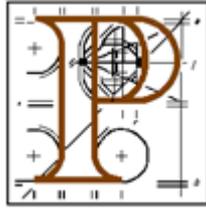


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL06D.246316

Development: Two houses and all associated site works.

Location: Navarone, Brennanstown Road, Foxrock, Dublin 18.

Planning Application

Planning Authority: Dun Laoghaire-Rathdown County Council

Planning Authority Reg. Ref.: D15A/0854

Applicants: Adam & Robert O'Leary

Planning Authority Decision: Refuse permission

Planning Appeal

Appellants: Adam & Robert O'Leary

Type of Appeal: First party

Observers:

- (1) An Taisce
- (2) Eoin & Orla Fitzgerald
- (3) June & John Paul Hayes
- (4) Michael O'Brien
- (5) Valerie Ryan
- (6) Philip & Ann Murphy

- (7) Garrett & Susan Cronin
- (8) Cabinteely Tidy Towns
- (9) Cabinteely & district Residents Association
- (10) Imelda Galvin

Date of Site Inspection: 2/6/16

Inspector: Siobhan Carroll

1.0 SITE LOCATION AND DESCRIPTION

- 1.0.1 The site of the proposed development is located on the eastern side of the Brennanstown Road in Foxrock, South Co. Dublin. It is situated circa 700m to the south of Cabinteely village and circa 1km to the north of the Laughanstown Luas Stop.
- 1.0.2 The site has a stated area of 0.19 hectares. The site forms part of the garden of a large detached two-storey dwelling 'Navarone'. The junction of Brennanstown Road and Lehaunstown Road is situated immediately to the south. A public footpath runs along the western side of the Brennanstown Road. The property is served by a gated vehicular entrance which is recessed 4m from the public road.
- 1.0.3 The site has frontage of 40m along Brennanstown Road and 64m along Lehaunstown Road. There are a number of large mature trees within the site particularly along the southern and western boundaries.

2.0 PROPOSED DEVELOPMENT

Permission is sought for the construction of 2 no. houses and all associated site works. Features of scheme include;

- Site area – 0.19 hectares,
- Area of proposed dwellings – 397.2sq m.
- Ridge height of new dwellings – 9.445m

3.0 PLANNING HISTORY

There is an extensive planning history relating to the appeal site which is set out the report of the Planning Authority. The most recent decision is as follows;

Reg. Ref. D15A/0228 & PL06D.245046 – Permission was refused for a residential scheme. Two options were proposed (A) 7 no. detached dwellings (B) 9 no. detached dwellings. Permission was refused for two reasons the first refers to development being premature pending the determination of a road layout for the area. The second refusal reason states it would be contrary to

visual amenities of the area due to the loss of the sylvan character of the area and the would

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Internal Reports:

Transportation Section: Refusal recommended.

Drainage Planning: Further information recommended requiring surface water drainage details.

External Reports:

Irish Water: No objections subject to conditions.

Submissions

The Planning Authority received eighteen submissions in relation to the planning application. The issues raised are similar to those set out in the observations to the appeal.

4.2 Planning Authority Decision

The Planning Authority refused permission for two reasons.

1. The proposed development would give rise to additional traffic movements on Brennanstown Road and additional traffic turning movements at the proposed junction of the proposed development with Brennanstown Road. Having regard to the deficiency of footpaths, cycle paths and pedestrian crossings on Brennanstown Road, it is considered that the proposed development would be premature pending the determination by the Planning Authority of a road layout for the area, including convenient and safe pedestrian links to Cabinteely village and to public transport facilities in the area and would endanger public safety be reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, be reason of the proposed removal of the existing mature tree coverage on the subject site, by reason of the inadequate provision of public open space, and by reason of the bulk,

design and location of the proposed dwellings, would be contrary to the visual amenity of the area, would fail to pay attention to the sylvan character of the area, and would seriously injure the residential amenities of properties in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 GROUNDS OF APPEAL

