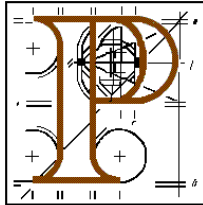


An Bord Pleanála



Inspector's Report

PL06D.246159

DEVELOPMENT:-

51 dwelling units, demolish 2 no. dwellinghouses, all site works at "Cartref" and "Ards", Old Bray Road, Cabinteely, Dublin 18.

PLANNING APPLICATION

Planning Authority: Dun Laoghaire Rathdown County Council
Planning Authority Reg. No.: D15A/0716
Applicant: Sepray
Application Type: Permission
Planning Authority Decision: Refuse Permission

APPEAL

Appellant: Sepray
Type of Appeal: First v. Grant
Observers: Leslie Ellis and Cleo Ellis
Imelda Galvin
Charles Delap
Cabinteely and District Residents Association
David and Cara Toner
Jane and Michael Culligan
Michael O'Brien

DATE OF SITE INSPECTION 21st April, 2016.

INSPECTOR: Mairead Kenny

SITE LOCATION AND DESCRIPTION

The site is at Old Bray Road, Cabinteely and is stated to be within the Cherrywood SDZ but outside of the Cherrywood SDZ Planning Scheme. The site comprises lands at two detached residential properties 'Cartref' and 'Ards' located at Old Bray Road, Cabinteely. This is a cul de sac road south of Cabinteely village crossroads. It is located parallel to the N11 and terminates at a petrol filling station to the south. On the western side of the road are a line of low density dwellinghouses and to the east is a boundary fence and trees which separate the cul de sac from the national road. There is a pedestrian crossing at the N11 to the north of the site and to the east of Cabinteely crossroads the N11 is traversed by a pedestrian bridge. South of Cabinteely centre there is a large bank service office, which is referenced in submissions on file. The other significant development served by Old Bray Road is Brennanstown Square, a large residential scheme to the west.

The site contains two detached dwellinghouses neither of which are of particular architectural interest, as well as the associated gardens. This includes include large grassed and overgrown areas parallel to an emerging linear park / greenway centred on Cabinteely stream. Mature trees are largely contained within an area in the south and south east of the site, where there is a site of archaeological interest, at the boundaries of the two fields which make up most of the site and close to the houses. The site slopes by about 10m over the distance between the curtilage of the houses and the park to the west.

Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached. I refer the Board also to the Design Statement submitted with the appeal which contains a range of images which provide a useful record of the site context including the pattern of development in the area and the building typology.

PROPOSED DEVELOPMENT

The development comprises 51 no. dwelling units.

The scheme includes:

- 21 no. apartments in a building ranging from three to five storeys in height consisting of 5 no. one-bed units, 14 no. two-bed units and 2 no. three-bed units with balconies or terraces and solar panels.
- 30 no. terraced/detached houses of two to three storey height consisting of 4 no. two-bed houses, 9 no. three-bed houses and 17 no. four-bed houses including private gardens and solar panels.
- All associated site development and landscape works including public open space of 1,270 square metres and communal open space of 195 square metres.

- Boundary treatments, communal bin store, plant room within the apartment block, ESB substation.
- 95 no. surface car parking spaces and 59 no. bicycle spaces.
- Vehicular access by way of the existing “Cartref” access to the Old Bray Road.
- Widening of access to provide two-way access and a footpath.
- Access to Old Bray Road at “Ards” to be retained to serve 1 no. dwelling.
- Demolition of 2 no. dwellinghouses and associated outbuildings.
- Future pedestrian link to existing public open space along Cabinteely Stream to the west.
- New surface water sewer outfall to Cabinteely Stream and new foul sewer connection to existing public foul sewer located to the west of the site.
- Stated gross floor area of the proposed development is 6,230 square metres and of the two houses which are to be demolished is 469.5 square metres.

The application submissions include:

- **Planning Application Report** - Stephen Little and Associates
- **Design Statement** – O’ Mahony Pike
- **Housing Quality Assessment** - O’Mahony Pike Architects.
- **Schedule of Accommodation** - O’Mahony Pike Architects.
- **Engineering Assessment** - Waterman Moylan.
- **Construction and Waste Management Plan** - Waterman Moylan.
- **Flood Risk Assessment** - Waterman Moylan.
- **Stormwater Impact Assessment** -Waterman Moylan.
- **Archaeological Assessment** - Irish Archaeological Consultancy Limited.
- **Tree Survey Report and Plans** - The Tree File.
- **Landscape Design Report** – Doyle and O’Troithigh.
- **Ecological Impact Assessment Report** - Scott Cawley.
- **Appropriate Assessment Screening Report** - Scott Cawley.

- A **letter of consent** from an adjoining landowner in respect of the proposed foul and surface water drainage connections across their land as indicated on Drawing No. 15-030-P003.

