



An
Bord
Pleanála

Inspector's Report ABP-304719-19

Development	34 no. unit residential development in the form of 10 no. three storey houses and 13 no. two bedroom apartments and 11 no. duplex apartments.
Location	Western side of the junction of Old Bray Road and Brennanstown Road, Cabinteely Village, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/0763
Applicant(s)	WL Nowlan Real Estate Advisors, Brennanstown Co-Ownership
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Cabinteely & District Residents Association; Terry & Ernie Richardson, Walter Wojciechowski, Robert Cairnduff, Fintan McEvoy,

Gillian and Brendan Donnelly, David Davis.

Observer(s)

Liam Mulcahy, Imelda Gavin, An Taisce.

Date of Site Inspection

27th August 2019

Inspector

Paul O'Brien

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1.0 Site Location and Description

- 1.1. The subject site with a stated area of 0.55 hectares, comprises an irregular shaped area of land to the west of the Old Bray Road and Brennanstown Road junction within the centre of Cabinteely Village, Co. Dublin. The site is undeveloped and is under grass with a number of mature and semi-mature trees growing on these lands. The most prominent feature of this site is a stone wall forming the boundary along the Brennanstown Road and the Old Bray Road. This wall is circa 3 m in height along the Brennanstown Road and is a similar height for part of its length along the Old Bray Road before dropping to circa 1.6 m in height for almost two-thirds of its length. The wall is a rubble stone wall with rough dash finish, though repair works have been undertaken on a section along the Brennanstown Road. Access to the site is from the Brennanstown Road side by way of a modern double gate.
- 1.2. As stated, the site is located within the centre of Cabinteely village and is a prominent feature through its undeveloped state and the stone walls. South east of the site is a two-storey Garda station, to the north west is a part three/ part four storey apartment over commercial units' development, and to the north of the site on the opposite side of the Old Bray Road is a terrace of four single-storey cottages with a single-storey post office. These single storey units are bookended by two-storey commercial units of different architectural eras. The mixed-use development to the north west of the site is of modern construction. Lands to the south of the site form part of the private amenity of a large dormer dwelling. The public Cabinteely Park is located to the west of the subject site.
- 1.3. There is a narrow somewhat low footpath along the Brennanstown Road only on one side, that adjacent to the stone wall boundary. The footpath along the Old Bray Road is wide and of concrete construction. The local authority has narrowed the useable width of this path through the placing of large planters, refuse bins and utility boxes on it.
- 1.4. The Old Bray Road is served by an infrequent bus service providing a connection between Blackrock and Bray/ Newcastle Co. Wicklow. Within 200 m of the site is the Bray Road/ N11 which is served by high frequency bus routes. Carrickmines Luas stop/ Park and Ride site is within 2 km south of the subject site.

2.0 Proposed Development

2.1. The proposed development consists of 34 residential units in the form of:

- A terrace of 10 no. three storey, three-bedroom houses.
- 13 no. two bedroom apartments.
- 11 no. duplex apartments consisting of 1 no. two bedroom unit and 10 no. three bedroom units.
- The stated site area is 0.55 hectares and therefore gives a density of 62 units per hectare.
- All car parking, bicycle/ motorcycle parking, refuse storage and open space provision.
- New vehicular/ pedestrian access from the Old Bray Road and a pedestrian access from the Brennanstown Road.
- Modifications to the existing boundary wall including the formation of 8 no. openings along the Old Bray Road and Brennanstown Road frontages.
- All existing trees on site to be removed.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission following the receipt of significant further information and clarification of further information, subject to conditions. The conditions are generally standard. Specific conditions relate to the road works/ improvements, reuse of existing natural stone kerbstones, revisions to the site entrances, the need for a structural/ condition survey of the boundary wall in addition to details of its repair, bicycle parking details and bat protection measures.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report reflects the decision to grant permission subject to conditions. Significant further information and clarification of further information were sought by the Planning Authority and the applicant responded to these requests. In terms of layout and design, the most significant changes made between the original lodged development and that assessed following receipt of clarification of further information, were the 1 m set back of the north eastern building from the Brennanstown Road and the extension of the red line site boundary to include the footpath and part of the roadway along the Brennanstown Road in order to provide for improvement works here. Other alterations include revised car parking, bicycle parking and entrance details. The layout of the communal open space area has been revised.