A first party appeal was submitted by Simon Clear & Associates on behalf of the applicants Adam & Robert O'Leary on the 16th of March 2016. The content of the appeal submission can be summarised as follows;

- Under the provisions of the current statutory Development Plan that residential use is permitted in principle.
- It is stated that limitations in respect of Brennanstown Road refer to 'minor domestic infill and extensions'. The proposal should be considered on its own merits for a small infill residential development.
- Therefore the proposed small infill development is not premature pending the determination of a road plan for the area by the Planning Authority.
- The basis for the refusal as set out in the Transportation Section Report was that the proposed development is proxy for a larger future development. The proposal is for two individual houses for the owner's children.
- Regarding the second reason for refusal it refers to the removal of 23 trees and states that it is not appropriate given the sylvan nature of the site. There is no proposal to remove 23 trees.
- In relation to the existing trees at Navarone it is stated that two trees were destroyed in the Autumn storms in 2015 these were a Blue Atlas Cedar and a Willow tree.
- The Parks Department of Dun Laoghaire Rathdown Co. Council were informed that these trees were removed.
- The proposed development for 2 no. houses does not involve significant tree removal.

- The proposed layout is not piecemeal and does not inhibit the future densification of the lands.
- Regarding the matter of residential amenity it is a standard situation in suburban residential areas that there will be a degree of mutual overlooking.
- The relationship of the dwellings to the external boundaries is considered to be appropriate and it is considered that the development would have no significant impact upon the sylvan character of the area.

A further submission was received from Simon Clear & Associates on behalf of the applicants Adam & Robert O’Leary on the 18th of May 2016 in response to the response from the Planning Authority.

- In relation to the situation with trees on the site it is stated that two trees were destroyed in the storms in November 2015. These are no. 866 (Blue Atlas Cedar-A rate) and no. 869 (Willow-B rated).
- The existing trees on site which would be removed in associated to the proposed development are 3 no. Japanese Cherry trees which are C-rated in poor condition, 2 no. Lawson Cypress one B-rated and one C-rated and a Birch which is C-rated. A total of 6 no. tree would be removed.
- It is considered that the scale of the proposed dwellings are relatively modest when compared with the majority of houses in the surrounding area.
- The applicant is amenable to the attachment of a condition restricting the sale of the dwellings.
- In relation to Specific Local Objective no. 130 it provides for “minor domestic infills” & “extensions” along Brennanstown Road. The applicant’s consultants are of the opinion that infills refer to new additional development infilling available space around a dwelling.
- It was the Transportation Planning Section who determined that the proposal was not a minor domestic infill.
- The response of the Planning Authority to the appeal is noted particularly in relation to roads issues. As Lehaunstown Lane is a cul-de-sac it would serve relatively few dwellings. The requirement for a mini-roundabout is queried.

- It is stated that the front boundary of Navarone was set back to improve sightlines.
- It is stated that the Roads Authority does not have a record of implement of schemes for the general improvement of Brennanstown Road.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

A response to the first party appeal has been submitted by the Planning Authority on the 8th of April 2016. The main issues raised concern the following;

- The Planning Officer noted on site that trees had recently been cut down. This was prior to the receipt of the third party submissions.
- The Planning Authority is well aware that Lehaunstown Lane is to become a vehicular cul-de-sac.
- The densification of the suburbs as set out in Policy RES 4 of the Development Plan is encouraged, however it is not always achievable and it is noted that Policy ST 25 of the Development Plan is particularly relevant to the current application.
- There is less than 11m separation distance between the ground floor room windows and the boundary and this has impact on the residential amenity of the dwelling being overlooked.
- The use of the dwellings being members of the applicant's family is relevant to the Planning Authority's consideration of the application.
- The reference to the removal of 23 no. trees is stated in the appeal as being inaccurate, however this directly contradicts the 'Tree Survey' carried out by JM McConville which states on page 19 that "it will be necessary to remove 23 trees".
- The offer of acceptance of an occupancy condition is not considered relevant.
- Since the Transportation Planning Section report on the application was made the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 was

adopted. Chapter 2 refers to Roads and Policy ST 25 states it is an objective of the Council to preserve the existing character of Brennanstown Road whilst undertaking a traffic management scheme.