PLANNING HISTORY

The site

PAC/172/15 – advice given to the prospective applicant was on the basis of a sketch layout similar to the current application proposal. The initial comments of the Planning Authority stated that a re-design of the proposal is necessary to ensure a minimum of 50 units per hectare. The siting of public open space was deemed unsatisfactory and other comments were made in relation to the interface with the proposed greenway along the Loughlinstown River, protection of archaeological artefacts in situ, tree survey, flooding and SUDS.

Under **PL06D.230861** the Board overturned the decision of the Planning Authority to grant permission for development on a 1.6 hectare site¹ comprising

- Demolition of ‘Ards’, ‘Cartref’ and alterations to rear garden at ‘Foxley’.
- 127 residential units in 4 no. buildings.
- Underground car parking for 139 cars and surface parking for 35 no. cars.
- Wellness centre, crèche and other works.
- Access.

The reason for refusal given related to:

- deficiency of local road network, would result in unacceptable traffic congestion and consequent traffic hazard in Cabinteely village and would set an undesirable precedent for similar future development in the area
- development of 127 residential units in four blocks on a 1.6 hectare site is premature pending the preparation and adoption of a local area plan for the area in accordance with the 2008 guidelines which seek a more plan-led approach to development – premature pending the determination of a road layout for the area which would offer an alternative access to the site rather than by the congested village crossroad
- the Board agreed with the considerations of the Inspector in relation to design and layout and the contravention of conditions 2 and 4 of PL06D.220921.

¹ Note – larger site than current and site of PL06D.220921 (permission for 77 residential units).

Under **PL06D.220921** the Board upheld the decision of the Planning Authority to grant permission for a development comprising 77 no. apartments and duplex units in two to five storey blocks with underground parking for 126 cars and surface parking for 13 cars. The 1.22237 hectare site comprised the mature garden and paddock curtilages of 'Ards' and Cartref'. The reasons and considerations had regard to the proximity of the development to the N11 QBC and to the proposed extension of LUAS B1 to Cherrywood. Conditions 2 and 4 which were referenced in the Inspector's report under PL06D.230861 are summarised as follows:

- Condition 2 – re-positioning of blocks to ensure 15m separation with site boundaries and other minor amendments.
- Condition 4 – provision of pedestrian route through site linking Old Bray Road with the public open space flanking Cabinteely Stream – route to remain open during daylight hours.

Nearby lands

Under PL06D.244873 the Board upheld the decision of the Planning Authority to refuse permission for demolition of a dwellinghouse 'Benoni', construction of 26 houses and 89no. apartments at Doyle's nursery and gardens (1.8 hectare site) at Brennanstown Road, Cabinteely, Dublin 18. This is to the north-west of the current site and accessed from Brennanstown road which goes through Cabinteely village from the west and onto the N11.

The reason for refusal is summarised below:

- additional traffic movements on Brennanstown Road and turning movements at junction with Brennanstown Road - deficiency of footpaths, cycle paths and pedestrian crossings on Brennanstown Road – premature pending the determination of a road layout for the area including convenient and safe pedestrian links to Cabinteely village and to transport facilities in the area and would therefore endanger public safety by reason of traffic hazard.

PLANNING POLICY CONTEXT

The provisions of the Dun Laoghaire Rathdown Development Plan 2016-2022 apply since the adoption of that plan. The site is zoned objective A "to protect and/or improve residential amenity".

RES3 refers to policy to promote higher residential densities subject to ensuring a balance between the reasonable protection of existing residential amenities and the established character of areas and the need to provide for sustainable residential development. In this context it is Council policy to have regard to the relevant listed national guidance documents. These include:

- Sustainable Residential Development in Urban Areas (SRDUA - 2009).
- Urban Design Manual - A Best Practice Guide (2009).
- Irish Design Manual for Urban Roads and Streets (2013).

RES3 and section 8.2.3.2 indicate that as a general rule minimum default densities shall be 35 units per hectare. Within 1km pedestrian catchment of a rail / Luas, BRT or Priority 1 QBC (or 500m of a Bus Priority Route) higher densities at a minimum of 50 units per hectare will be encouraged.

Higher density may be constrained by the need to enhance and protect heritage sites or infrastructural shortcomings including the capacity of the road network. The 'Kickstart' Incremental Development Approach applies only where legally binding agreements are in place.

The site is within the Luas B1 S49 supplementary scheme. The Cherrywood Planning Scheme area is to the south.

RES7 refers to the overall housing mix which shall ensure a wide variety of types, sizes and tenures.

Policy OSR8 refers to the Greenways Network which includes Loughlinstown Greenway.

Section 8.2 sets out the Development Management standards and includes requirements for car parking (two spaces per 3-bed unit depending on design and location and 1.5 spaces per 2-bed unit).

There is a specific objective in Chapter 9 to limit any development along the Brennanstown Road to minor infill until a Traffic Management Scheme has been prepared and implemented.

Minimum separation distances of 22m normally apply in the case of apartments up to three storey in height. Larger separation distances may be required or there may be a relaxation of this requirement.