3.2.2. **Other Technical Reports**

Transportation Planning: No objection subject to recommended conditions following the receipt of significant further information and clarification of further information.

Drainage Planning – Municipal Services Department: No objection subject to recommended conditions following the receipt of significant further information and clarification of further information.

Conservation Division: Conditions recommended in the event that permission was to be granted.

Architects Section: No objection subject to conditions following the receipt of significant further information and clarification of further information.

Lighting Division: No objection.

Housing: No objection subject to condition.

Parks and Landscape Services: Following the receipt of significant further information, no objection to the development subject to conditions.

3.2.3. **Prescribed Bodies Reports**

Irish Water: No objection subject to recommended conditions.

An Taisce: Concern regarding the impact on the character of the area, on traffic and impact on the stone wall. Recognise that the site is suitable for development.

3.2.4. **Objections**

A number of letters of objection were received to the original application and objections were also received on receipt of the significant further information and clarification of further information. Issues raised are similar to those in the grounds of appeal and in summary they include:

- Increased traffic in an area already suffering from congestion.
- Potential traffic hazard due to layout and proposed entrance location.
- Shortage of car parking in the area.
- Scale and design of building is out of character with the area.
- The development will have a negative impact on existing buildings in the area with reference to the adjacent Garda station and the apartment block to the north.
- Impact on residential amenity through noise, overlooking leading to a loss of privacy and loss of daylight. Reduction in property values.
- Impact on the existing demesne walls.
- The development would set an undesirable precedent in the area for similar development.
- Impact on flora and fauna. Loss of trees, impact on Cabinteely Park and impact on birds in the area.
- Concern regarding capacity of water and drainage services.
- Shortage of school places in the area.

4.0 **Planning History**

P.A. Ref. D18A/0066 and ABP Ref. 301433-18 refers to a January 2019 decision to refuse permission for a 57-unit residential development on this site. A single reason

for refusal was issued and referenced to the design of the development with regard to the four-storey apartment and roof profile being out of character with the area having regard to the bulk and form presenting ‘a monolithic architectural response to the site context’.

ABP Ref. 301044 refers to a May 2018 decision to grant permission for 115 residential units and upgrade to part of the Brennanstown Road with a pedestrian footbridge over the Cabinteely Stream at the former Doyle’s Nurseries & Garden Centre and Benoni, Brennanstown Road, Cabinteely. This site is further south along the Brennanstown Road from the subject site.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A ‘To protect and/ or improve residential amenity’. Residential development is listed within the ‘Permitted in Principle’ category of this zoning objective.
- 5.1.2. Specific Local Objective: SLO 130 ‘To limit development along Brennanstown Road to minor domestic infills and extensions until a Traffic Management Scheme for the area has been completed and its recommended implementation’.
- 5.1.3. Chapter 2 – ‘Sustainable Communities Strategy’ of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, includes section 2.1 ‘Residential Development’. The Introduction (2.1.1) refers specifically to how future population growth will be accommodated, with one model – *‘Through the continuing promotion of additional infill accommodation in existing town and district centres at public transport nodes, brownfield sites and established residential areas’*.
- 5.1.4. Under 2.1.3.3 ‘Policy RES3: Residential Density*’ it is stated that ‘In some circumstances higher residential density development may be constrained by Architectural Conservation Areas (ACA) and Candidate Architectural Conservation

Areas (cACA) designations, Protected Structures and other heritage designations. To enhance and protect ACA's, cACA's, Heritage Sites, Records of Monuments and Places, Protected Structures and their settings new residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity'.

5.1.5. Under 2.1.3.4 'Policy RES4: Existing Housing Stock and Densification**' it is policy to:

- *Encourage densification of the existing suburbs in order to help retain population levels – by 'infill' housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc.*
- *Actively promote and facilitate:*
 - *conversion of existing housing stock to accommodate a larger number of households - principally by subdivision of larger-than-average family houses - in well serviced urban areas.*
 - *development of mews buildings and other infill accommodation which is in harmony with existing buildings.*

Under 2.1.3.7 'Policy RES7: Overall Housing Mix' *'It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy'.*

5.1.6. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development' and the following are relevant to the subject development:

8.2 'Development Management' – with particular reference to section 8.2.3 'Residential Development' and 8.2.3.4 'Additional Accommodation in Existing Built up Areas'.

