



An  
Bord  
Pleanála

## Inspector's Report

**ABP-303675-19**

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<b>Development</b>	Permission for 72 Dwellings
<b>Location</b>	Site (c.1.46ha) at Ards, Cartref and lands to the rear of Foxley, Old Bray Road, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0551
<b>Applicant(s)</b>	Castlethorn Management Services UC
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Cara & David Toner Jane & Michael Culligan
<b>Observer(s)</b>	John O'Neill
<b>Date of Site Inspection</b>	18/06/2019
<b>Inspector</b>	Gillian Kane

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## 1.0 Site Location and Description

- 1.1.1. 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 on the cul-de-sac road south of Cabinteely village crossroads. The cul-de-sac runs 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 dwellings 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. The other significant development served by Old Bray Road is Brennanstown Square, a large residential scheme to the west.
- 1.1.2. The site contains two detached dwellings neither of which are of particular architectural interest, together with the associated gardens. 'Ards' is a two-storey, flat-roofed house, which appears unoccupied and an overgrown garden. There are mature cypresses to the west of the house. 'Cartref' is a dormer bungalow with granite roadside boundary wall. There is a mature eucalyptus tree in the front garden of the house. To the north, this house abuts the curtilage of 'Glenowen', a large, extended, two-storey house. To the north again is 'Santessa', a dormer bungalow. To the rear of the houses is a large grassed and overgrown area 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 approx. 10m over the distance between the curtilage of the houses and the park to the west.
- 1.1.3. The Brennanstown development is a mixture of houses and apartments blocks of five storeys. It is accessed from the Old Bray Road – to the north of the appeal site.

## 2.0 Proposed Development

2.1.1. On the 8<sup>th</sup> June 2018 planning permission was sought for the demolition of two dwellings and construction of 72 no. residential units on a 1.43ha site within Cherrywood SDZ but outside the planning scheme boundary. The proposed development comprises:

- Demolition of 'Cartref' 206.5sq.m.
- Demolition of 'Ards' 263sq.m.
- Construction of two 3-5 storey buildings of 46 no. apartments (16 no. one-bed, 29 no. two-bed, and one three-bed unit).
- Construction of 18 no. three-bed two storey houses, 8 no. two-storey plus attic, four-bed, semi-detached houses
- 103 no car parking spaces comprised of 32 no. semi-basement and 71 no. surface
- 109 no. bicycle shelters
- Pedestrian link to existing linear park adjoining Cabinteely Stream

2.1.2. In addition to the required schedule of drawings, the application was accompanied by the following:

- Planning Report
- Design Statement
- Housing Quality Assessment
- Landscape Design Report
- Engineering Assessment Report
- Flood Risk Assessment
- Construction and Waste Management Plan
- Archaeological Assessment
- Arboricultural Survey Report
- Ecological Impact Assessment Report
- AA Screening Report
- Letter of Consent from adjoining landowner.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. On the 23<sup>rd</sup> January 2019, the Planning Authority issued a notification of their intention to GRANT permission subject to 32 no. conditions. Conditions of note include:

11: de-exempt development at house no.s 1,2,5,6,7,8,9,10,11, 12 and 13.

15: Arboricultural Consultant

16: Landscape Architect

19: Ecologist

20: Final site-specific Construction and Environment Plan

21: Green roof on Apartment Block 1 to comprise 60%

23 & 24: Stormwater Audit

25: Construction Waste Management Plan

26: Phasing schedule to be agreed

#### 3.2. Planning Authority Reports

3.2.1. **Housing Department:** Section 96 condition required if permission is granted.

3.2.2. **Biodiversity Officer:** Retention of boundary hedgerows and treelines with a 3m buffer required. Site specific construction and environmental management plan (CEMP) required.

