



An  
Bord  
Pleanála

## **S. 6(7) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report on Recommended Opinion ABP300144-17.**

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#### **Strategic Housing Development**

Demolition of a dwelling and nursery buildings and construction of 115 dwellings (26 houses and 89 apartment/duplexes), ESB sub-station, footbridge over Cabinteely Stream and works to upgrade Brennanstown Road.

#### **Location**

Former Doyles Nurseries and Garden Centre and Benoni, Brennanstown Road, Cabinteely, Co. Dublin.

#### **Planning Authority**

Dun Laoghaire-Rathdown County Council.

#### **Prospective Applicant**

Vimovo Doyles Ltd.

#### **Date of Consultation Meeting**

4 December 2017.

**Date of Site Inspection**

30 November 2017.

**Inspector**

Stephen Rhys Thomas.

## 1.0 Introduction

Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the planning authority, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

## 2.0 Site Location and Description

The site is located on lands associated with Doyles Nursery and Garden Centre and an adjacent bungalow (Benoni) in Cabinteely, Dublin 18. The triangular shaped site is located to the rear of existing dwellings along Brennanstown Road. The vehicular access to the site is taken from Brennanstown Road opposite the entrance to an existing housing estate. Pedestrian access to Cabinteely village is proposed across the Cabinteely Stream to existing public open space and an adjacent housing estate. The overall site area that forms the basis for the application is 2.25ha and includes a large section of public road. However, the main development site has a stated area of 1.85ha and is located about 400m from the junction of Brennanstown Road with the Old Bray Road in Cabinteely village.

The subject site slopes downwards from the rear of houses in the west to the Cabinteely stream in the east. The western side is a narrow plateau along the rear boundaries of the houses which front onto Brennanstown Road and accommodates disused sheds/offices/greenhouses associated with the garden centre. The sloped area of the site and the eastern edge along the stream is a mixture of wooded areas and disturbed ground. There are areas of heaped spoil at the south eastern portion of the site alongside the stream. The garden centre abuts the south western portion of the site and the remainder abuts the boundary of apartments and houses at Brennanstown Square. The area alongside the stream is relatively flat. The rear boundary of houses associated with Carraig Glen are significantly higher than the public open space on the eastern bank of the stream. The original stone retaining

wall to the lands now occupied by Carraig Glen exhibit interesting features including a small brick arch drainage channel.

Opposite the proposed access to the site is an existing entrance to two housing developments – Holmwood and Lambourne Wood – approximately 130 houses overall. A narrow footpath on the western side of Brennanstown Road links these developments to Cabinteely Village. Just before the junction of Brennanstown Road with the Old Bray Road in Cabinteely village there is a road bridge over the Cabinteely Stream. Immediately adjoining this is the start of a proposed trail, part of a Development Plan objective to create a ‘green way’ walking/cycling route. A pedestrian entrance to Cabinteely Park is located at a ruined gate lodge opposite Doyles Nursery and Garden Centre.

South along Brennanstown Road the footpath runs along the western side of the road. About 300m south of the site entrance there is a junction with the Lehaunstown Road; this is a narrow single lane country roadway with no pedestrian/cyclist facilities; it links Brennanstown Road to Laughanstown LUAS station. After the junction of Lehaunstown Road and Brennanstown Road the footpath ceases for about 200m. Thereafter Brennanstown Road continues west to a junction with Glenamuck Road along which there is a footpath.

### **3.0 Proposed Strategic Housing Development**

3.1.1. The proposed development of 115 dwellings (26 houses and 89 apartments/duplexes), the detail comprises:

- 18 three bedroom houses.
- 2 four bedroom houses.
- 6 four+ bedroom houses.
- 13 one bedroom apartments.
- 54 two bedroom apartments.
- 22 three bedroom apartments.

The apartments are arranged around six blocks from two to six storeys in height.

There are also measures proposed to upgrade the Brennanstown Road and connect the site to Cabinteely Village and Stillorgan QBC via a new foot bridge over the Cabinteely stream.

An existing dwelling house will be demolished in addition to a number of greenhouse/office structures associated with the nursery.

The net residential density is 62 units per hectare. The public open space is 1,875 sq.m. (10%), communal open space 1,000 sq.m. (5.3%), private open space is 1,025 sq.m. and a riparian strip of 1,600 sq.m. (8.6%). 190 car parking spaces are proposed along with 164 bicycle spaces and 7 motorcycle spaces.