INTERNAL REPORTS

The **case planner's** report dated 19th January, 2016 may be summarised as follows:

- The Plan is clear on the requirement for a minimum density of 50 units per hectare at this site, which is within 1 kilometre of the Luas line. The density proposed is 41.5 units per hectare, significantly below the minimum required. This equates to a provision of 62 units. The planning history of the site indicates that at least 77 residential units are acceptable.
- The applicant justifies the layout by primarily referring to the sloping nature of the ground levels and the north-south axis of dwellings in the wider area. Notwithstanding the slope and archaeological constraints the design approach

and the housing typology fails to maximise the site's potential. There are no site constraints to justify a reduction in density.

- Urban Design Manual indicators are not achieved including:
 - Smaller open space is difficult to access and does not exploit solar orientation
 - No particular recognisable features / no discernible focal point.
 - Layout does not align with desire lines and permeability is poor.
 - Open space areas are not particularly usable or integrated.
 - Roads and parking do not appear to have been considered as an integral landscaped element.
- Dwellings are very similar in style and design leading to unnecessary uniformity and some require improvements to elevations in view of prominent locations.
- Apartments mostly dual aspect. Elevations and height of building are acceptable. Position in relation to proposed dwellinghouses is significant cause of concern.
- Interface between the development and the open space - details required.
- Does not require sub-threshold EIA. AA Screening Report contents are noted.

The **Parks and Landscape Services Report** of 15th January, 2016 recommends a refusal of permission for reasons related to area of open space, location of open space and details including retaining walls, railings and planting and inclusion of steep artificially formed slopes. Smaller open space is poor and is a sunken space and is difficult to access and this may lead to anti-social behaviour. Other matters of detail relate to pedestrian link and taking in charge of larger area of open space.

The report of **TII** dated 21st December, 2015 notes that the site falls within Luas Line B1 Section 49 Levy Scheme.

The report of **Irish Water** recommends conditions.

The report of the **Drainage Planning Municipal Services Department** – no objection to proposals for surface water drainage (report of 17th November, 2015).

The report of the **Housing Department** dated 1st December, 2015 confirms that the site and the proposal is capable of complying with the requirements of Part V of the Act subject to agreement being reached on land values and development costs. This can be addressed by way of a condition.

The report of **Inland Fisheries Ireland** received by the Planning Authority on 9th December, 2015 refers to the Loughlinstown system and its capability to support migratory sea trout in addition to resident brown trout. As such salmonid water

constraints apply to any development in this area and suitable measures shall apply. Comments regarding crossing of Cabinteely Stream and dewatering of excavations. Infrastructure capacity shall be available to cope with surface and foul water.

SUBMISSIONS TO PLANNING AUTHORITY

An Taisce

Inadequacies in the open space could be compensated for if a proper connection to the public open space adjacent was to be provided. Many of the trees on the site are in poor condition and their removal is warranted but a large scattering of trees graded A some of which are scheduled for removal and a number are identified, which it is considered should be retained. An archaeologist should be retained by the developer. Amount of surface car parking should be minimised and at the apartment block should be underground. The variety of house types and sizes does not appear to be sufficient to allow for changing needs of residents.

The **other submissions** largely raise issues which are reiterated in the observations to the Board and which are summarised in more detail therein. There is also however a comment submitted by Manahan Planners dated 17th December, 2015 on behalf of the management agents for the Brennanstown Scheme. The issues of concern identified include the inadequate consideration of traffic impact, the predicted 306 car trips per day, which they dispute and potential conflicts with existing entrances. Furthermore, there is stated to be concern relating to the impact of the proposed five storey apartment block, which it is considered will impact on the terraces associated with the Brennanstown Scheme. There is also concern regarding the discharge of surface water to the stream and it is stated that this should be contained within the site in accordance with the principles of sustainable drainage and that it may lead to flooding or softening of the open space.

DECISION OF PLANNING AUTHORITY

The Planning Authority decided to refuse permission for three reasons which may be summarised as follows:

- RES 3 of the Dun Laoghaire Rathdown Development Plan 2010-2016 requires minimum of 50 units per hectare to be encouraged - at 41 units per hectare density is significantly below the minimum required and contravenes RES 3.
- Unacceptable site layout including for reasons related to lack of internal permeability and connection to public open space to west, overbearing of impact of apartment building, quantity and quality of public open space – contrary therefore to the provisions of 16.3.1 of the Development Plan and to the Guidelines on Sustainable Residential Development in Urban Areas, materially contravenes the zoning objective and adversely affects residential amenity.
- Interface with lands to west not adequately considered - separated by internal access roads and surface car parking – provision of large number of own door

housing results in inefficient use of land, dominated by internal roads and surface car parking lacking legibility and coherency - contrary to zoning.

GROUNDINGS OF APPEAL

A **Design Statement** prepared by O'Mahony Pike Architects was submitted with the appeal.