3.2.3. **Cherrywood Development Agency Project Team:** Notes comments of Biodiversity Officer. Proposed removal of trees and hedgerows could have a negative impact on habitats and biodiversity. Burial ground is partly within the site. Archaeological Assessment submitted states that archaeological remains are located within proposed development area. Surviving part of enclosure RMP026-119 (burial ground) will be preserved as open space. Subject to conditions, proposal would be in line with the relevant objectives of the Planning Scheme.

3.2.4. **Transportation Planning:** Estimated number of trips is conservative in comparison to adjoining Brennanstown development (221 no. dwellings generating 90 trips out and 14 trips in, AM peak). Development requires 114 no. car spaces, acceptable given proximity of public transport. Further information required on proposed bicycle parking and auto-track for waste collection / emergency vehicles. 12 no. items of Further Information recommended.

3.2.5. **Planning Report:** Notes the reports received from Dun Laoghaire Rathdown departments, prescribed bodies and objectors. FI should be requested where advised. States that the principle of the proposed development is acceptable. Proposed density, height, housing mix are acceptable. Due to the overgrown nature of the site it is difficult to gain a full understanding of the significant changes in site level. Applicant should be requested to show the relationship with existing dwellings. Further information request recommended.

### 3.3. **Prescribed Bodies**

- 3.3.1. **Inland Fisheries Ireland:** Proposed development is located on Cabinteely Stream, in catchment of Loughlinstown River. Only clean uncontaminated water should enter the river. To avoid impact on surface water or riparian habitats best practice should be implemented. Dewatering from excavations must be via settlement areas. Stored top soil must not allow deleterious material to enter the surface water network. Drainage to be directed to settlement area for treatment. Planned surface water outfall to Cabinteely stream should be subject to an agreed method statement with IFI. Method statement required for connection to existing foul water system crossing the Cabinteely stream, preferably using tunnelling or boring techniques. Section 6.1.2 of the Ecological Impact Assessment should be a condition of planning. Condition to be added requiring the owner to enter into an annual maintenance contract for the efficient operation of the petrol / oil interceptor and silt traps. All discharges to be in compliance with EC (Surface Water) Regulations 2009 and the EC (Groundwater) Regulations 2010.
- 3.3.2. **Dept. of Culture, Heritage and the Gaeltacht:** No archaeological objections to the proposed development subject to the implementation of the archaeological mitigation proposals as set out in section 5.2 of the Archaeological Assessment Report. Proposed planting of native trees and hedgerows would not adequately compensate of biodiversity loss arising from the removal of existing vegetation. Hedgerows form part of the Dun Laoghaire Rathdown Ecological Network. Should permission be granted, two conditions recommended.

### 3.4. Third Party Observations

- 3.4.1. 15 no. objections to the proposed development were submitted to the Planning Authority. The objections related to traffic, density, impact on archaeological heritage, overlooking of existing dwellings, existing trees on site, drainage infrastructure, design, scale and height of proposed development.

### 4.0 Further Information

- 4.1.1. On the 2<sup>nd</sup> August 2018, the applicant was requested to provide the following further information:

- 1 5 no. additional plans
- 2 Revised layout showing retention of hedgerows and trees. Updated Ecological Impact Assessment
- 3 Comprehensive Tree Report, Tree Survey and Arboricultural Impact Assessment, Universal Access Map
- 4 Details regarding drainage and flood risk
- 5 Traffic and Transportation details

- 4.2. On the 18<sup>th</sup> December 2018, the applicant responded to the above request, stating that the response did not qualify as “significant further information” and therefore did not need new public notices. The response to the request proposed the following revisions:

- 3m wide buffer / development exclusion zone along western boundary, allowing a 3m break to provide pedestrian route to the linear park and a 3m gap to provide services.
- Relocation and reduction in footprint of Block 2 to respect buffer zone
- Reconfiguration of block 1 to relocate balconies to north & south elevations. Realignment of pedestrian access.
- 1 no, additional car space (total 104 no. spaces)
- Revised mix of units in block 2: 19 no. one-bed, 26 no. two-bed, and 1 no. one-bed.
- Increase in rear garden no. 3, revision to boundaries of house no.s 3 and 4, amendment to house 3, change in gradient of driveway to house no.s 5-13,
- EVC points for 10 no. spaces
- Reconfiguration of bicycle space provision with 6 no. additional spaces



- Public street lighting incorporating bat protection measures,
- Bat boxes in retained hedges and retained woodland, bird nest boxes on trees in public open space.

