed report which included a recommendation to Grant with conditions. The Transportation Department cited these key issues for its recommendation to Grant:

- DLRCC currently have a Traffic Calming and Traffic Management Scheme planned for the Brennanstown Road, which includes a roundabout at the Lehaunstown Lane/Brennanstown road junction.
- The provision of the proposed roundabout is beneficial as a ‘stand alone’ measure without other traffic calming measures
- The upgrading of Lehaunstown lane is a short-term objective of the current County Development Plan
- The roundabout is required to improve sightlines at the junction and to facilitate the proposed development
- There are lands to the value of €902,000 to be ceded to the local authority.
- The construction costs associated with the roundabout and upgrading Lehaunstown Lane are estimated to be €160,000 (a cost to be offset against the Development Levies regarding Roads)

I note the Brennanstown Road Traffic Calming and Traffic Management Scheme, which went on public display up to November 2007. To date, I am unaware if this has been formally adopted or amended. The proposed roundabout is in accordance with the proposed local authority’s road improvements for the area.

Undoubtedly, the proposed road improvements under this proposal present a significant planning gain in terms of the value of the land being ceded to the local authority and the costs of the road works being implemented at the junction of Lehaunstown Lane/Brennanstown Road, and the upgrading of Lehaunstown Lane. However, this is only one section and a short section of the Brennanstown Road Improvements Plan, which has yet to be adopted. I am concerned that by permitting this current proposal, the planning authority is inclined to upgrade the road on a piecemeal basis on the foot of individual planning application given the reference in the Transportation Department report, that there were flood of planning applications awaiting to come in pending the

Brennanstown Road upgrading Plan. In addition, the Brennanstown Road between the site and the village requires significant works especially in terms of footpaths and lighting in order to accommodate new build projects and high density developments. Currently the footpath into the village is located on the other side of the road to the proposed development. The existing footpath is structurally substandard and in my view is an unsafe pedestrian link to the village centre. There are no cycle lanes into the village along the road. I would consider the site to be remotely located from facilities and Cabinteely village centre, and therefore totally car-dependent, as outlined below.

This leads on to the proposed density associated with the proposal. The proposed and permitted density is high when compared to the prevailing residential densities of the area. However, the existing densities and pattern of development in the area, is low density given its 'Outer Suburban' location. A more efficient use of the site would be favourably considered in line with the national, regional and local planning policies. According to Policy RES4 of the current development plan, where a site is located to within approximately 1km of the pedestrian catchment of a rail station or LUAS line or 500m of a QBR, higher densities will be sought. The Board should note, the proposed site is **NOT** within the pedestrian catchment of the prescribed public transport facilities. Measurements provided by the applicant are as the crow flies to the proposed LUAS line extension, and Cabinteely village centre and bus stops are in excess of 600metres from the site. The planning authority's decision reduced the proposed density of 82.5units per hectare to 72.76 units per hectare. As a general rule the County Development Plan states the minimum density for new residential developments is 35units per hectare. The Regional Planning Guidelines stipulate that on lands proximate to existing or proposed public transport corridors, densities in excess of 50units per hectare should be permitted, subject to certain qualitative safeguards. As stated the proposed site is not within walking distance, or indeed has access to safe pedestrian links to proximate public transport corridors, therefore the proposed density on the site, in my view, is unjustifiable given the remote location of the site to Cabinteely village centre. Having regard to the pattern of development in the area and the poor local road network and lack of reasonable linkages to facilities and basic services, and public transport, I would consider the proposed density to be excessive at this location. It is difficult to imagine how the future occupants could be expected to walk the distance to the village centre, the public transport stops and Cornelscourts Neighbourhood Centre given the distances involved and the poor and unsafe pedestrian links from the site to the wider area. The area is currently unsuitable for high density developments.

The site itself contains fine mature trees and hedgerows associated with both Talblick and Navorone. To the north is Mayerling, detached two storey dwelling on substantial grounds. To the south, along Lehaunstown Lane are a mixed of dwelling units arranged in the courtyard, which include single storey units backing onto and abounding the Lane. In terms of the alleged overlooking and loss of privacy associated with the adjoining properties to the south of Lehaunstown Lane, I would consider the third parties claims in this regard to be an exaggeration. From the attached photographs, Plates 8-13 inclusive, it is clear that the existing structures have a limited number of windows which are small with low cill levels, and the private amenity areas associated same would be indirectly overlooked, and this can be anticipated within suburban areas. I would not consider the level of overlooking onto the amenities areas of the properties to the south of Lehaunstown Lane to be unduly intrusive. The rear of the dwellings

located along Lehaunstown Lane are north-facing, therefore the impact on existing sunlight or daylight will be minimal.