The main points of the first party appeal include:

- This is a unique site. Permission previously received for 77 no. apartments over basement parking is not viable and is not the only or most appropriate design.
- The Board's attention is drawn to the design statement prepared by O'Mahony Pike Architects that is enclosed as part of this appeal.
- Having regard to site location, site constraints and the pattern of neighbouring development the scale of development proposed is appropriate. The effective net density is 46 units per hectare² which represents the higher density in the context of the SRDUA, which refers to 35 to 50 units per hectare.
- Meets all standards including in relation to mitigating amenity impacts, residential standards including open space, parking and cycle parking provision.
- The argument of the Planning Authority regarding densities hinges on one route of public transport i.e. Bus Route 145. The density of 50 dwellings per hectares as generally advocated for this location very much informed the design brief.
- Site is irregularly shaped incorporates an area of archaeological potential and some mature trees and abuts low density detached housing and falls deeply c.10 metres from east to west.
- Under the Cherrywood SDZ the nearest residential lands to the site are identified as RES 2 which has a minimum density of 45 units per hectare and which lands are virtually the same distance from the N11 QBC.
- Redevelopment of this site is considered to be consistent with the core strategy.
- We refer to PL06D.243799 and PL06D.243193 under which lower densities were permitted.
- We fundamentally disagree that a material contravention arises.
- Regarding the impact of the apartment building we note that the Planning Officer considers that the building height is acceptable in principle at this location and in

² Based on a site area excluding the access routes.

accordance with Variation No. 5. The policy in 16.3.3(iv) relating to separation distances between apartment blocks allows for reduced separation distance.

- The treatment of the front elevation reduces its mass and form when viewed from these units. This separation is across a public street incorporating a road, parking and landscaping - the 22 metre separation distance generally required relates primarily to the setback between directly opposing main habitable room windows in the interests of residential amenity and privacy.
- The main living rooms are to the rear of the terrace and therefore will not be over-looked or impacted upon by the apartments.
- The enclosed photomontages provide a 3D visual representation of the apartment building and its relationship with the houses and provide further clarity to the Board of the appropriate relationship between these buildings.
- Regarding permeability and the connection to the Cabinteely Greenway the desire line on page 4 of the design statement illustrated this in principle. The natural topography however cannot be underestimated. Due to changes in level a fully accessible graded pedestrian/cycle connection cannot be provided through the sunken garden in the north-western corner.
- The linear park envisaged at this location and would be supported if and when the adjoining linear open space is taken in charge. A pedestrian connection to the Greenway is also provided in the south-western part of the site. While this is slightly more circuitous it will be accessible to all.
- The suggestion of poor internal permeability is also without substance. The site is not large and both the lower and the upper court would be well served by public open space and the overall development is very permeable. It is very coherently laid out and there is good residential amenity and connectivity and very little justification and need to try to contrive an additional east-west pedestrian link between the upper and lower courts. There is merit in providing a degree of privacy and self-containment to these short residential courts.
- Regarding public open space we can confirm that 1,270 square metres of public open space equating to 10.3% of the site area is provided. Two distinct areas of public open space are provided within the development and these are thoughtfully sited to provide easy access to all residents.
- The primary area of 1,020 square metres is in the south-eastern part of the site. Suitable passive surveillance is provided for this public open space area. The raised level and the required retaining wall at this main open space is a function of site levels and gradient feasible for the internal road network and the need to ensure that the archaeological remains are undisturbed.

- An area of communal landscaped open space of 195 square metres is provided within the proposed development to the south of the proposed apartment block to supplement the private open space available to the apartments.
- Regarding Reason 3 we consider that the proposal is well considered and the design and layout respond appropriately to context. We refer to the design statement prepared for the appeal, which expands on the planning application submission.
- The apartments are at the western end of the site furthest from existing housing on the Old Bray Road and this is also the lowest part of the site to further mitigate the sense of scale from within the proposed scheme. The building presents as a four storey with a partially set back third floor level as viewed from the east and as five storey with two levels of graduated setback as viewed from the west. The building is thus similar in scale and responsive in form to the existing apartment blocks at Brennanstown Square.
- The balance of the site accommodates an efficient layout of back-to-back terraced housing with the terraces orientated on a north-south axis. The design rationale is four-fold namely it facilitates good east-west orientation of individual houses and rear gardens, works with site contours, avoids use of heavy engineering and costly steps and use of retaining walls and is essentially the only configuration that allows for feasible and accessible road layout in terms of gradient.
- The shared surfaces cul-de-sac road serves a very limited number of dwellings and will not act as a barrier to the linear park. Given its level above the linear park it will not be very visible or prominent from this public open space.
- There is far more variety in house type than under the previously approved apartment scheme.
- Regarding taking in charge of the open space we confirm that the applicant is willing to comply with the Council's requirements and suggest that details of this can be agreed and could be addressed by condition.
- We respond in Section 5.1 to the Development Management Standards.
- The Planning Authority concurred with the findings of the appropriate assessment screening report prepared by Scott Cawley Ecological Consultants.
- In conclusion the development complies with relevant policy and the application evolved by way of a thorough and robust design process which has had full regard to national and local policy context.

- The site layout and associated building form and scale has been carefully considered to ensure that the residential amenity of existing neighbouring and proposed dwellings is fully respected and protected and the proposed development is appropriate when assessed against relevant policies and objectives.