#### 4.3. Reports on File following submission of FI

- 4.3.1. **Housing Department:** Revised mix is acceptable.
- 4.3.2. **Cherrywood Development Agency Team:** Root protection area for Hedgerows B and D is within the rear private amenity space for the dwelling at the south-east boundary. Condition should be attached ensuring the retention and protection of Hedgerows B and D and all trees within Cherrywood SDZ boundary area. Condition recommended. Should permission be granted condition should be attached that requires all development to be undertaken in accordance with section 5.2 of the Archaeological Assessment Report.
- 4.3.3. **Drainage Planning:** No objection subject to 5 no. conditions.
- 4.3.4. **Transportation Planning:** No objection to the proposed development subject to one condition.
- 4.3.5. **Planning Report:** No further concerns regarding item 1 of the FI request. To address item 2, suitable condition requiring the retention of an ecologist to supervise the mitigation and compensatory measures along with a Construction and Environmental Management Plan. CEMP must also address the concerns of IFI and the Dept. of Arts, Culture, Heritage and the Gaeltacht. Response to item 3 is in compliance with policy LHB26 and LHB24 regarding protection of trees and hedgerows. Insufficient detail regarding universal access provided, can be requested by way of condition. No further issues regarding drainage, flood risk assessment, transportation or boundary treatments. Recommendation to grant permission subject to conditions. Design and layout of proposed development will provide a high standard of residential amenity.

## 5.0 Relevant Planning History

- 5.1.1. In 2016 **PL06D.246159:** Planning permission was refused for 51 no. dwelling units on the grounds that

- 1 "It is the policy of the planning authority as set out under RES3 of the Dún Laoghaire-Rathdown Development Plan 2016-2022 to promote higher residential densities. The site is located within 500 metres 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”.

5.1.2. In 2009 **PL06D.230861**: Planning permission was refused for 127 no. residential units for the following reasons:

- 1 Having regard to the deficient capacity of the local road network, it is considered that the proposed development, by reason of scale and density, 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. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed 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 “Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities” issued by the Department of Environment, Heritage and Local Government, in December 2008 which seeks to ensure a more plan-led approach to development. Furthermore, the proposed development would be premature pending the determination by the planning authority of a road layout for the area in conjunction with the Local Area Plan which will offer an alternative access to the site rather than by the congested Cabinteely Village Crossroads. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.1.3. In 2007 **PL06D.220921** planning permission for 77 no apartments was granted subject to 22 no. conditions. Condition no. 2 referred to the re-positioning of blocks to ensure 15m separation with site boundaries and other minor amendments. Condition

4 referred to the provision of a pedestrian route through site linking Old Bray Road with the public open space flanking Cabinteely Stream – route to remain open during daylight hours.

## 6.0 Policy Context

- 6.1. The government published the **National Planning Framework** in February 2018. Objective 3c is to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 is to favour development that can encourage more people to live or work in existing settlements. Objective 27 is to prioritise walking and cycling accessibility to existing and proposed development. Objective 33 is to prioritise the provision of new homes that can support sustainable development. Objective 35 is to increase residential density in settlements.
- 6.2. The **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas** were issued by the minister under section 28 in May 2009. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5.11 states that densities for housing development on outer suburban greenfield sites between 35 and 50 units/ha will be encouraged, and those below 30 units/ha will be discouraged. A design manual accompanies the guidelines which lays out 12 principles for urban residential design.
- 6.3. The **Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments** were issued in March 2018. It contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is 45m<sup>2</sup>, for two-bedroom apartments it is 73m<sup>2</sup> and for three-bedrooms it is 90m<sup>2</sup>. Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan, including a requirement for 3m<sup>2</sup> storage for one-bedroom apartments, 6m<sup>2</sup> for two-bedroom apartments and 9m<sup>2</sup> for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.