5.2. National Guidance

- The National Planning Framework includes a specific Chapter, No. 6 - *'People Homes and Communities'* which is relevant to this development. This chapter includes 12 objectives (National Policy Objectives 26 to 37) and the following are key to this development:
 - National Policy Objective 27 seeks to *'Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages'*.
 - National Policy Objective 33 seeks to *'Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location'*.
 - National Policy Objective 35 seeks to *'Increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights'*.
- *Design Manual for Urban Roads and Streets (DMURS)*.
- *Sustainable Urban Residential Development Guidelines (DoEHLG, 2009)* and its companion, the *Urban Design Manual - A Best Practice Guide (DoEHLG, 2009)*.
- *Quality Housing for Sustainable Communities (DoEHLG, 2007)*.
- *Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DoHPLG, 2018)*.

5.3. Natural Heritage Designations

None.

5.4. EIA Screening

Having regard to the nature of the proposed development comprising a residential development of 34 units in the form of apartments and houses in an established urban area and where infrastructural services are available, 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.

6.0 The Appeal

6.1. Grounds of Appeal

The Cabinteely & District Residents Association (CADRA) and a number of individuals have lodged an appeal against the decision to grant permission. The issues raised include:

- Permission was refused for a similar development on this site under P.A. Ref. D18A/0066 and ABP Ref. 301433-18 and whilst the subject development provides for less units, the reasons for refusal regarding impact on the character of the area apply. The subject development is not materially changed from that refused permission.
- Contrary to SLO no.130 which seeks to limit development along the Brennanstown Road until a Traffic Management Scheme for the site have been approved.
- Impact on the character of the area.
- The proposed development would have a negative impact on the stone wall which was part of the boundary wall for Cabinteely Demesne. The condition (no. 7) provided by the Planning Authority does not address these concerns.
- Traffic congestion is already high in the area and the proposed development will only add to this.

- The vehicular entrance is too near to the crossroads in Cabinteely Village and the layout will give rise to traffic issues including traffic safety concerns and congestion.
- Concern regarding the width of the footpath along Brennanstown Road and the ability or otherwise to improve this.
- Character of the village will be negatively impacted upon by this development.
- Permitting the proposed development would set an undesirable precedent for similar development in the area.
- The proposed development contravenes the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022.
- The proposed electricity substation will impact on neighbouring properties by way of noise and vibrations.
- Loss of light and potential loss of heat due to measures in the design of the neighbouring Watermint Building no longer able to function correctly due to the proposed development.
- The proximity of the proposed houses to trees in Cabinteely Park is of concern. In particular the trees in the park may break/ fall on top of the proposed houses which are not a sufficient separation distance away.
- Fire truck access within the site is not sufficiently provided for.
- The proposed development would have a negative impact on the setting of Cabinteely Park.
- The proposed development would give rise to overshadowing through the height of the proposed houses and overlooking of neighbouring properties will be possible.
- Suggested changes to the proposed development include a reduction in height through the removal of one floor from the houses and one floor from the apartment block G01. Removal of Houses H1 and H2 to allow for proper fire truck access. Do not remove trees, do not put water tanks on the roof so as to allow a reduction in height, reduce the scale of development, additional

synchronised traffic light at the site access and relocate the electricity substation to an alternative location on site.

6.2. Applicant Response

A response has been prepared by IMG Planning Ltd and includes:

- The entrance to the site is similar to that considered under the previous application (P.A. Ref. D18A/0066 and ABP Ref. 301433-18) and for which no particular concern was raised. Details are in accordance with the Design Manual for Urban Roads and Streets (DMURS) and the calculated additional traffic is not foreseen to be significant.
- Loss of light to neighbouring properties is not foreseen with particular reference to Watermint to the north of the site. Drawing CAB-P-024-ABP1-Section has been submitted in support.
- Concern regarding the trees within Cabinteely Park is noted, however these are outside of the red line boundary of the site and hence are outside of the applicant's control. Remedial works are identified in the submitted arboricultural report. Loss of trees on site will be off-set by the planting of replacement trees.
- Fire tender access is in accordance with Part B (Fire Safety) of the Building Regulations. Drawing PR224278-ACM-XX-OO-DR-CE-10-2701 has been submitted in support.
- Noise from the electricity substation will not be significant through the nature of this unit and the fact that the transformer etc. is enclosed within the substation building. Existing noise in the area particularly from the Old Bray Road will exceed any noise from the substation.
- Overlooking and overshadowing are addressed through the provision of separation distances of 25.4 m between the proposed development and the Watermint Building; this is in excess of the normally required 22 m separation distance.
- The scale and design of this development is appropriate having regard to the previous application on this site, the location of the site and the existing character of the area.

- The retention of the wall will protect the character of the area.
- All appropriate efforts will be made to ensure the protection of the wall and suitable repairs will be carried out where necessary.
- Upgrading of the pedestrian footpath is similar to what is required by the grant of permission under ABP Ref. 301044-18 at the former Doyles Nurseries and Garden Centre.
- The proposed development does not materially contravene the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022.
- The proposed revisions to the development as suggested in a number of the appeals are not appropriate.
- In summary the development provides for a suitable use of these zoned/ serviced lands by way of a development that is in accordance with National, Regional and local planning policy whilst respecting the character of the area.

6.3. **Planning Authority Response**

- The grounds of appeal do not raise any new matters, so no additional comment is made.

6.4. **Observations**

6.4.1. An Taisce have commented on the appeal and in summary, state the following:

- Agree with much of the appeal comments made by Cabinteely & District Residents Association (CADRA).
- The development will negatively impact upon the demesne wall.
- Whilst welcoming the improvement to the public footpath, there is a concern that these works may impact negatively on the demesne wall.
- Need for traffic management measures in the area having regard to existing traffic conditions.

- 6.4.2. Liam Mulcahy who resides off the Brennanstown Road has submitted comments in objection to the proposed development. Similar issues raised in the appeal have been identified in this submission.
- 6.4.3. Imelda Gavin who also resides off the Brennanstown Road has submitted comments in objection to the proposed development. Similar issues raised in the appeal have been identified in this submission.

7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Principle of Development
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Impact on the boundary wall
- Traffic and Access
- Other Issues
- Appropriate Assessment Screening

7.2. **Principle of Development**

- 7.2.1. The proposed development consists of 34 no. unit residential development in the form of 10 no. three storey houses, 13 no. two bedroom apartments and 11 no. duplex apartments on lands to the south of the Old Bray Road in Cabinteely Village. The site is zoned A 'To protect and/ or improve residential amenity' and residential development of the nature proposed is acceptable in principle.
- 7.2.2. In addition, having regard to the location of the site in an established urban area and the availability of high capacity/ frequency public transport, the site is suitable for residential development at the proposed density of 62 units per hectare. This is in accordance with National Guidelines and County policy.

7.3. Design and Impact on the Character of the Area

- 7.3.1. The subject site is unusual in that it is located within an established, developing urban area with a range of services, yet it has not been developed to date. The boundary wall and lack of development on this site provides its current character. In other locations the site may have been utilised as a public park, however the area is already well served by Cabinteely Park which is adjacent to the rear of this site and is within easy walking distance. The site is therefore appropriate for residential development of the proposed scale.
- 7.3.2. Cabinteely has retained many village type/ scale buildings along the Old Bray Road with more modern development located to the north western end. There are no protected structures in the vicinity of the site and this includes the adjacent Garda station which has been suggested in the appeal as being a protected structure. Similarly, whilst locally important, the existing boundary wall is not protected. The proposed development makes a good attempt at trying to have regard to all these issues and I consider the design as well as the scale of development to be far superior to the previous proposal which was refused permission on appeal.
- 7.3.3. Three storey units are appropriate in this location as they are of a scale that does not dominate the adjacent single and two storey units and yet they integrate with the Watermint Building which is a three/ four storey unit. I consider it important that a suitably scaled building be provided on this corner junction site so as to clearly define the location. The key elevations along the Old Bray Road and the Brennanstown Road are of a standard height but the mass/ bulk of the building is not excessive as the blocks are broken up into small sections. The overall height is slightly exaggerated through the roof lights which project 1.8 m above the roof parapet. By way of revised plans submitted in response to a further information request, the corner section adjacent to the junction of the Old Bray Road and the Brennanstown Road has been set back by 1 m. I consider this to be appropriate as it ensures a sense of openness, protects the character of the boundary wall and retains the definition of this corner site.
- 7.3.4. The apartment design is simple and proposed external finishes of clay brick/ large windows and the use of a flat green roof provide for a suitable development in this