- Specific Local Objective No. 130 states that it is an objective of the Council “to limit development along the Brennanstown Road to minor domestic infills and extensions until a Traffic Management Scheme for the area has been completed and its recommendations implemented.
- The Council is currently developing a Traffic Management Scheme for Brennanstown Road and it is proposed to take the scheme through a Part 8 Planning Process within the next few months.
- A Traffic Management Scheme for Brennanstown Road was undertaken in 2007 however it was not implemented. One of the options was the construction of a mini-roundabout at the junction of Brennanstown Road and Lehaunstown Lane. This scheme would require some land from the Navarone site.
- This option of a mini-roundabout at the junction of Brennanstown Road and Lehaunstown Lane may still be valid and the granting of permission for this application may remove this future option.
- It is considered that the current development is premature until a Traffic Management Scheme has been developed for Brennanstown Road.
- The Planning Authority considers that the decision to refuse permission for this piecemeal development is the appropriate decision.

6.2 Observations

The Board received 10 no. observations to the first party appeal from (1) An Taisce, (2) Eoin & Orla Fitzgerald, (3) June & John Paul Hayes, (4) Michael O'Brien, (5) Valerie Ryan, (6) Philip & Ann Murphy, (7) Garrett & Susan Cronin, (8) Cabinteely Tidy Towns, (9) Cabinteely & district Residents Association and (10) Imelda Galvin

(1) An Taisce

- The proposal involves the removal of trees No. 866 graded A and No. 869 and No. 870 both graded B.

- These trees are invaluable assets within the site and should be retained.

(2) Eoin & Orla Fitzgerald

- The critical change in relation to the recently adopted new County Development Plan is Specific Local Objective (130) has been added. It refers to new housing on Brennanstown Road and states;

“To limit development along Brennanstown Road to minor domestic infills and extensions until a traffic management scheme for the area has been completed and its recommendations implemented.”

- The proposed design and layout of the scheme does not amount to a minor domestic infill development.
- As stated in the submitted Arboricultural Impact Assessment it is proposed to remove 23 trees as part of the development. The application should be refused on the basis that it would negatively impact on the established sylvan setting and character of the area.
- The proposed layout is inappropriate for the site and would seriously injure the visual and residential amenities of the area.

(3) June & John Paul Hayes

- They strongly support the Council’s decision to refuse permission.
- The proposal is premature pending the upgrading of the Brennanstown Road.
- The provisions of Local Objective no. 130 do not apply as the proposed scheme is not a minor domestic infill development.
- It would negatively impact upon the sylvan character of the area.
- Inadequate public open space has been provided.
- The proposed development would seriously injure the visual amenities of the area.

(4) Michael O’Brien

- The observer opposes the proposed development as it would result in the removal of a significant level of tree cover on site including the

Sequoia and a Hornbeam. Therefore the development would negatively impact the sylvan character of the area.

- The existing road network is unsuitable to accommodate the proposed increase in traffic movements.
- The proposed scheme would be contrary to the existing visual and residential amenities of the area.

(5) Valerie Ryan

- The proposal is premature pending the upgrading of the Brennanstown Road.
- There are inadequate sightlines available to the south.
- Specific Local Objective no. 130 does not apply. The proposal does not amount to a minor domestic infill site. There is a clear intention to further develop the site in the future.
- The proposed scheme would negatively impact upon the sylvan character of the area.
- The proposed scheme is deficient in terms of usable public open space.
- The proposed siting, bulk and design of the proposed houses would seriously injure the visual amenities of the area.

(6) Philip & Ann Murphy

- The proposed development would give rise to additional traffic movements on the Brennanstown Road. There are inadequate footpaths serving the area and the sightlines to the south at the proposed access are substandard.
- It is proposed to remove a number of mature trees including a giant sequoia. The removal of the existing planting would facilitate the further development of the property.