OBSERVATIONS

The Board received 7 no. observations. As there is a general consensus about the issues I have grouped submissions under relevant headings.

Traffic and Parking

The main points in the observations are:

- Contrary to a policy in the current Development Plan to limit any infills or extensions until a traffic management scheme is implemented for the area.
- Road network planned for Cherrywood will be available to service this site.
- Reference to previous refusals of permission by Planning Authority for reasons related to deficiencies and congested nature of road network.
- Roads are congested including in early evening as staff exit Bank of Ireland.
- Objection to the use of the village side of the Old Bray Road as an entrance.
- Would set a precedent for other sites including "Foxley".
- Emergency access could be impeded by irregular parking at the entrance.
- The entrance will be difficult to negotiate by large vehicles.
- Insufficient parking resulting in pressure on existing much needed spaces which support services in the village of Cabinteely.

Design and Layout

The main points of the observations on this matter include:

- Overall design and layout generally in keeping with the area
- Density is generally (but not universally) considered acceptable.
- Apartment block is excessive and due to its height would adversely affect the amenities of existing and proposed houses and be contrary to the zoning.
- The site is smaller than Brennanstown Square which is not a relevant comparison and the height of the apartment block is excessive.
- Design of internal access roads and surface parking is not coherent.

Other Issues

Amongst the other issues raised by observers are the following:

- Fails to comply with goals of current Dun Laoghaire Development Plan including in relation to the protection of residential amenity.
- Concern about stormwater and foul drainage (one submission) and requested this be assessed by An Bord Pleanála.
- No clear plans for the Foxley site which is also owned by Sepray.
- Accept the need for more houses in the Dublin region.
- Schools in the area are oversubscribed.
- ESB substation too close to our house (Little Acre) and needs to be relocated in interest of health. Need for care during the demolition and for appropriate boundary walls to be reinstated.

RESPONSE TO APPEAL

The Planning Authority in its response to the First Party Appeal makes the following points:

- Issues raised at pre-application were effectively ignored by the applicant. The proposal was deemed to be fundamentally unacceptable.
- Even with the applicant's calculation of site area including omission of several areas from within the site boundary including surface water discharge, access roadways the density remains below 50 units per hectare.
- The site is not irregularly shaped and the archaeological area is within the public open space and a density in excess of 50 units per hectare was previously achieved.
- The subject dwellings are excessively close to the proposed apartment block - suggested apartment to apartment separation distance requirements not met.
- Despite being specifically requested in the pre-application consultation the applicant failed to present a connection to the greenway and remains absent. The location of public open space appears to be driven by the archaeological constraint rather than as a result of "thoughtful siting".
- The Planning Authority had no issue with the mix of house types but a reasonable mix does not necessarily result in a very varied and interesting residential environment and the dwellings are very similar in style and design which leads to uniformity.

- Boundary treatments were inappropriate for their locations and the drawings were not consistent in their detail.
- Relocating the window of House 30 to the northern boundary would result in a separation distance of less than 11 metres to the northern boundary.
- There are a number of other areas of concern cited in the planning report for example blank facades, absence of dual frontage elevations, overlooking, awkward turning areas, footpaths appearing and disappearing and so on.
- The Planning Authority considers that the decision to refuse permission is appropriate.

ASSESSMENT

I consider that the main issues arising in this case relate to:

- whether the development complies with guidance relating to use of urban lands
- whether the scheme is acceptable in terms of the residential amenities and is effectively integrated with the area
- other issues
- Appropriate Assessment.

Policy and Guidance relating to use of urban lands

The recently adopted development plan is the most relevant policy. The plan takes into account national guidance. It appears to present a suite of policies, which are targeted and appropriate to the Dun Laoghaire Rathdown area. The plan references and responds to current economic conditions and acknowledges the market-led demand for own-door houses. This however is described as short-term. The development plan policies are stated to have a wider role in determining a more long-term and strategic vision. Widespread endorsement of lower density standards would undermine public transport modes and sustainable residential communities, it is stated. The plan accepts that the national 'Kickstart' approach may be applied where legally binding commitments are given in relation to the overall plot. In summary the development plan policies acknowledge issues related to current market conditions but remain supportive of higher densities.

The issue for the Board to decide in my opinion relates primarily to whether the site character and / or the pattern of existing development militates against the achievement of recommended density levels. I address this in terms of:

- the prevailing requirements
- the density proposed

- conclusions.

Development plan requirements

The development plan policy to encourage a minimum density of 50 units per hectare refers to proximity to a Luas (1km) and Bus Priority Route (500m). Regarding the Luas line I note also the comments in the Case Planner's report which refer to the future improvement of access to the Luas as a result of the Cherrywood SDZ and the greenway through the emerging linear park. Notwithstanding the first party comments relating to the distance to the stations and the need to traverse Cabinteely Stream by way of a high level bridge, it is clear that the access route will be greatly improved in the short term.