location. Existing buildings including the Watermint are finished in render/ dash; the use of a light-coloured brick is appropriate in this location having regard to medium/ long term weathering whilst not being visually dominating. The grey stone wall will continue to be visually important when viewed from the public road and a light-coloured finish to the apartments will ensure that the wall retains its distinctive character.

- 7.3.5. The proposed houses within the site are considered to be visually acceptable. These will not be easily visible from public locations and therefore do not have an impact on the visual amenity of the area. The design and finish of these units integrates with the apartments.
- 7.3.6. The proposed bin store and electricity substation will be finished in similar materials to the rest of the development. A green roof is to be provided over. Bicycle storage is to be in the form of a timber framed pergola structure with planting over a clear Perspex sheeting to provide shelter from rain etc. The design and finish of these structures is again considered to be acceptable.

7.4. **Impact on Residential Amenity**

- 7.4.1. The proposed development will provide for a high quality of residential accommodation within a mix of dwelling types. Room sizes, storage and private amenity space provision, all demonstrate compliance with the *Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities* (March 2018). Private amenity space exceeds minimum standards and more than one area of space is provided to serve future occupants.
- 7.4.2. The proposed houses are also provided with adequate private amenity space in the form of a garden of 40 sq m and additional terrace space at the upper levels. Storage provision and room sizes are acceptable. I note that the Planning Authority conditioned the removal of exempted development rights under Class 1 and Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 as amended. Considering the relatively short depth of garden and the provision of 40 sq m of open space by way of a garden, it is considered that such a de-exemption is appropriate. This does not prevent the extension of these units in the future, but any such development will require a planning application.

- 7.4.3. The development is provided with circa 700 sq m of communal open space and a children's play area. The open space area is centrally located within a courtyard setting and benefits from passive surveillance. A contribution in lieu of public open space will be required. The proximity of the site to Cabinteely Park is noted and it is considered that future residents will be provided with sufficient amenity space. Bin storage is located conveniently on site and is to serve both apartments and houses.
- 7.4.4. I do not foresee that the proposed development will give rise to overlooking leading to a loss of privacy. Separation distances in excess of 25 m are provided between the proposed units and the existing Watermint apartment development. Internal separation within the development is also considered to be acceptable. Overshadowing leading to a loss of daylight/ sunlight is similarly not foreseen due to the layout of the development and the separation distances between units.
- 7.4.5. Revisions to the development were proposed in the appeal, I do not consider these revisions to be necessary or desirable.

7.5. Impact on the boundary wall

- 7.5.1. The proposed development has included the existing boundary wall as a feature of this development. The wall will be retained and repaired as necessary and a number of openings/ cut-outs will be made with timber screening provided behind/ within the site. I note the report prepared as part of the application by Carrig Conservation International Limited with regards to the site and the wall in particular. The reports states that 'The wall is of historical, architectural and cultural significance' and historical maps indicate that it belonged to the Brennanstown Estate.
- 7.5.2. The wall and adjoining lands are not listed in the Record of Protected Structures and are not within an Architectural Conservation Area (ACA). The restriction on increased density on sites within an ACA or due to a protected structure having regard to 2.1.3.3 'Policy RES3: Residential Density' of the Dun Laoghaire-Rathdown County Development Plan does not therefore apply. Although proposed to be modified, the character of the area will be protected through the retention of the wall. The inclusion of the wall within the development site will ensure its long-term protection and this is considered to be desirable.