(7) Garrett & Susan Cronin

- The proposed development is premature pending improvements to Brennanstown Road.
- The proposed scheme would result in a traffic hazard due to the inadequate sightlines available to the south at the proposed access.
- The proposed scheme does not constitute a minor domestic infill site and therefore specific Local Objective no. 130 does not apply.
- The proposed development would negatively impact on the sylvan character of the area.
- The proposed scheme is deficient in terms of usable open space.
- The siting and design of the proposed dwellings would seriously injure the visual amenity of the area.

(8) Cabinteely Tidy Towns

- The proposed development is premature pending improvements to Brennanstown Road.
- Brennanstown Road is a narrow roadway with many entrance with obstructed views. Further development would worsen the situation.
- It is proposed to remove many trees on site this would have a negative impact upon the character of the area.
- The current application only covers part of the site and as such it represents piecemeal development.

(9) Cabinteely & district Residents Association

- The proposed development is premature pending the upgrading of the Brennanstown Road in terms of capacity and substandard footpaths.
- There are inadequate sightlines available at the site entrance to the south.
- The proposed development does not amount to a minor domestic infill site and therefore specific Local Objective no. 130 does not apply.

- The proposed development would have a negative impact upon the sylvan character of the area due to the proposed removal of trees and where there is an objective within the site to protect and preserve existing trees and woodland.
- The proposed scheme has deficient public open space.
- The siting and design of the proposed dwellings would seriously injure the visual amenity of the area.
- If permission were granted it would set an undesirable precedent for similar development in the area.

(10) Imelda Galvin

- The observer is fully in agreement with the decision of the Planning Authority to refuse permission. The first refusal reason refers to the development being premature due to deficiencies on Brennanstown Road in terms of capacity, width and substandard footpaths.
- The second refusal reason refers to the development being contrary to the visual amenities of the area that it would be detrimental to the sylvan character of the area and injure the residential amenities of properties in the vicinity. The observer agrees with this refusal reason and also states that the proposal does not respect the residential amenity of the property “Tablick” which is adjacent to the site or the existing dwelling “Navarone”.
- One dwelling has been designed to back onto Brennanstown Road, this would seriously injure the visual amenities of the area and would set an undesirable precedent.
- The proposed development is contrary to the provisions of Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), Urban Design Manual – A Best Practice Guide (2009) and Quality Housing for Sustainable Communities (2007). The development is considered piecemeal as it only relates to part of the site and there is potential for future development on the remaining area.
- The proposal to remove almost all trees on site will materially alter the sylvan character of the area.

7.0 POLICY CONTEXT

Dun Laoghaire Rathdown County Development Plan 2016 – 2022

The subject site is located on Map 7 of the Dun Laoghaire Rathdown Development Plan and is identified as being Zoned Objective 'A' to protect and/or improve residential amenity.

- Chapter 8 refers to Principle of Development
- Section 8.2.3.1 refers to Quality Residential Design
- 8.2.8.6 Trees and Hedgerows

new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps.

- Chapter 9 – Specific Local Objectives
- Map 7 - Specific Local Objective 130

8.0 ASSESSMENT

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Principle of development
- Design and impact upon amenity
- Vehicular access
- Appropriate Assessment
- Development Contribution

8.1 Principle of Development

8.1.1 It is proposed to construct 2 no. detached dwellings within the site of an existing large detached dwelling. It is proposed to use the existing vehicular access off Brennanstown Road. The appeal site is located in an area zoned Objective 'A', which aims to protect and/or improve residential amenity'. Under this zoning objective residential development is permitted in principle.

8.1.2 Map no. 7 of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 relates to the site. As indicated on Map no. 7 there is an objective to protect and preserve trees and woodland on the site. Section 8.2.8.6 of the Development Plan refers to Trees and Hedgerows and it requires that new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps. The matter of the proposed removal of the existing mature tree coverage will be addressed in the subsequent section of the assessment.