Leaving aside arguments relating to the Luas line I consider that on the basis of proximity to the N11 alone the minimum recommended density of 50 units per hectare applies. There is an at-grade crossing at the N11, which facilitates access to bus stops on both sides of the road as well as a high level pedestrian bridge, which is further away. The 145 is one of the premier bus routes in the city. The fact that there is a limited number of routes is irrelevant in my opinion. I am satisfied that the encouragement of 50 unit per hectare minimum density applies to this site.

The development plan provides for site specific conditions which might constrain the achievement of higher densities. These include mature trees and heritage features. Many of the mature trees which are to be retained on site are situated within the archaeological zone and none of the trees on site are protected by tree preservation orders or development plan listing. The scheme does not in fact provide for mature trees to be retained except within the open space constrained by archaeological remains and at the boundaries. It cannot be argued that preservation of trees results in an argument to support lower densities in the case of a scheme which removes many mature trees of note. Regarding the archaeological zone I find it difficult to conclude that this is significantly constraining density levels on the site - the selected layout ensure that the archaeological zone is utilized for the provision of open space. I note and agree with the comments of the Planning Authority in relation to site shape – the site is neither too small nor of such irregular shape as to constrain densities.

In terms of a claim to the site being unique and posing particular design challenges I find that this has merit primarily in terms of the 10m incline from east to west. Nevertheless, I am entirely unconvinced that the approach to the layout, comprising largely own door units is driven by the site topography. In this regard I refer the Board to the previously permitted scheme of apartments in three blocks which provided for a higher density of development and which was deemed (subject to conditions) to comply with all requirements regarding the protection of the amenities of the area.

The appellant's case for not developing the site along similar lines is related to viability and the prevailing economic climate. The development plan policy addresses this and in my view it is an appropriate policy provision and should not be undermined by a grant of permission for this scheme in this location.

I conclude that there are no special circumstances in this case to warrant special consideration under the density guidance of the development plan policies.

The proposed density

The applicant states that it is reasonable when considering the site density to exclude the two access routes and I largely accept this point. However, even if the arguments presented by the applicant are accepted the site density does not exceed 46 units per hectare. I note the reference to the Cherrywood Planning Scheme densities and other appeal sites. I do not propose to enter into discussion on the merits of those cases but will restrict my considerations to the current site and the prevailing development plan.

The Board may wish to consider whether the density levels proposed under this scheme are sufficiently close to the guidance level as to be deemed appropriate to this site. I consider that in making a determination on this case the Board should take into account the particularly high levels of public transport and open space amenities such as the proposed greenway, both of which are in place due to public investment predicated on an assumption of certain densities. There is a need to ensure that investment in public facilities is re-paid and that ridership levels maintained. My opinion is that a far more intensive scheme could be developed at this site and that higher densities would be both appropriate to the site and area and in accordance with the development plan policies.

Conclusions

I conclude that a grant of permission in the context of the statements in the current development plan, the high quality public transport options and having regard to the limited extent to which site density is constrained by trees and archaeology. Regarding topography some additional comments in the next section refer.

Residential Amenities, Design, Layout and Integration

Residential Amenities - Existing

Regarding the protection of the amenities of the established residential area, no major issues arise. The observers appear generally satisfied with the design and layout of the scheme and reservations are largely restricted to the apartment block, which it is stated would adversely affect the amenities of existing and proposed houses and be contrary to the zoning.

Regarding the existing houses the apartment block would be at a separation of over 80m to the nearest houses, at which distance no significant impacts would arise. The proposed houses generally have 10m rear gardens and due to their height, design and position on the site would not adversely impact on the existing residential amenities. Brennanstown Square is separated from the site by a large park and would not be impacted.

Regarding the position of the substation adjacent one of the dwellinghouses this could be addressed by condition. The position of the access road and path would introduce a level of traffic and general disturbance not heretofore experienced but this would not warrant a refusal of permission or alteration to the scheme.

In conclusion I do not consider that there is any reasonable cause for concern in relation to the amenities of this established residential area.

Residential Amenities – Future Occupants

Regarding the amenities of the future occupants, the Planning Authority identified a number of concerns relating to the detailed design of the scheme, which include matters relating to the apartment block. I consider that in the context of the height of the block relative to the height of the houses and taking into account the position of the balconies the 18m separation is inadequate. Minimum separation distances of 22m normally apply in the case of apartments up to three storey in height under the provisions of the development plan. These are minimum requirements. Larger separation distances may be required in the case of taller blocks or there may be a relaxation of this requirement.

I share the concerns of the Planning Authority in relation to the impact of the proposed apartment block on the houses opposite. Notwithstanding the comments made in the appeal, which refer *inter alia* to the position of main living rooms at the rear of the houses and to the design of the apartment building, I consider that it would be overbearing and would give rise to overlooking. I refer in this regard to the detailed design of the houses and apartments including the wrap around balconies at the corner units at levels 2-4 and the fenestration of the eastern façade as well as the relative position and height of the apartment block and limited separation.

