



An  
Bord  
Pleanála

## Inspector's Report

**PL06D.248475**

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<b>Development</b>	Dwellinghouse at Navarone, Brennanstown Road, Cabinteely, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D16A/0852
<b>Applicant</b>	Basl Developments Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Appellant</b>	1. Eoin and Orla Fitzgerald 2. Cabinteely and Districts Residents Association
<b>Observers</b>	Philip and Ann Murphy
<b>Date of Site Inspection</b>	26 <sup>th</sup> July 2017
<b>Inspector</b>	Mairead Kenny

## 1.0 Site Location and Description

- 1.1. The site of the proposed development is located at Brennanstown Road at the junction of Lehaunstown Lane. This area can be broadly described as being between Cabinteely village / the N11 and the M50. The area is of very attractive character, arising from the dominance of granite stone walls and the presence of fine trees.
- 1.2. The site is taken from the garden of a two-storey hipped-roofed detached house known as 'Navarone'. The stated site area is 0.148 hectares and of the overall landholding is 0.4429 hectares .
- 1.3. The site is surrounded to the north and east by detached residences set in spacious grounds and to the south by a narrow public road, Lehaunstown Lane. The house to the north is 'Mayerling' a two storey house and to the east is 'Tablick', which is dormer style. At the opposite side of Lehaunstown Lane is a residential dwelling, which appears to be a converted stable and is known as 'Glen Druid'.
- 1.4. The stated area of the existing house 'Navarone' is 335 square metres. It is positioned at the northern end of the overall holding. Trees within the site and holding are tagged. The most notable specimen is the Sierra Redwood which is adjacent the entrance at Brennanstown Road.
- 1.5. There is a narrow strip of land to the south of the site at Lehaunstown Lane is indicated as 'not in the ownership of the applicant'. This is a wooded and overgrown strip which is outside the existing fence which marks the southern site boundary.
- 1.6. Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached.

## 2.0 Proposed Development

- 2.1. Permission is sought for a detached dwellinghouse of 349 square metres. The proposed two-storey house would be located within the site of the existing house and south of that house.
- 2.2. The selected site allows for a shared vehicular access onto Brennanstown Road and within the site the house would be served by its own driveway. 'Navarone' would be

served by a separate gated entrance off the proposed driveway to the new house. The front garden parking area would easily accommodate 5 vehicles and the driveway is also wide enough to allow for roadside parking.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to grant permission subject to conditions including:

- Omit first floor side / north elevation window to Bedroom 3
- Use of manufactured opaque or frosted glass in the side / north elevation – similar requirement for glazing to WC, en-suites and bathroom
- Submit revised tree protection plan which shall also include proposals to retain tree no. 867
- Tree and hedgerow bond of €10,000 - bond to be coupled with an Arboricultural Agreement - arborist to sign off an Arboricultural Assessment Report and Certificate after the period of 3 years of completion of works and to supervise tree surgery and would works – bond to be refunded only where planning authority receives a satisfactory post construction arboricultural assessment and the trees proposed for retention are alive and in good condition
- Qualified arborist to be engaged for the construction period
- All recommendations detailed in the Arboricultural Method Statement and Tree Protection Plan to be carried out and arborist to carry out a post construction tree survey and to sign off a completion certificate
- SUDs and drainage measures
- Contributions including in relation to Luas B1.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The planner's original report refers to the proposed development as follows:

- Consistent with existing character
- Does not give an impression of overdevelopment of a restricted site
- No overlooking subject to revised fenestration and taking into account separation distances
- Some impacts on 'Navarone' but not unduly adverse
- Of the planning applications refused the most relevant is PL06D.246316 which was for 2 no. houses – the current proposal is significantly different in terms of it being a single dwellinghouse – previous 2 no. house scheme made provision for additional development – it was a piecemeal development
- Provision of one house is considered as a minor infill development as required under Policy ST 25
- Design issues in relation to the previous appeal are also addressed
- The applicant is not obliged to outline plans, if any, for the remainder of the site
- Development is consistent with section 8.2.3.4 of the plan
- Matters relating to tree protection, part V and the location of the access roadway relative to the Redwood are subject to requests for additional information and clarification of additional information and permission is recommended.

The subsequent report refers to resolution of matters raised in the request for additional information and recommends permission subject to conditions.

### 3.2.2. Other Technical Reports

Parks and Landscape Services Section – recommends further information. Final report recommends lodgement of a tree and hedgerow bond, Arboricultural agreement and retention of qualified arborist on site for the entire period of construction. Sign off of satisfactory post completion arboricultural assessment.

Transportation Planning – the updated Brennanstown Road Traffic Management Scheme is intended to be implemented once approved and subject to funding – it

may involve works which affect part of this site – the submitted drawings show the necessary land is left free of development. No objection subject to conditions.

Surface Water Drainage – no objection subject to condition.