- 6.4. The minister issued **Guidelines for Planning Authorities on Urban Development and Building Heights (December 2018)**. Section 3.6 states that development in suburban locations should include an effective mix of 2, 3 and 4 storey development. SPPR 4 is that planning authority must secure a mix of building heights and types and the minimum densities required under the 2009 guidelines in the future development of greenfield and edge of city sites
- 6.5. The minister and the minister for transport issued **the Design Manual for Urban Roads and Streets (DMURS) in 2013**. Section 1.2 sets out a policy that street layouts should be interconnected to encourage walking and cycling and offer easy access to public transport. Section 3.2 identifies types of street. Arterial streets are major routes, link streets provide links to arterial streets or between neighbourhoods, while local streets provide access within communities. Section 3.3.2 recommends that block sizes in new areas should not be excessively large, with dimensions of 60-80m being optimal and 100m reasonable in suburban areas. However maximum block dimensions should not exceed 120m. Section 4.4.1 states that the standard lane width on link and arterial streets should be 3.25m, while carriageway width on local streets should be 5-5.5m or 4.8m where a shared surface is proposed.
- 6.6. The **Planning System and Flood Risk Management Guidelines for Planning Authorities (DOEH&LG 2009)**, distinguishes between three types of flood zones. Zone C in which the application site is located is the least susceptible to flooding. The Cabinteely stream to the west of the site is within Flood Zone A.
- 6.7. **Dun Laoghaire Development Plan 2016 -2022**
- 6.7.1. The subject site is located within the Cherrywood SDZ but outside of the planning scheme boundary. The site is zoned Objective A, which seeks to 'protect and / or improve residential amenity.' The site falls within an area subject to a Section 49 Supplementary Development Contribution Scheme for Luas Line B1.
- 6.7.2. The public open space to the west of the subject site is subject to **SLO46** which seeks 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.
- 6.7.3. The eastern section of the site is within the buffer zone of the RMP 026-119 (burial Ground).

## 6.8. Natural Heritage Designations

- 6.8.1. The subject site is 4.5km from the South Dublin Bay and River Tolka Estuary SPA (004024) and the South Dublin Bay SAC (000210), 4.1km from the Dalkey Islands SPA (004172) and 3.7km from the Rockabill to Dalkey Island SAC (00300).

## 6.9. EIA Screening

- 6.9.1. Having regard to nature and scale of the development and the built-up urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 7.0 The Appeal

### 7.1. Appeal of Cara and David Toner

- 7.1.1. A third-party appeal against the decision of the Planning Authority to grant permission has been submitted by the owners of An Gleann Mór, Old Bray Road. The grounds of the appeal can be summarised as follows:
- Proposed development will have a detrimental impact on Cabinteely Village and surrounding area. The village is already congested, and the cul-de-sac is too narrow to support the volume of traffic the development will generate.
  - The cul-de-sac has pay & display parking to relieve congestion in the village.
  - In 2004 the Board refused permission (PL06D.209727) to Tudor Homes on the grounds that it was premature pending “a road layout for the area”. In 2009 (PL06D.230861) the Board refused permission for 127 no. units for reasons relating to transport. The proposed development uses the same access. It would make more sense for the development to use the new access route from Cherrywood onto the N11 adjoining the southern boundary of the site.
  - The retention of ‘Ards’ and ‘Cartref’ the scale of development on the Old Bray Road would be maintained, in accordance with section 8.2.3.4 of the development plan.
  - Traffic hazards will be unavoidable during the three-year construction phase.
  - Photos submitted with appeal.