7.6. Traffic and Access

- 7.6.1. The internal car parking and bicycle parking layout and space provision is considered to be acceptable. I note that the Dun Laoghaire-Rathdown Transportation Department are satisfied with the information submitted by way of clarification of further information. The proposed houses are provided with two parking spaces and adequate car parking is available for the apartments. The site benefits from close proximity to frequent bus services on the Bray Road/ N11.
- 7.6.2. The submitted appeals referred to the issue of traffic congestion in the area. I note the wording of SLO.130. However, this refers to development on the Brennanstown Road and, as the vehicular access to this site is from the Old Bray Road, I would dismiss the importance of SLO.130 to this development. I note the various traffic reports submitted with the application and the comments of the Dun Laoghaire-Rathdown Transportation Department regarding traffic. I consider the location of the site of critical importance in this regard. The site is within an established urban area where traffic speeds are low. The primary road in the area is the N11 – Bray Road and from the site visit it was evident that the majority of the traffic on the Brennanstown Road was going to/ from the N11. The junction is signalised and staggered with the Johnstown Road to the north east. It is not clear what improvements could be made in this area and a modal shift from the car to public transport would be of the most benefit to the area. Such a modal shift depends on improved public transport and such can be only be provided where viable; the subject development seeing the provision of housing of a suitable density on an infill site supports such viable public transport.
- 7.6.3. It is also not foreseen that the proposed development would give rise to significant additional car-based traffic. Access to and from the site is acceptable and I note the pedestrian access onto the Brennanstown Road which is desirable. It would be similarly desirable if a direct entrance to Cabinteely Park could be provided. However, I accept that the existing entrance onto the Old Bray Road is within short walking distance of this site, approximately 155 m from the proposed entrance and a direct access may give rise to issues of access control in the future.
- 7.6.4. The upgrading of the footpath along the Brennanstown Road is noted and it is considered that the proposed development would benefit from these works

especially with regards to the new pedestrian access to be provided on this side of the development site.

7.7. Other Issues

- 7.7.1. The issue of contravention of the Dun Laoghaire-Rathdown County Development Plan was raised in the appeal; I would disagree with this and I consider that the applicant has had full regard to the policies and objectives of this plan.
- 7.7.2. The applicant has provided a Building Lifecycle Report with the application in accordance with Section 6.11 of the *Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities* (March 2018).
- 7.7.3. I note the concerns regarding noise and vibration from the electricity substation. This utility is to be located within a solid brick finished structure with the bin store area to be provided between the substation and the boundary to the north. I do not foresee any significant issue of noise and vibrations should not be a matter of concern either. I note the comment made in the Applicant's response to the appeal that existing background noise in the area will be of a higher decibel than any potential noise from the substation.
- 7.7.4. The provision of a green roof and other SUDS features is desirable. It is unfortunate that the existing trees on site are to be removed. However, I note the reports in this regard and on balance the proposed development of this site at an appropriate density combined with the proposed landscaping plan and the proximity to Cabinteely Park will ensure a high quality of residential development.
- 7.7.5. An Ecology Report has been prepared by AECOM. Other than a potential badger sett, there was no evidence of badgers. Bats cross the site but none of the trees on site were deemed to be suitable to host a bat roost. No invasive species were found on the site. A list of recommended mitigation measures has been provided in this report and these are noted.