### **3.3. Third Party Observations**

Letters received from the appellant and the observer and others raise issues which are reiterated in submissions to the Board.

## **4.0 Planning History**

4.1. There is relatively detailed planning history related to this site. The most recent appeal are outlined below.

4.2. Under PL06D.246316 the Board upheld the decision of the planning authority to refuse permission for the development of 2 no. houses and a new internal site access road. Two reasons were given which may be summarised as :

- Premature pending a determination of a road layout for the area – Policy ST25 and Specific Local Objective 130 refer
- Contrary to visual amenity of the area due to removal of mature tree cover.

4.3. Under PL06D.245046 the Board upheld the decision of the planning authority to refuse permission for a residential development of either (Option A) 7 no. detached houses or (Option B) 9 no. detached houses. The same reasons for refusal were given as in the above case.

## **5.0 Policy Context**

### **5.1. Development Plan**

There is a specific objective on Map 7 ‘to protect and preserve trees and woodlands’.

Specific local objective 130 (SLO 130) is ‘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’.

Objective ST 25 refers to preservation of the existing character of Brennanstown Road and the preparation of a Traffic Management Plan that will facilitate development of zoned lands.

RES3 refers to increased densities in residential areas subject to ensuring a balance with the reasonable protection of existing residential amenities and the established character of areas. Section 8.2.3.4(v) sets out policy for residential development at corner / side gardens. Infill development is addressed under section 8.2.3.4(vii).

Zoning objective A applies – ‘to protect and / or improve residential amenity’.

## **6.0 The Appeal**

### **6.1. Grounds of Appeals**

#### **6.1.1. Cabinteely and District Residents Association**

#### **6.1.2. The main points of the appeal include**

- No effort to design a house that is consistent with the existing – inconsistent with visual amenity
- Impacts on Navarone in particular, the ownership of which is not relevant
- Trees have already been removed from the site and the Board is requested to ensure that trees are protected – especially 865 (Redwood) and 874 (Hornbeam) and trees along the Lehaunstown Lane
- Poor sightlines and premature pending traffic management scheme
- Connection to sewage is preliminary step to facilitate future development.

#### **6.1.3. Eoin and Orla Fitzgerald**

#### **6.1.4. The main points of the appeal include**

- No objection in principle but scale is incongruous and height needs to be modified by removal of upper level
- Appellants’ house is to the east 14m from the joint boundary
- Lehaunstown Lane to the south is within the Cherrywood SDZ

- House design contains very minor hipped elements only and the 9.747m high ridge height is 2,597m above the existing house which is on marginally lower ground
- Excessive in the context of Glen Druid mews as shown on images
- The lengthy planning conditions make no reference to the Sierra Redwood (863a) – access route should also be largely outside the RPA of this tree
- Previous reasons for refusal remain and development is contrary to the development plan.

## 6.2. Applicant Response

6.2.1. Regarding the appeal of CADRA the applicant states that:

- The proposed house is higher than the existing but the roof form is different and there is 6.5m separation from 'Navarone' and 13m from the converted stable 'Glen Druid' to the south – no negative impact is caused to any building in the vicinity
- The sylvan character and visual amenity of the site will not be affected.

6.2.2. Regarding the appeal of Eoin and Orla Fitzgerald the applicant states that:

- The projection to the front of 'Navarone' will not impact on the house due to its reduced height and it will not impact on 'Glen Druid' or 'Tablick' which is 58m away
- The design has been carefully considered to reduce the overall bulk and together with the 35 degree roof pitch, the 9.5m depth, the house cannot be deemed to be excessive or overbearing and is indeed in line with roof profiles in the area
- The proposed lower front gable will help to reduce the height and scale of the proposed main roof
- With an overall width of 18m the site can be considered a side garden of an independent stand-alone site – it is not a side garden of a suburban house

- Enclosed letter notes that the development is a minor infill and that it was supported by the local authority sections
- There is very little removal of trees proposed – trees 866 and 869 which were removed were badly damaged by lightning and we invited the relevant official to inspect them prior to removing – email with photographs enclosed
- Connection of the house ‘Navarone’ is not relevant to this application.

### 6.3. **Planning Authority Response**

- 6.3.1. The planning authority considers that the appeals do not raise any new matters which would justify a change of attitude to the proposed development.

### 6.4. **Observation**

- 6.4.1. An observation has been received the owner/occupants of ‘Mayerling’ to the north. The development comprising a three storey house with a full height attic level exceeds the height of all other houses in the vicinity and is situated between a two storey structure (Navarone) and a single storey protected dwellinghouse (Glen Druid) to the south. Lack of consultation. Queries failure to propose connecting existing house to sewer – developer appears to be allowing for possible future development. Decision of planning authority does not protect trees on the boundary of our property –for this reason and due to height of house proposed does not protect character of the area as required under section 4.3.4 of *Quality Housing for Sustainable Communities*.