## 7.2. Appeal of Jane and Michael Culligan

7.2.1. A third-party appeal against the decision of the Planning Authority to grant permission has been submitted by the owners of Little Acre, Old Bray Road. The grounds of the appeal can be summarised as follows:

- Appellant's house borders the subject site on three sides: to the east, west and south-west.
- The proposed development is superior to the three previous applications; however, concerns remain.
- The private driveway to 'Ards' is too narrow to be used for construction traffic. The Board is requested to limit all traffic to using the 'Cartref' entrance only.
- The Board is requested to condition that the Appellant's three boundaries are treated prior to construction.
- House no.s 1 and 2 should be moved further into the site, in order to provide the minimum 11m garden depth.

## 7.3. Applicant Response

7.3.1. The applicant responded to the two third-party appeals. The response can be summarised as follows:

### Traffic

- A Traffic and Transport Assessment is contained within the Engineering Assessment Report. Section 5 includes a modelling of the Old Bray Road / junction in the village centre.
- The assessment found that traffic will increase marginally by 2034. Future public transport initiatives such as Bus Connects E Route and 227 Orbital route from Bray to the city centre. This will encourage further modal shift towards public transport
- The Planning Authority's transportation department have no objection to the proposed development.

### **Roads layout / Access**

- The proposed road layout for the area accords with the Cherrywood SDZ. The subject site does not form part of the planning scheme, which does not provide for an additional access to the subject cul-de-sac.
- The number of dwellings has been reduced to an appropriate scale, one which does not negatively impact the village.
- The Board is referred to the Traffic & Transport Assessment within the Engineering report, the Road Safety Audit Feedback Form (Appendix D of the Quality Audit) submitted in response to the FI request and the 'Response to Request for Further Information' submitted with Roads drawings.
- The Council's Transportation department stated that they had received sufficient information to address the matters raised.

### **Height and Scale**

- The Planning Authority acknowledged that the two dwellings to be demolished are of no architectural merit.
- No infill development is proposed along Old Bray Road.
- The proposed two-storey dwellings have a smaller footprint to the established houses to the east.
- The demolition of 'Ards' provides for the construction of two houses (no.s 3 and 4). The increased density is in accordance national and local policy.
- The proposed dwellings are greater than 22m from the appellants property.
- The sensitively designed apartment blocks of 3-5 storeys sit in the lower site levels in the north-west section of the site. The 5-storey edge addresses both the open space and the adjoining 5-storey apartment blocks.

### **Construction Management**

- The Board is referred to the Construction Management Plan which confirms that construction traffic will be limited to the 'Cartref' entrance.
- Mitigation measures to control site traffic during construction are provided in the CMP.

- A detailed CMP, Construction and Demolition Plan and Traffic Management Plan will be prepared at construction stage. The Planning Authority's condition no, 13 requires a detailed Construction Management Plan in advance of commencement of development. The Board is invited to attach a similar condition.
- Condition no.s 17 and 26 of the Planning Authority's decision require a phasing programme for construction and landscaping works. The Board is invited to attach a similar condition.
- The Applicant is happy to provide the agreed boundary treatment at an early stage of development.

### **Setback Distance**

- Proposed house no.s 1 and 2 are 28m from the rear of the appellants property. This is in excess of the development plan requirement.
- The proposed first floor windows serve bathroom and stairs and will be appropriately treated. No overlooking will arise.
- The proposed design has been carefully considered to address the changes in site level.
- Condition no. 1 de-exempts further development to House no.s 1 and 2, thereby protecting residential amenity.

**Conclusion:** The Board is requested to grant permission for the proposed development.

## **7.4. Planning Authority Response**

- 7.4.1. The Board is referred to previous planning report. Grounds of appeal do not raise any new matter which would justify a change in attitude to the proposed development.