However, proposed on the opposite side of the Lane is Block A which is four storeys in height with one element along Brennanstown Road at five storeys, and Block B located along the eastern site boundary and facing the Lane, at five storeys in height. The separation distance between the opposing building lines along the newly improved Lehaunstown Lane is circa 17metres. The length of Block A which includes an overhang is circa 79metres and Block B 17.5metres. Having regard to the height and bulk of Block A along Lehaunstown Lane, I would consider this to be an excessive quantum and building envelop given its proximity to single storey and low profile residential units which are located on the roadside boundary of Lehaunstown Lane and would fail to respect the amenities of the adjoining properties and the properties in the vicinity by reason of its overbearing nature when viewed from Lehaunstown Lane and the Brennanstown Road, and I would consider the proposal to be an overdevelopment of the site, in terms of density, scale and massing and proximity to adjoining properties. The proposed development would be oppressive when viewed from the adjoining properties to the south of Lehaunstown Lane.

In terms of Mayerling located to the north of the site, I believe the existing planting abounding both properties to be sufficient to screen the development. Having regard to the layout of the proposed townhouses located east of the existing tennis court associated with Mayerling, and the dense tree coverage between Navarone and Mayerling, in addition to the proposed landscaping within the site, I do not envisage a material loss of amenity associated with the dwelling or its curtilage. There are no opposing windows proposed, and there is sufficient distance between existing and proposed developments. It is critical for the protection of existing amenities associated with the dwelling that the trees referred to on the survey drawing No. A0426-A-201 be retained. The five storey element associated with Block A is located to within 3-5metres of the communal site boundary with Mayerling. According to the drawings, a blank elevation detail is proposed at this point and there is a void area between Mayerling and the proposed apartments. I do not consider the amenities of Mayerling would be compromised providing the trees were retained because the house is positioned to the north of the site leaving adequate separation distance between the dwelling and the proposed development.

According to Chapter 15/ Map 7/ Item 5 of the County Development Plan, it is an objective to prepare a Rathmichael/ Cherrywood LAP. The parties of the appeal acknowledge this Plan's importance in terms of the overall future development of the area. Large tracts of lands and potential large scale development proposals have been suspended until adoption of the Plan. To date there is no Plan adopted. I would consider the proposal to be premature in the absence of the Plan. Are four- five storey apartment blocks the underpinning future for the Brennanstown Road? I fail to see how the planning authority granted this current scheme in the absence of the Rathmichael/ Cherrywood LAP, and refused similar developments in the area, on this basis.

In terms of the development plan standards, regarding carparking, open space standards and design, landscaping, refuse storage, play areas, etc, the proposal complies generally with the plan requirements. My main concern is that most of open space areas are north facing and due to the height and proximity to the proposed blocks of apartments, the communal areas will be overshadowed during most of the day for the bulk of the year.

The Shadow Diagrams submitted on 23/05/07 reveal the extent of the shadowing. Given the extensive nature of the site and significant amenity value associated with the existing trees on the site, I believe the opportunity to exploit the amenity qualities of the site have been lost in this proposal in favour of excessive and voracious density issues, resulting in the overall design response being poorly based on quantum as opposed to quality.

I would accept the revised infrastructural proposals to facilitate the proposed development.

First Party Appeal against Condition 30

This condition requires the removal of the third floor element of the proposal from Block B. The reason stated for the removal of the third floor units is in the interests of the proper and orderly development of the area.

Throughout the protracted assessment of the planning application, whereby the planning authority literally prescribed the design of certain elements throughout the scheme, the height of Block B was not raised as an issue.

The wording of the condition gives no meaningful or reasonable explanation for the removal of an entire floor from the scheme other than the proper and orderly development of the area.

The reasoning behind the condition is found in the final planning report, whereby the author of the report is concerned about the future development of lands to the east of the site, and that because the lands fall off to the east towards the river valley the five storey structure may be 'problematic'. The river valley is a considerable distance from the site. There are multiple storey units located along the river valley to the north of the site. I consider the reasoning behind the planning authority's condition to remove the third floor level to be unfounded and unsubstantiated.

However, I would agree with the removal of the floor purely due to the impact of the proposal on the immediate environs of the site as discussed earlier in my report. Five storeys along Lehaunstown Lane would be totally oppressive given the nature of the Lane and the low scale residential developments located on the roadside boundary south of the site. Therefore should the Board decide to grant the proposal, I would recommend retention of the condition with a mended wording.

7.0 RECOMMENDATION

Having inspected the site and considered in full the issues raised in the appeal file, I consider the proposed development to be unacceptable at this location. I am recommending the Board overturn the decision of the planning authority and **REFUSE** the proposed development for the following reasons and considerations.

REASONS AND CONSIDERATIONS

1. Having regard to;
 - The absence of an adopted Local Area Plan for the area including detailed plans for road, bus, cycle and pedestrian links to community facilities and public transport in the area
 - The absence of an adopted Brennanstown Roads Improvement Plan
 - The lack of convenient and safe pedestrian links to Cabinteely village and public transport facilities, and the policies contained in the County Development Plan 2004 and the Residential Density Guidelines 1999
 - The prevailing pattern of residential development in the area

It is considered the proposed density is excessive, and be contrary to the proper planning and sustainable development of the area.

2. The proposed development would, by reason of its scale, density, bulk, height and layout, constitute an overdevelopment of the site resulting in an overbearing presence in an area characterised by a mix of low rise and low density residential developments, be oppressive in appearance when viewed from the adjoining properties and local road network and would therefore seriously injure the amenities of the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Caryn Coogan
Inspectorate

29th of July 2008