## 7.0 **Assessment**

- 7.1. I consider that the main issues arising in this case relates to the potential impact on trees within the site and to design and layout of the proposed development and its impact on adjacent houses. I address also the traffic impacts of the proposed development.



## 7.2. Tree protection

- 7.2.1. In relation to the proposed development the main issue in this appeal in my opinion relates to whether or not the sylvan character of the site would be protected. When viewed from the public realm the site context is important as it is marked on two sides by wooded roadside areas. Regarding the southern boundary of the site along Lehaunstown Lane it is noted on the application submissions that much of the vegetation is outside the site boundary. There are no proposals to remove trees along the northern, western or eastern sides of the site. I submit that the site size facilitates provision of a substantial dwellinghouse at this location and I note that the floor plan is minimised by the incorporation of an attic level. In principle I have no objection to the development and consider that it is compatible with the protection of the most important trees within the site, as discussed further below.
- 7.2.2. All trees on site were tagged at the time of my inspection. The decision of the planning authority set out particularly detailed conditions in relation to the protection. Conditions refer to tree 867 in particular. The tree tagged as 867 is a Japanese Cherry, which is described in the Arboricultural Assessment (Tree Report) as being of Category C. I have examined that tree and note that while a revised road layout could feasibly result in its retention it would be at the expense of encroaching significantly onto the front garden of Navarone.
- 7.2.3. Further I am of the opinion that this condition may be erroneous and should in fact refer to the Sierra Redwood (863) at the entrance. The Parks and Landscape Services report appears to be the origin of this condition and the reason stated in that original report is 'to ensure the protection, safety, prudent retention and long-term viability of the very important category A tree at this entrance point'. I consider that the intention of the Parks report was to protect the Sierra Redwood at the roadside entrance. I consider that the revised layout (involving moving the new access road further outside the RPA of the Redwood), which was submitted by way of clarification of additional information reasonably addresses this matter. Detailed agreement on matters including the construction phase is appropriate.
- 7.2.4. The Board will note that submissions on file refer to the Redwood tree swaying very significantly during the 2015 storm at which time lightning strikes resulted in serious damage to two other trees, which lead ultimately to their removal following

notification of the Parks and Landscape Services. The recommendation of the planning authority in relation to tree protection includes a €10,000 bond, which would be returned to the developer only in the event that the trees proposed for retention are alive, in good condition and with a reasonable life expectancy. In the circumstances of the specific objective to protect trees at Brennanstown Road (which appears to relate to the west of the site) and due to the importance of the Sierra Redwood and its location at the site entrance a tree bond is appropriate in my opinion. A revised tree protection plan is also warranted in this regard.

7.2.5. Regarding the nature of conditions to be attached I refer the Board to the highly detailed requirements of the Parks and Landscape Services. I consider that it is appropriate to require recommend also that the applicant be required to comply with the requirements of the planning authority in relation to the protection of trees on site, which would allow for any matters of particular detail to be addressed.

7.2.6. I submit that the protection of trees requires careful consideration of infrastructure provision and of the construction phase. Regarding the construction phase and the provision of drainage these issues are noted in outline in the Arboricultural Assessment Report. It would be appropriate that the construction phase including the protection of trees and the definition of root protection areas be subject to more detailed agreement with the planning authority. In this context, I consider that the appointment of an arborist is appropriate in this case to ensure protection of trees within the site as specified. Subject to this and other conditions I consider that the proposed development would comply with the specific development plan objective to protect trees.

### **7.3. Impact on visual and residential amenities**

7.3.1. I note the appeal submissions and submissions to the planning authority which indicate that the height and scale of the development proposed is out of character with the area which is stated to contain largely single storey dwellinghouses. There is in fact quite a mix of building types in this area ranging from medium density modern housing to large period houses on substantial sites. In the immediate vicinity of the site is a particularly low dwellinghouse which is stated to be a converted stable.

- 7.3.2. In the context of the substantial size of the site and the retention of trees to the west and east of the proposed house I submit that it will have very limited visual impact from these directions. I consider that there would be very distant views from the house to the east and that the house would not impact on views from the house to the west (at the opposite side of the road). There is no proposal to remove boundary trees which screen the proposed development from the house to the north.
- 7.3.3. In view of the above I consider therefore that the greatest possible visual impact which might arise in the future would be in the event that the trees and woodlands along Lehaunstown Lane were removed – that is not within the control of the applicant. The side gable of the house would then be more visible and in this regard I refer the Board to the contextual Elevation B-B. I consider that the building is of acceptable design comprising of a number of small scale modules and elements and that its apparent scale and height are acceptable.
- 7.3.4. I have referred above to the limited change in character which would result from the development. Development management guidance in section 8.2.3.4(vii) of the plan, which relates to infill development requires that development respect the height and massing of existing residential units and retaining the physical character of the area. In terms of the wider area my opinion is that the proposed detached two-storey house (plus attic) will comply with the requirements set out in the development plan. I note that the applicant has referred to the separation distances between the house to the south (13m), the existing house (6.5m) and the house to the east (58m) and to the roof profile and the relatively shallow depth of the house.
- 7.3.5. In conclusion I agree with the applicant that the proposed development would not be described as excessive or overbearing and that any minor impacts on residential amenity which do arise would impact on the applicant's property.