Regarding the mix of house types I note that a variety of designs are proposed in response to site specific conditions. In addition, apartments are mostly dual-aspect. However, due to the topography a number of houses have a split level ground floor and gardens are sloped and accessed by steps which separate them from the adjacent patio areas. In view of the relatively small size³ of the private open spaces, this arrangement is not ideal. When the private open spaces are considered in the

³ The figures shown on the Landscape Plan indicate may residential units have private open space areas of 55 square metres or 60 square metres.

context of the finished floor levels of the houses, the deficiencies of the scheme become more evident. I refer the Board to section drawings in this regard⁴. The 3m difference in finished floor level is significant and gives rise to inherent difficulties in screening to avoid overlooking. The scheme complies with the private open space and car parking standards of the development plan and includes a reasonable mix of unit types. However, I do not consider that it constitutes a high quality scheme in terms of the residential amenities of future occupants. I recommend that the concerns identified in the reasons for refusal of the Planning Authority be reiterated.

Design, Layout and Integration

The Planning Authority has raised a number of details regarding elevation treatments which would be addressed by condition. Suggestions regarding the provision of improved elevations to address prominent locations could also be addressed by condition. In general having regard to the relatively small site size I do not agree with the Planning Authority that there is unnecessary uniformity in terms of house design and style.

Regarding the public open spaces I agree with the considerations set out in the report of Parks and Landscape Services. The public open spaces to serve the development are located at the periphery of the site, would not be overlooked and do not integrate well with the street level being either elevated with associated retaining walls or sunken and connected by steps. I agree to some extent with the comments provided by An Taisce which refer to the adjacent linear park and note that the inadequacies in the open space could be mitigated by a proper connection to the public open space adjacent. However, I also acknowledge the comments of the Case Planner's report which note the lack of discernible focal point in the layout and the failure to align with desire lines.

In general I support the conclusion of the Planning Authority that the open space areas are not particularly usable or integrated. Permeability throughout the estate is limited. The north-south alignment of roads and houses arising from the topography results in long walks to access different parts of the estate.

A number of the items raised by the Planning Authority refer to integration of the scheme with the greenway to the west including the provision of connections through the site to the Old Bray Road and to the proposed greenway. A number of additional comments on this matter are provided below.

I consider that it is not sufficient response by the first party that access by way of the smaller open space area would be supported when the greenway is take in charge. Apart from the delays and uncertainties inherent in the applicant's proposals for connectivity, the private open space as shown requires access by way of steps.

⁴ LSsc-00 submitted to Planning Authority.

Regarding the suggestion that the connection to Old Bray Road would be by the pedestrian route to the south-west a gated access is shown which appears to restrict access to residents. The main access roadway does not appear to be similarly restricted.

I refer to the visual and functional integration of the majority of the western site boundary with the linear park. The scheme provides for a road running parallel to the park along the south-west and the majority of the western site boundary would be defined by a plinth wall and railing overhead. I agree with the considerations of the Planning Authority that the arrangement shown is unsuccessful. The proposal compares poorly in my opinion with the treatment of Brennanstown Square to the west where apartment blocks and green space merge and the residential blocks appear to rest in the parkland setting. I do not consider that the development including a significant length of two-storey houses facing onto the future greenway would be as successfully integrated into the linear park. I consider that the scale of the proposed apartment block is more appropriate to the expanse of the linear park.

I note the decision of the Board under PL06D.230861 which referenced the maintenance of public pedestrian access to the linear park through the site. While these matters were not subject of a reason for refusal by the Board the Direction does indicate that the issues raised might be looked at in any future submissions. I do not consider that the development before the Board ensures successful integration with the surrounding lands or that the scheme provides good permeability through the site from Old Bray Road to the park. Consideration of this site in conjunction with other lands might provide for better solutions including to address the topography and to minimize use of steps in accessing the park.

Regarding the integration of these lands and the future development potential of 'Foxley' lands to the north I consider that the 12m separation between the apartment block and the northern site boundary is acceptable. The 'Foxley' site is in the same ownership. Nevertheless, to ensure more options for the 'Foxley' lands the Board may wish to consider omitting houses no. 29 and 30.

Other matters

Specific Local Objective

The objective to limit development in this area until a Traffic Management Plan is prepared and implemented relates specifically to Brennanstown Road – I consider that it does not relate to this site.

Material contravention

I do not consider that a material contravention arises in this case. The Planning Authority has indicated in reason 2 that the proposed development would materially contravene the zoning objective. While I agree with the general thrust of reason 2 which refers to standards for future occupants and integration with the area and

related matters I consider that the proposed residential development is not a material contravention of the zoning.

Surface Water and Flooding

I consider that the proposals for surface water attenuation and discharge are adequately considered in the reports presented by the applicant's consultants. Runoff will be limited to greenfield rates and measures used on site to achieve this aim include permeable paving, surface water attenuation in storage tanks and green roofs. In response to comments raised by the IFI I note that the design incorporates measures to ensure water discharged to the Cabinteely Stream will be of high quality. Public open spaces are not designed to retain surface waters, which is acceptable in the context of archaeological constraints and topography. Queries raised in the Stage 1 Stormwater Audit are noted and appear capable of satisfactory resolution.