## **7.5. Observations**

- 7.5.1. **John O'Neill**, Sarnath, Old Bray Road: Primary concerns are:
- Increase in traffic through Cabinteely Village, creating further congestion. There is limited visibility from the cul-de-sac.
  - Pay & Display parking area opposite Foxley becomes flooded reducing parking availability.



- Construction traffic should be routed through junction Q, away from the village.
- Proposed block wall along boundary with Sarnath must be 3m high.
- Trees TL3 and TL4 provide screening. They must be replaced with mature trees.
- Rear boundary of Sarnath (not within development boundary) should be planted to maintain a holistic view.

## 8.0 Assessment

8.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Traffic

### 8.2. Principle of the Proposed Development

8.2.1. The subject site is zoned for residential development and has a planning history of residential development being acceptable on site. (The most recent Board decision PL06D.246159 was refused permission on the grounds that the density was not high enough). The proposed development has a density of 50.4 units per hectare which is marginally above the 50 units per hectare recommended by the Inspector under PL06D.246159. Given that the site area has increased, the density has not increased significantly. I note, however, the retention of mature trees and hedgerows, the provision of a 3m buffer zone, all of which reduce the developable area of the site and the better mix of housing types in the subject proposal.

8.2.2. I note the approval of the Transportation, Biodiversity, Drainage Departments of the Planning Authority and consider the issues raised during the request for further information to be addressed satisfactorily. With the exception of traffic, none of the above have been raised by the appellants as an area of concern.

8.2.3. I note the concern of the appellant regarding infill development and integration with the existing development on Old Bray Road. I am satisfied that the scale and extent of the proposed development, combined with its clear set back from the existing houses will mark it clearly as a new and stand-alone development. The topography

of the site is such that the tallest building (5 storey apartment block) is located at the lowest point and at the furthest remove from the existing dwellings.

- 8.2.4. I am satisfied that subject to other planning considerations the proposed development is acceptable in principle.

### 8.3. Traffic

- 8.3.1. One of the appellants requests the Board to condition the development to use the new N11 access road currently under construction to the south of the subject site. The new access road is part of the Cherrywood SDZ planning scheme and has been designed and assessed by the Board as part of the transportation network for the Cherrywood development. To require this under-construction road to accept a new entrance point and additional traffic is not reasonable or appropriate at this stage.
- 8.3.2. Both appellants question the ability of the existing cul-de-sac to absorb the traffic likely to be generated by the proposed development, during construction and operational stage.
- 8.3.3. A traffic and transport assessment was submitted to the Planning Authority as part of the Engineering Report. The report estimates the demand from the proposed 72 no. units to be 67% private car, 8% on foot, 3% cycle, 14% bus and 7% train. This base-calculation leads to an estimated 23 trips (in and out) during the AM peak and 24 during the PM peak. The report carried out a junction analysis, using 'degree of saturation' figures and generating maximum queues for each road. The analysis finds that for most of the roads, the queuing streams increase only slightly. The analysis is based on the traffic counts carried out and presented in Appendix D. The Board will note that the Transportation department of DLRCC considered these counts to be conservative in comparison to the actual trips generated by the adjoining Brennanstown development of 221 no. residential units.
- 8.3.4. It is regrettable that a more thorough analysis of the counts was not presented. Section 5.3 of the report is lacking in comprehensive analysis. At no point is it clearly referenced what the current level of traffic in the village is, at what capacity is the existing parking provision and what will be the predicted impact of the proposed development. I note that the RSA states that no information on anticipated traffic volumes, vehicle sizes or cumulative parking demand was provided to the Audit Team. The RSA states that clarification should be sought on those matters. I also

note the concern of the team, as stated in the RSA, regarding the proposed perpendicular parking spaces and the increased risk this poses for vulnerable road users due to the greater number of reversing manoeuvres in a relatively limited space. The Applicant responded to this in the feedback form (appendix D of the RSA) stating that the low speeds and traffic volumes would remove any safety risk. The submission of the RSA was however that no data regarding traffic volumes had been presented.