#### **7.4. Traffic Management Plan**

- 7.4.1. The history of refusals of permission for development in this area including for 2 no. houses are related in no small part to the narrow nature of the Brennanstown Road, which is heavily trafficked. The recently adopted development plan provides for limited development pending the implementation of an agreed plan for the road. The Transportation Planning Section of the Council considers that the proposed

development is acceptable and can reasonably be described as a 'minor infill'. I agree with this conclusion and as such I consider that the proposed development complies with the relevant policy provisions. The site layout proposed does not impact on the possible provision of a roundabout as part of any further road scheme. I consider that the reasons for refusal which resulted in the previous refusals of permission do not arise in this case.

7.4.2. Having regard to the nature of the entrance arrangements, the limited scale of the development and the entrance sightlines, which I consider are acceptable in the circumstances, I conclude that the proposed development is acceptable in terms of traffic safety and would not be described as premature.

#### 7.4.3. **Other issues**

7.4.4. Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

7.4.5. A certificate of exemption under Part V has been secured.

7.4.6. A supplementary contribution towards Luas is payable.

### 8.0 **Recommendation**

8.1. I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

### 9.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development and the spacious nature of the site, to the pattern of development in the vicinity, and to the design of the proposed dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of neighbouring properties, would comply with the provisions of the current Development Plan for the area, particularly in terms of the protection of trees and woodland and in relation to infill housing, and would be

acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as revised by the submissions received by the planning authority on 14<sup>th</sup> day of February 2017 and the 16<sup>th</sup> day of March 2017 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. All glazing at the first floor side / north window to Bedroom 3, ground floor WC, the first floor en-suites and bathroom and to the double height stairwell window on the side / north elevation, shall be permanently fitted with opaque or frosted glass.

**Reason:** In the interest of protecting the residential amenities of adjoining properties.

3. Water supply and drainage arrangements including the attenuation and disposal of surface water shall be in accordance with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0700 to 1800 hours Monday to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall be allowed only in exceptional circumstances where prior written approval has been received from the planning authority.

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

5. Details of the external finishes of the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. The roof shall be blue-back or slate-grey in colour only, including ridge tiles.

**Reason:** In the interest of visual amenity.

6. The internal access road to the proposed house shall be in accordance with the site layout received by the planning authority on 16<sup>th</sup> March 2017. A revised tree protection plan including specific measures to protect tree no. 863 shall be submitted for written agreement of the planning authority.

**Reason:** In the interest of tree protection.

7. Prior to the commencement of any permitted development or any related construction activity or tree felling on the site, the developer shall lodge a tree bond to the value of €10,000 (ten thousand euro) with the planning authority. This is to ensure the protection of trees on and immediately adjacent to the site to make good any damage caused during the construction development. This relates in particular to Tree number 863 and trees along the Brennanstown Road, which shall be retained as part of the development. The bond lodgement shall be coupled with an Arboricultural Agreement, with the developer, empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on or immediately adjoining the site, or the appropriate and reasonable replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development. Any replacement planting shall use large semi-mature tree size(s) and species or similar as may be stipulated by the planning authority.

**Reason:** To ensure the protection, safety, prudent retention and long term viability of trees to be retained on and immediately adjacent to the site.

8. Prior to the commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all the recommendations in the tree reports and plans. The developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, in accordance with as detailed in the Arboricultural Method Statement and Tree Protection Plan. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on

retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1<sup>st</sup> March – 22 August inclusive) or as stipulated under the Wildlife Acts, 1976 and 2000.

**Reason:** To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

9. Prior to the commencement of any permitted development, the developer shall agree in writing with the planning authority, a suitable landscaping plan prepared by a landscape architect or qualified landscape gardener in accordance with the arborist's report submitted with the application and to provide for replacement tree planting and suitable screening at a minimum 25-35 centimetres girth.

**Reason:** To mitigate against the loss of the mature trees and to retain the sylvan character of the site.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

11. The developer shall pay to the planning authority a financial contribution as a contribution under section 49 of the Planning and Development Act 2000, as amended, in respect of the extension of LUAS line B from the Sandyford Depot to Cherrywood, namely LUAS line B1. The amount of the contribution shall be agreed between the planning authority and the developer or, in

default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Mairead Kenny  
Senior Planning Inspector

28<sup>th</sup> July 2017