#### 4.0 **Planning History**

##### 4.1 Subject site:

**PA reference D15A/0120 ABP reference PL244873** permission refused for Demolition of 'Benoni' and extant buildings and the construction of 26 houses and 89 apartments. September 2015.

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 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, therefore, endanger public safety by reason of traffic hazard.

##### 4.2 Nearby sites (Brennanstown Road):

**PA reference D17A/0819.** Replacement dwelling. No Decision.

**PA reference D16A/0852 and ABP reference PL06D.248475** permission refused for a house. August 2017. Reason 1 is relevant as follows:

1. The Board had regard to its previous decision under An Bord Pleanála appeal reference number PL 06D.246316 and noted that traffic and pedestrian improvements proposed in the Brennanstown Road Traffic Management Scheme have not yet been implemented and considered that the proposed development would be premature pending the determination by the planning authority of a road layout for the area.

**PA reference D15A/0035 and ABP reference PL06D.245031** permission refused for a house and new vehicular entrance. September 2015. Reason 2 is relevant as follows:

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a heavily trafficked road at a point where sightlines are restricted. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

**PA reference D07A/0161 and ABP reference PL06D.227861** permission granted for 158 residential units, 2 new entrances onto Brennanstown Road. September 2008. Condition 28 with regard to a special contribution and specified works is relevant.

**PA reference D06A/0713 and ABP reference PL06D.218627** permission refused for 173 apartments.

## 5.0 National and Local Planning Policy

### 5.1 Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant S.28 Ministerial Guidelines are:

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' and associated relevant excerpts from Circular PL 11/2016; APH 5/2016 (B2R).

- ‘Design Manual for Urban Roads and Streets’.
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’).
- ‘Childcare Facilities – Guidelines for Planning Authorities’.
- ‘Architectural Heritage Protection - Guidelines for Planning Authorities’

## 5.2 Statutory Plan for the area

The **Dún Laoghaire-Rathdown County Development Plan 2016-2022**, is the operative county development plan and contains general policies and objectives in relation to walking and cycling, the principles of development, residential amenity standards and urban design.

Specific Local Objectives indicated on Development Plan maps include:

**SLO46** To create a linear park along the Loughlinstown river incorporating a pedestrian route and cycleway (greenway), which will link Cabinteely Park to the sea at Rathsallagh.

**SLO130** 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.

In addition, there are policies and objectives that are specific to the area around the site and include:

### **Policy OSR8: Greenways Network**

It is Council policy to develop a comprehensive network of County Greenways linking parks and public open spaces and to liaise with adjoining local authorities and other stakeholders to achieve and improve wider external linkages and corridors.

- Loughlinstown Greenway (Cornelscourt via Cabinteely Park and Cherrywood to the Coast at Shanganagh Cliffs).

### **Policy ST25: Roads**

It is an objective of the Council to preserve the existing character of Brennanstown Road whilst undertaking a Traffic Management Scheme that will:

- reduce traffic speeds and improve road safety.
- provide improved facilities for vulnerable road users.
- reduce through traffic.
- facilitate the development of zoned lands.

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 Brennanstown Road 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 implemented (Refer to SLO No. 130 Maps 7 and 9).

**Policy ST27:** Traffic and Transport Assessments and Road Safety Audits

**Policy ST29:** Road Safety

**Policy ST30:** Traffic Management.

The portion of the site that shows amendments to Brennanstown Road is located adjacent to the boundary walls of Cabinteely House (Record of Protected Structures reference number 1683).

## 6.0 **Forming of the Opinion**

Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submissions and the discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

### 6.1 **Documentation Submitted**

The prospective applicant is required to submit certain information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Regulation No. 285 of the Planning and Development (Strategic Housing Development) Regulations 2017.



The information submitted included: OS location map, complete application form, site layout plans, a landscape masterplan, AA screening report, ecological impact assessment, bat survey, Arboricultural report, environmental report, design statement, photomontage and CGI report, flood risk assessment, mobility management plan, quality audit, road safety audit, traffic and transport assessment, public lighting report, childcare capacity report, daylight and sunlight report, planning report, drawing package including floorplans and elevations, construction environmental management plan, statement of consistency with planning policy report, part V requirements and costs and a completed pre-connection enquiry feedback form from Irish Water.

I have reviewed and considered all of the above mentioned documents and drawings.