8.1.3 Specific Local Objective 130 refers to Brennanstown Road and states that it is an objective to;

“limit development along the Brennanstown Road to minor domestic infills and extensions until a Traffic Management Scheme for the area has been completed and its recommendations implemented.”

8.1.4 The Planning Authority in the appeal response stated that the new Dun Laoghaire Rathdown County Development Plan 2016 – 2022 was adopted subsequent to the decision being made on the application. They refer to chapter two of the Development Plan which refers to Roads and specifically Policy ST 25 which states that it is Council policy, in conjunction and co-operation with other transport bodies and authorities such as the TII and the NTA, to secure improvements to the County road network – including improved pedestrian and cycle facilities. This section of the Development Plan provides more detail in relation to the Council's proposals for Brennanstown Road.

8.1.5 It is an objective to the Council to preserve the existing character of Brennanstown Road whilst undertaking a Traffic Management Scheme. The scheme will be carried out to reduce traffic speeds, improve road safety and facilitate the development of zoned lands. It is further stated that the Traffic Management Scheme may determine the future development potential of the area and therefore it is also an objective of the Council to limit developments

along Brennanstown Road to minor domestic infills and extensions until the Scheme has been completed and its recommendations.

- 8.1.6 The appeal response from the Planning Authority states that the Council is currently developing a Traffic Management Scheme for Brennanstown Road and it is proposed to take the scheme through a Part 8 Planning Process within the next few months. It is noted that in 2007 a Traffic Management Scheme for Brennanstown Road was undertaken however it was not implemented. One of the options contained in the previous scheme was the location of a mini-roundabout at the junction of Brennanstown Road and Lehaunstown Lane. Given the proximity of the junction to the appeal site that scheme option would have require some land from the Navarone site.
- 8.1.7 It is stated in the appeal response that the option of a mini-roundabout may still be appropriate and to grant permission the proposed development may remove this future option.
- 8.1.8 In relation to the matter of the currently proposed development of two dwellings, the applicant's Planning Consultants states that the development should be considered as minor domestic infill development and therefore it is not premature pending the determination of a road plan for the area by the Planning Authority. Furthermore they state that the proposal is for two individual houses for the owner's children and that the applicant is amenable to the attachment of a condition restricting the sale of the dwellings. Regarding the option of a mini-roundabout at the junction Brennanstown Road and Lehaunstown Lane the applicants question its requirement and notes that the front boundary of Navarone was previously set back to improve sightlines.
- 8.1.9 Having considered that cases made by both the first party and the Planning Authority in relation to the principle of the development in the context of Specific Local Objective 130 and Policy ST 25, I would not concur with the applicant's opinion that the proposal represents minor domestic infills and having regard of the proposed dwellings proximity to the existing roads should development be granted it could stymie potential aspects of the Traffic Management Scheme for Brennanstown Road.
- 8.1.10 Accordingly, I consider that the proposed development would be premature pending the provision of a Traffic Management Scheme for Brennanstown Road.