- 8.3.5. One can understand the position of the appellants that the impact of the proposed development has not been clearly articulated, nor have their concerns been definitively allayed.
- 8.3.6. On balance, I note the proposed Route E Bus Connects service which is due to pass along the N11 adjacent to the subject site and the new route 227 connecting Blackrock Dart station with Carrickmines Luas stop, both of which will encourage a further move towards public transport. I note the finding of the RSA that pedestrian connectivity between the site and public transport facilities is good for bus. That the site should be developed to a high density is accepted, given the proximity to public transport, and the planning history on the site. Notwithstanding my concerns about the traffic analysis outlined above, the scale of the proposed development is not such that traffic generated should significantly impact the village or surrounding road network. Should the Board decide to grant permission, the developer should be conditioned to abide by the recommendations of the Road Safety Audit.
- 8.3.7. Given the above, I consider the provision of 104 no. car parking spaces to be somewhat excessive. I note the applicant's response to the further information request and draw the Boards attention to page 5 of the O'Mahony Pike 'Further Information' booklet submitted to the Planning Authority on the 18<sup>th</sup> December 2018. The drawing shows the provision of 47 no. spaces for the proposed 26 no. houses. 8 no. visitor spaces and 46 no. spaces for the proposed apartments. I note that the Transportation department calculated that this resulted in a shortfall of 10 no. spaces compared to the development plan requirement, but that it would be acceptable given the proximity to public transport.
- 8.3.8. I raise a concern about the location of the three spaces on the access road and agree with the comment of the Transportation Department that these spaces could be used by commuters rather than residents of or visitors to the development.

Should the Board decide to grant permission, the applicant should be requested to liaise with the Planning Authority regarding a provision of no more than 101 no. car parking spaces, with the omission of the three spaces referred to above.

#### **8.4. Appropriate Assessment**

- 8.4.1. The subject site is 4.5km from the South Dublin Bay and River Tolka Estuary SPA (004024) and the South Dublin Bay SAC (000210), 4.1km from the Dalkey Islands SPA (004172) and 3.7km from the Rockabill to Dalkey Island SAC (00300).
- 8.4.2. The applicant submitted an AA Screening report with the application. The report notes that the subject site is not located within or directly adjacent to any Natura 2000 sites but that a potential source-receptor-pathway exists between the subject site and the Rockabill to Dalkey Island SAC via the surface water and foul water networks. The report states that the large separation distance between the proposed development and the designated site is such that any potential pollutants from surface waters – which would be restricted in duration to storm events – are anticipated to be diluted and absorbed.
- 8.4.3. The Rockabill to Dalkey Island SAC is described by the NPWS as including a range of dynamic inshore and coastal waters in the western Irish Sea. These include sandy and muddy seabed, reefs, sandbanks and islands. The site extends southwards, in a strip approximately 7 km wide and 40 km in length, from Rockabill, running adjacent to Howth Head, and crosses Dublin Bay to Frazer Bank in south Co. Dublin. The site encompasses Dalkey, Muglins and Rockabill islands. The qualifying interests are reefs and harbour porpoise. Reef habitat is uncommon along the eastern seaboard of Ireland due to prevailing geology and hydrographical conditions. Expansive surveys of the Irish coast have indicated that the greatest resource of this habitat within the Irish Sea is found fringing offshore islands which are concentrated along the Dublin coast.
- 8.4.4. The subject site is 3.7km to the west of the SAC with a significant built-environment between. The proposed standard measures to reduce surface water run-off such as attenuation tanks and petrol interceptors in combination with the separation distance are considered to result in a low probability of risk. In view of the above it is considered that having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, it is considered that the proposed

development either individually or in combination with other plans or projects on a European site is not likely to have significant effects on the integrity of the South Dublin Bay and River Tolka Estuary SPA (004024), the South Dublin Bay SAC (000210), the Dalkey Islands SPA (004172) or the Rockabill to Dalkey Island SAC (00300).