7.8. Appropriate Assessment Screening

- 7.8.1. The applicant has engaged the services of AECOM to prepare a Screening for Appropriate Assessment. In summary, the development will not give rise to direct or indirect impacts to any Natura 2000 sites and that Appropriate Assessment is not required.
- 7.8.2. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022 and the zoning for residential purposes, to the location of the site in an established residential area and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 7 th of August 2018, as amended by the further plans and particulars submitted on the 4th day of December 2018 and by the clarification of further information, plans and particulars received on the 29 th day of April 2019, 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
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	<p>development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This permission is for 34 no. residential units in the form of 10 no. three storey houses, 13 no. two bedroom apartments and 11 no. duplex apartments. The apartment block addressing the Old Bray Road shall be set back by 1 m from the eastern boundary as indicated on Drawing No. CAB-P-003 – Proposed Site Layout Plan and Drawing No. CAB-P-005 – Proposed Ground Floor Plan.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>Prior to the commencement of development, the developer shall provide, for the written agreement of the planning authority, full details of the proposed external design/ finishes in the form of samples and on-site mock ups. These details shall include photomontages, colours, textures and specifications.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority:</p> <ol style="list-style-type: none"> a) Full details with regard to the proposed road works to be carried out on the Brennanstown Road and Old Bray Road. These works shall include improvements to the public footpath, any resurfacing works and any required relocation/ adjustment of services, cabling, chamber covers, signage and street furniture. Any existing natural stone kerbing that forms part of the existing footpath shall be salvaged and shall be incorporated into resurfaced and/ or widened section of public footpath. b) All works to be carried out on the public road/footpath shall be at the developer's expense to meet the Dun Laoghaire-Rathdown County Council's 'Taking-in-Charge' requirements and all to the satisfaction of the Municipal Services Department. A Road Opening Licence shall be obtained prior to the commencement of these works. c) Full details of measures necessary to ensure the protection of the boundary wall along the Brennanstown Road. Such details shall be prepared by a suitably qualified conservation specialist. <p>Reason: In the interest of traffic and pedestrian safety and in the interest of conservation.</p>
5.	<p>The developer shall ensure that the proposed access gate to the pedestrian entrance onto the Brennanstown Road is set back a minimum of 2 m from the existing road edge kerb line.</p> <p>Reason: In the interest of pedestrian safety.</p>

6.	<p>Prior to the commencement of development, the developer shall carry out a Structural/ Condition Survey of the demesne wall along its length and which shall include:</p> <p>a) Elevational survey drawings which clearly indicate any areas of change to composition/ structural stability, any areas of deterioration/ loss of mortar, analysis of the method of construction (i.e. material, bonding) and mortar analysis.</p> <p>b) A method statement for any necessary repairs. Any repairs shall be undertaken with regard to best practice as set out in Pat McAfee's book, 'Irish Stone Walls – History, Building, Conservation'.</p> <p>Full details of the lime-based render finish to the existing demesne wall shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of conservation.</p>
7.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
8.	<p>The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
9.	<p>The developer shall ensure that all cycle parking areas and facilities be designed and provided in accordance with the Dun Laoghaire-Rathdown County Council – Standards for Cycle Parking and associated Cycling Facilities for New Developments (January 2018).</p> <p>Reason: In the interest of sustainable development and in the interest of proper planning.</p>
10.	<p>The developer shall ensure provision of 2 no. parking spaces within the proposed development to be reserved for use by disabled persons in accordance with Section 8.2.4.5 of the Dun Laoghaire-Rathdown County Development Plan, (2016-2022). Parking bay widths suitable for disabled parking bays shall be a minimum of 2.4m wide - with a 1.2m buffer on both sides – and 6m in depth.</p> <p>Reason: In the interest of sustainable development and proper planning.</p>
11.	<p>The internal road network serving the proposed development [including turning bays, junctions, parking areas, footpaths and kerbs] shall comply with the detailed standards of the planning authority for such road works.</p>

	<p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
12.	<p>Prior to commencement of the proposed residential development, the developer shall submit a detailed Construction Management Plan for the written agreement of the Planning Authority (Transportation Planning Section) indicating measures dealing with:</p> <p>a) Traffic management plan including Construction vehicular access to site in particular to avoid conflict between construction activities and traffic on Bray Road and Brennanstown Road.</p> <p>b) How it will be intended to avoid conflict between construction activities and pedestrian movements on Bray Road during construction works.</p> <p>c) Where it is intended to provide for site staff car parking during construction in that is not acceptable to have long term parking in the nearby residential areas.</p> <p>d) Proposed measures to minimise /eliminate nuisance caused by noise and dust, proposed working hours and measures to minimise/prevent transfer of dirt to the public road with associated measures to clean the public roads / gully's etc. in the vicinity of the site and continuing replacement of roads line markings resulting therefrom.</p> <p>Reason: In the interests of the proper planning and sustainable development of the area.</p>
13.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Any existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
14.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling unit.</p> <p>Reason: In the interests of amenity and public safety.</p>
15.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) A plan to scale of not less than [1:500] showing –</p> <p>(i) The species, variety, number, size and locations of all proposed</p>