8.2. Design and impact upon amenity

- 8.2.1 The second refusal reason issued by the Planning Authority refers to the proposed removal of the existing mature tree coverage on site, the impact upon the sylvan character of the area, the lack of usable public open space and the detrimental impact on the visual amenities the proposed development would have. The observations to the appeal have reiterated these points.
- 8.2.2 In relation to the provision of open space, the two new dwellings are served by side and rear gardens. The minimum required private open space for the new dwellings with three or more bedrooms is 60sq m. The rear gardens have areas excess of 130sq m, however the proposed scheme does not provide for public open space.
- 8.2.3 Regarding the separation distances provided between the proposed dwellings and the existing property I note that the rear garden of house no. 2 would be overlooked from the upper floor windows of house no. 1 as it is located less than 8m from the proposed boundary. The siting and design of house no. 2 relative to the existing dwelling Navarone ensures there is no overlooking from upper floors and the separation distance from house no. 1 to Navarone and its proposed siting would prevent an undue overlooking.
- 8.2.4 The site contains a number of large mature trees particularly along the southern and western boundaries. The importance of the existing trees is clear as there is a Development Plan objective to protect and preserve trees and woodland on the site. I note that there are no Tree Preservation Orders relating to the site. I acknowledge that there are many examples of mature trees that are well established on the site particular the Hornbeam, Birch and Japanese Cherry trees. The tree survey report is acknowledged in identifying the type, condition and merit of species.
- 8.2.5 Drawing No: 4121/14/001 indicates the Tree Survey and identifies the number of category of trees. It is stated in the Arboricultural Assessment the proposed development would involve the removal of 23 no. trees, I note that this assessment was carried out in October 2014 and that the removal of 23 no. trees possibly refers to previously proposed schemes on site. As the applicant's Planning Consultant stated in their further response to the Board that the proposed scheme would result in the removal of 6 no. trees, comprising 3 no. Japanese Cherry trees which are C-rated, 2 no. Lawson Cypress one B-rated and one C-rated and a Birch which is C-rated. I note that the Blue Atlas Cedar and Willow were destroyed following storms in 2015 and these have been removed.

8.2.6 Notwithstanding the discrepancies in the stated number of trees to be removed, I consider that the removal of a further six trees to facilitate the development would have a negative impact upon the sylvan character and setting and the existing dwelling and the visual amenity of the area. The proposed dwellings with a height of 9.4m and floor areas of circa 198sq m and located close to the site boundary and with the removal of the mature trees would detrimentally impact the visual amenities of the area.

8.3 Vehicular access

8.3.1 It is proposed to use the existing vehicular access off Brennanstown Road to serve the two dwellings. Reference is made in a number of the observations to the appeal regarding the available sightlines to the south at the entrance. Drawing No. 142140-2201 illustrates the proposed Road Layout. An internal access road is proposed running through the site to serve the three dwellings and terminating in a hammerhead. While it is acknowledged that this is an existing vehicular entrance an additional two dwellings would significantly increase the existing levels of traffic generated. As indicated on the drawing sightlines of 45m are provided at the north and south at the entrance. The Council's proposals for a Traffic Management Scheme for Brennanstown Road would serve to improve access and traffic arrangements relating to the site and surrounding area and therefore, I consider that it would be preferable that the scheme is in place prior to the site being further developed.

8.4 Appropriate Assessment

8.4.1 Having regard to the nature of the proposal 2 no. dwellings and the nature of the receiving environment, namely a suburban and fully serviced location, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.5 Development Contribution

8.5.1 The site is located within the area to which The Dún Laoghaire Rathdown Supplementary Development Contribution Scheme for Extension of the Luas Line B1-Sandyford to Cherrywood applies. Given that there is no exemption for the proposed development under the Supplementary Contribution Scheme, I would recommend that should the Board decide to grant permission that a Supplementary Contribution Scheme condition should be applied.

9.0 CONCLUSIONS AND RECOMMENDATION

9.0.1 I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be refused for the following reasons and considerations.

REASONS AND CONSIDERATIONS

1. Having regard to the provisions of the Dún Laoghaire Rathdown County Development Plan 2016 – 2022, particularly Policy ST 25 and Specific Local Objective 130 which refers to Brennanstown Road and specifies that development along the Brennanstown Road is limited to minor domestic infills and extensions until a Traffic Management Scheme for the area has been completed and its recommendations implemented, furthermore having regard to the deficiency of footpaths, cycle paths and pedestrian crossings on Brennanstown Road, it is considered that the proposed development would be premature pending the determination by the planning authority of a road layout for the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of the proposed removal of the existing mature tree coverage on the subject site, by reason of the inadequate provision of usable public open space, and by reason of the bulk, design and location of the proposed dwellings, would be contrary to the visual amenity of the area, would fail to pay adequate attention to the sylvan character of the area, and would seriously injure the residential amenities of properties in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll,
Inspectorate
22nd of June 2016