Regarding the potential for flooding the primary risks identified in the Flood Risk Assessment would be from surcharging, surface water discharge and overland flooding. The report sets out measures to address these potential risks including adequate sizing of network, finished floor levels and incorporation of an overland flood routing into the scheme. I am satisfied that the submissions demonstrate a low level flood risk.

The Engineering Assessment Report presented addresses a range of issues including water supply and foul effluent. No issues of note are identified. However, the foul sewer crosses the stream and this raises issues of concern to IFI. I consider that this could be addressed by condition.

Traffic and Parking

The Traffic and Transport Assessment notes a modal split of 60% car in the peak hour and peak flows of 18 cars out and 9 cars in. The conclusions are disputed by third parties who also raised a number of concerns regarding overspill parking including even potential impact on the services in the village. Regarding the latter, I submit that the commercial core is too distant to be used for parking, should that arise. Regarding statements that there is traffic congestion at times including in the evening when the bank service centre between the site and Cabinteely is closing, I was present at that time during inspection. Based on my inspection and the relatively small number of units proposed as well as the high quality public transport I reject any suggestion that the development is unacceptable in terms of traffic or parking.

Archaeology

Archaeological impacts are addressed in a report on the file. The eastern part of the proposed development area is within the zone of archaeological potential for an early

medieval cemetery and geophysical surveys and testing undertaken in 2006 have revealed part of an enclosure and early medieval features in the south and south-east of the site. Preservation in situ and careful removal of vegetation is generally required. There is an acknowledged direct adverse impact on the archaeological features known to survive in the southern part of the site.

Ecology

The Ecological Assessment Report identifies a low likelihood that a badger sett may be within the overgrown area in the centre of the site. Mitigation is presented by the consultant ecologist, which is acceptable.

The mature line of Monterey Cypress near 'Ards' is noted as well as a small patch of species rich grassland including calcicole plants. There is a net loss of trees and hedgerows. The removal of a high percentage of the existing trees and hedgerows on the site is justified in the Landscape Design Report on the basis that removal is necessary in view of Part M and the sloping nature of the site. The loss of trees includes specimens, which are of importance as foraging and potential bat roosts. Less use of the site by bats is likely in the operational phase.

Measures to identify / protect bats during removal of trees, installation of post construction monitoring of bat boxes and measures to protect birds and encourage species rich grass land are proposed. Operation phase measures are also set out including in relation to water quality, lighting and pathways.

I agree with the conclusion of the report that the ecological impacts arising would be at a local level.

Conditions

A construction and waste management plan presents a broad outline of construction phase impacts. There is no estimate of surplus materials to be generated but re-use on site or in the area will be undertaken. Groundwater impacts will be minimal. Visual monitoring as well as periodic monitoring of surface water discharge will be undertaken in accordance with licence requirements. A standard condition would be appropriate.

The site is within the LUAS Line Supplementary Contribution Scheme.

Appropriate Assessment

The nearest European Sites *Rockabill and Dalkey Island SAC* and *Dalkey Islands SPA* are designated for porpoise, reef habitat and tern species. Due to the distance from the site and the nature of the proposed development I am satisfied that there will be no impact directly or indirectly on the qualifying interests.

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

CONCLUSIONS AND RECOMMENDATION

I conclude in relation to the prevailing policy context that the approach of the Planning Authority to encourage minimum densities of 50 units per hectare on this site is appropriate given the exceptional standard of public transport. It has been previously demonstrated that higher densities are achievable without unduly impacting on the amenities of the area. Notwithstanding prevailing market-led demand for own door units and comments relating to viability I consider that the policy context is reasonable and is clear. I recommend that the Board uphold reason 1 of the decision of the Planning Authority.

Reasons 2 and 3 of the decision of the Planning Authority have common themes. I recommend that the Board uphold the general thrust of these reasons having regard to the poor permeability within the scheme and to adjoining lands, the identified concerns relating to open space provision and residential amenity issues arising.

REASONS AND CONSIDERATIONS

1. It is the policy of the Planning Authority as set out under RES3 of the Dun Laoghaire Rathdown Development Plan 2016-2022 to promote higher residential densities. The site is located within 500m of a Priority 1 Quality Bus Corridor and close to a Luas line, where higher densities at a minimum of 50 units per hectare will be encouraged. The site is not considered to be unduly constrained by heritage or other features, which might justify a reduction in densities. It is considered that the selected housing typology, specifically the large number of own-door units has unduly constrained the achievement of higher densities. The proposed development would therefore set an undesirable precedent for similar sites, would contravene the provisions of the development plan and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development by reason of the layout, separation distances and detailed design of residential units, the poor disposition of public open space and connectivity through the site and the nature of the interface with the future linear park to the west, would constitute a substandard form of development which would seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

Mairead Kenny

Senior Planning Inspector

18th May 2016