## 6.2 Planning Authority Submission

In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Dún Laoghaire-Rathdown County Council, submitted a copy of their section 247 consultation record with the prospective applicant (including documentation that was submitted as part of the pre-application consultation) and also submitted their opinion in relation to the proposal. These were received by An Bord Pleanála on the 29/11/2017.

The planning authority's 'opinion' included, *inter alia*, the following: reference to relevant planning histories including a Part 8 application; a description of the site and surrounding area; an assessment of the proposed development in the context of the County Development Plan; details of the prospective development including density, building height, residential mix, height, scale and design, layout, daylight and sunlight, separation distance between proposed and existing development, Part V compliance, traffic & transport, apartment standards, childcare facilities, open space provision, taking in charge and drainage. The planning authority concluded that the principle of the development is consistent with the strategic objectives of the statutory development plan for the area. However, the planning authority are concerned about the material contravention of a specific local objective that requires improvements to the Brennanstown Road and limits all but minor infill and domestic development.

The planning authority's opinion also concluded with a list of matters that require further consideration and amendment. These related to: the material contravention of SLO130 and the physical deficiencies of Brennanstown Road, the lack of clarity in relation to land ownership and road improvements, more discussions are required in relation to flood risk assessment and surface water proposals, there are open space issues, the lack of a crèche facility requires greater assessment and research, cycle spaces are not clearly defined, car parking spaces for disabled users are not well located, landscape plans should be clarified in relation to gravel paths and mown paths, penetration of sunlight to five dwellings could be improved, detailed section drawings should show relationship between slopes and existing dwellings, the boundary treatment to the remaining nursery should be detailed.

The planning authority's submission also included internal reports from the Drainage Planning Section, the Transportation Planning Section, the Biodiversity Officer, the Housing Department and the Senior Executive Parks Superintendent.

There was a single formal pre-application consultation meeting held between the prospective applicant and the planning authority pursuant to s.247 of the Planning & Development Act 2000 (as amended). This was held on the 19/09/2017. The planning authority have submitted a copy of documents discussed at those consultation meetings. Issues raised at the meeting included, inter alia, the following: overcoming the reason for refusal of the previous planning application (D15A/0120), presentation of a robust rationale for the material contravention of SLO130, the applicant should liaise with the Council Landowner for lands outside their control, proposals for Brennanstown Road, significant emphasis should be placed on pedestrian and cyclist connections, flooding issues require additional input, biodiversity proposals, Part V consensus prior to lodgement of an application, shadow and daylight studies required, a travel plan, taking in charge details necessary, bike and bin storage clarity, childcare facilities assessment, greater amount of long sections through the site, revised dwelling at site entrance and accordance with national guideline documents. There are also numerous emails that indicate additional meetings were held separately with various departments of the Council.

All of the documentation submitted by the planning authority has been reviewed and considered by the undersigned as part of the opinion forming.

### 6.3 Consultation Meeting

A section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 4 December 2017, commencing at 10.00am. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

The main topics raised for discussion at the tripartite meeting were based on the Agenda that issued in advance and contained the following issues:

1. Specific Local Objective (SLO130).
2. Compliance with Design Manual for Urban Roads and Streets - Brennanstown Road and land ownership/consents.
3. Pedestrian/Cyclist Connections – footbridge design, land ownership.
4. Detailed Design – residential amenity.
5. Flood Risk.
6. Any other matters.

In relation to SLO130, ABP representatives sought further elaboration/discussion on the following: the applicant's approach to adequately demonstrating their design approach in the context of SLO130 and other Development Plan Objectives (ST25), the acceptability of the design approach to Brennanstown Road amendments and the mechanism by which they can be delivered.

In relation to the Design Manual for Urban Roads and Streets, ABP representatives sought further elaboration/discussion on the following: whether alternative methods for the creation of a junction with Brennanstown Road had been explored, such as a signalised junction, can pedestrian and cyclist volumes (existing and proposed) be incorporated in to modelling in order to assess the acceptability or otherwise of a roundabout junction.

In relation to pedestrian and cyclist connections between the site and other sites, ABP representatives sought further elaboration/discussion on the following: greater clarity on the footbridge design, the location of the footbridge landing on public open space near an existing stone retaining wall, the possibility of achieving a pedestrian

linkage to the south at Brennanstown Square and the identification of landownership and legal consents.