## 9.0 Recommendation

- 9.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

- 10.1.1. Having regard to the zoning objective for the site, the pattern of existing and permitted development in the area, the site's accessibility and proximity to good public transport infrastructure, and the desirability of maximising the use of such land, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not adversely impact on the visual amenity or character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted to the Planning Authority on the 18<sup>th</sup> day of December 2018, 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 in writing 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 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the rear garden area of house no.s 1,2,5,6,7,8,9, 10,11, and 12 or within the curtilage of house no. 13, without a prior grant of planning permission.

**Reason:** In the interest of the amenities of the area.

- 3 Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

4. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;

(c) Pedestrian crossing facilities shall be provided at all junctions;

(d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

(e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site

(f) Electric Vehicle Charging Point provision shall be as per item no. 5(v) in the response to the Planning Authority, dated 18<sup>th</sup> December 2018.

(g) At least one car parking space shall be allocated to each residential unit within the scheme. Car parking spaces shall be sold off in conjunction with the units and shall not be sold or let separately.

(h) The proposed three car parking spaces on the northern side of the entrance road shall be omitted. Total car parking space provision shall not exceed 101 no. spaces.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

- 5 The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

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

6. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:

(a) Specific trees, the removal of which is authorised in writing by the Planning Authority to facilitate the development

(b) Trees which are agreed in writing by the Planning Authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

**Reason:** In the interests of amenity, ecology and sustainable development

- 7 Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species

**Reason:** In the interests of amenity, ecology and sustainable development

8. Mitigation and monitoring measures relating to biodiversity outlined in the plans and particulars, including the ecological impact assessment, bat survey and CEMP submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission. In this regard:
  - (a) The applicant shall make available a single document of the mitigation measures/recommendations relating to biodiversity that are outlined in the various documents that form part of the application, for the written agreement of the planning authority. This document shall include a programme for the implementation of the mitigation measures including any monitoring requirements by a suitably qualified ecologist shall accompany this document for written agreement at least 5 weeks in advance of site clearance works
  - (b) Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1<sup>st</sup>- August 31<sup>st</sup>)
  - (c) All buildings proposed for demolition and all mature trees proposed for felling shall be examined for evidence of bats, prior to any works by a bat specialist, including an examination of internal roof features. If required, an NPWS derogation licence shall be obtained
  - (d) Prior to commencement of development, the applicant shall submit a letter from their bat consultants, stating that they are satisfied that the final design of the external illumination proposed will be to the required specification and that the proposed roosts and important bat corridors are not illuminated
  - (e) After installation of the external lighting, a report shall be submitted, prepared by the bat specialist, for the written satisfaction of the planning authority, confirming that it is operating according to specification



**Reason:** In the interest of protecting the environment and to address any potential impacts on biodiversity.

- 9 Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

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

- 10 No additional development shall take place above roof parapet level of the apartment blocks, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenity of property in the vicinity and the visual amenity of the area.

- 11 Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

12. Prior to commencement of development, proposals for an apartment and house numbering scheme and associated signage shall be submitted to the Planning Authority for agreement.

**Reason:** In the interest of orderly development

- 13 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. All works shall be undertaken in accordance with section 5.2 of the Archaeological Assessment Report submitted to the Planning Authority on the 8<sup>th</sup> June 2018. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, following demolition, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site

- 15 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

16 Prior to commencement of development, a phasing programme for the development shall be submitted to the planning authority for agreement.

**Reason:** To provide for the orderly development of the site

17 A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

18 A Final Site Specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing

**Reason:** To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage and flooding

19 The developer shall pay to the planning authority a financial contribution in respect of extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

- 20 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

**Reason:** To ensure the satisfactory completion of the development.

- 21 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.

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Gillian Kane  
Senior Planning Inspector

24 June 2019