In relation to detailed design and residential amenity, ABP representatives sought further elaboration/discussion on the following: greater clarity in relation to demonstrating that the future occupants of lower ground floor apartments will receive adequate light and appropriate levels of privacy.

In relation to Flood Risk issues, ABP representatives sought further elaboration/discussion on the following: that the Flood Risk Assessment accords with the requirements of the drainage section of the Council and the restriction upon development in flood zones A and B, clarity in relation to the methodology and approach to surface water management of the site particularly in relation to Long Term Storage and Stormwater Audit Procedure.

Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting 300144' which is on file. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

## **7.0 Conclusion and Recommendation**

Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Proposed residential development and County Development Plan Specific Local Objectives are noted. However, given the submission of an appropriate statement at application stage in accordance with section 8 of the 2016 Act, and the applicant's response to the 'Opinion', the matter can be further considered and determined at application stage.

I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the s.28 Ministerial Guidelines, and local policy, via the County Development Plan.

Having regard to all of the above, I recommend that further consideration and/or possible amendment of the documents submitted are required at application stage in respect of the following elements: Brennanstown Road in the context of DMURS and surface water management; details of which are set out in the Recommended Opinion below.

Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

I would also recommend that the prospective applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

## **8.0 Recommended Opinion**

An Bord Pleanála refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála is of the opinion that the documentation submitted requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

### 1. Design Manual for Urban Roads and Streets

Further consideration of documents as they relate to the layout and configuration of the proposed amendments to Brennanstown Road and new site entrance, with specific reference to Chapter 4 Street Design of the Design Manual for Urban Roads and Streets. Brennanstown Road lacks a number of pedestrian facilities such as footpaths and crossing points; the applicant should provide an analysis of future pedestrian demand, take a balanced approach and examine all appropriate junction design alternatives in consultation with the planning authority and provide a rationale for the optimum design solution for the entrance to the site. In addition, design proposals should take account of any reconfigured entrance to the existing garden centre. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

### 2. Surface Water Management

Further consideration of the documents as they relate to surface water management for the site. This further consideration should have regard to the requirements of the Drainage Division as indicated in their report dated 22<sup>nd</sup> November 2017 and contained in Appendix A (page 30) of the Planning Authority's Opinion. Any surface water management proposals should be considered in tandem with any Flood Risk Assessment, which should in turn accord with the requirements of 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices'). Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission:

1. Additional photomontage images and a series of drawings, specifically cross sections at appropriate intervals to illustrate the topography of the site, showing proposed and existing dwellings and interactions with landscape elements. Attention should be drawn to the impact of the existing nursery retaining wall. Drawings should be appropriately scaled and rendered in colour. Site sections should be clearly labelled and located on a layout 'key' plan.
2. Childcare demand analysis and the likely demand for childcare places resulting from the proposed development.
3. An appropriate statement in relation to section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, that outlines consistency with the relevant development plan and that specifically addresses any matter that maybe considered to materially contravene the said plan.
4. A parking layout that details the most appropriate location for disabled car parking spaces and convenient locations and facilities for bicycle parking.
5. A full and complete drawing that details all boundary treatments, including proposals for Doyles Nursery and Garden Centre.
6. Supporting design rationale should be given to improving residential amenity for future occupants by demonstrating the maximisation of sunlight to apartments and addressing issues to do with daylighting and overshadowing. Specific attention should be paid to proposed accommodation at ground and lower ground levels in blocks E1, E2, E3, E4 and D in terms of floor to ceiling heights, overhanging elements and distance to the basement car park wall.
7. A phasing plan for the proposed development.
8. A site layout that details areas to be taken in charge by the local authority.
9. Given the proposed amendments to Brennanstown Road, the applicant should provide an assessment of the impact on the boundary walls of Cabinteely House (Record of Protected Structures reference number 1683) and any other designated Protected Structures in the vicinity.

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the

following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. National Transport Authority
2. Inland Fisheries Ireland (regarding works over, along and adjacent to a river)
3. Minister for Culture, Heritage and the Gaeltacht (works that may detract from a protected structure)
4. Heritage Council (works that may detract from a protected structure)
5. An Taisce — the National Trust for Ireland (works that may detract from a protected structure)
6. Irish Water
7. Dun Laoghaire Rathdown County Childcare Committee

**PLEASE NOTE:**

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

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Stephen Rhys Thomas  
Planning Inspector

15 December 2017