	<p>trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species]</p> <p>(ii) Details of screen planting [which shall not include cupressocyparis x leylandii]</p> <p>(iii) Details of roadside/street planting [which shall not include prunus species]</p> <p>(iv) Hard landscaping works, specifying surfacing materials, furniture [play equipment] and finished levels.</p> <p>(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment</p> <p>(c) A timescale for implementation [including details of phasing]</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
16.	<p>To ensure full implementation of the proposed landscape plan, the developer is required to retain the services of a Landscape Consultant throughout the life of the site development works. A completion certificate is to be signed off by the Landscape consultant when all works are completed and in line with the submitted landscape drawings. This completion certificate shall be submitted to the Planning Authority for written agreement upon completion of works.</p> <p>Reason: In the interest of amenity.</p>
17.	<p>All mitigation measures relating to Biodiversity, outlined in the Ecology Report and Planning documents submitted shall be implemented.</p> <p>Reason: To address any potential impacts on Biodiversity.</p>
18.	<p>Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1st – August 31st).</p> <p>Reason: To protect birds and bird breeding habitats during the nesting season.</p>
19.	<p>In relation to bats and having regard to the bat surveys carried out to date, the following shall be undertaken:</p> <p>a) All the buildings proposed for demolition and all mature trees proposed for felling will be re - examined for evidence of bats prior to demolition/felling by a bat specialist. The bat specialist's recommendations will be adhered to during this process.</p>

	<p>b) Prior to the commencement of development, the developer shall submit to the planning authority a letter from their bat consultants, that they are satisfied that the final design of the external illumination proposed at the proposed for the development, will be to the required specification recommended by the bat specialist and that they are satisfied that proposed roosts and important bat corridors are not illuminated; the developer will also submit a report from the bat specialist to the planning authority after the installation of the external lighting, at the proposed development, confirming that it is operating according to specification.</p> <p>Reason: To avoid the death or injury of female bats and young, which are afforded a regime of special protection under the European Habitats Directive and to mitigate the potential impact of increased nocturnal illumination at the proposed development on bats, which are afforded a regime of special protection under the European Habitats Directive.</p>
20.	<p>In relation to badgers, the following shall be undertaken:</p> <p>a) An application for a wildlife licence will be submitted to the NPWS with the relevant ecological information from the detailed badger survey by a badger specialist. This shall be completed prior to the commencement of site clearance and taking account of the timelines for obtaining a licence. Any conditions attached to the licence shall be implemented. A copy of the licence and the proposed programme for the sett closure shall be provided to the Planning Authority for agreement in advance of works.</p> <p>b) If the sett becomes active the NPWS shall be consulted and their requirements implemented under licence. A copy of the licence shall be provided to the Planning Authority for agreement in advance of works.</p> <p>Reason: To mitigate any potential impacts on badgers and their sett which are protected under the provisions of the Wildlife Act, 1976, and the Wildlife Amendment Act, 2000.</p>
21.	<p>Prior to the commencement of development the developer shall submit to the planning authority a letter from their ecological consultants, that they are satisfied that the hedgehog nest boxes have been installed and that the native trees have been planted as per landscape plan and planting details submitted as part of this Planning Application.</p> <p>Reason: To mitigate any potential impacts on local biodiversity.</p>
22.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(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, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p>

	<p>The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
23.	<p>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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>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.</p>
24.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 0800 to 1400 hours 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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
25.	<p>The development hereby permitted shall be carried out and completed at least to the construction standards set out in Dun Laoghaire-Rathdown County Council's 'Taking-in-Charge Policy Document (April 2013). Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.</p> <p>Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.</p>

26.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
27.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
28.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
29.	<p>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling houses without a prior grant of planning permission.</p> <p>Reason: In the interest of residential amenity.</p>
30.	<p>No additional development shall take place above roof parapet level, 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.</p> <p>Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.</p>

31.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place-names for new residential areas.</p>
32.	<p>The developer shall pay to the planning authority a financial contribution of €8,575.14 in respect of the provision of Surface Water 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. The application of any indexation required by this condition 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.</p> <p>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.</p>
33.	<p>The developer shall pay to the planning authority a financial contribution of €196.377.20 in respect of the provision of Roads 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. The application of any indexation required by this condition 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000,</p>

	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.
34.	<p>The developer shall pay to the planning authority a financial contribution of €127,473.14 in respect of the provision of Community & Parks 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. The application of any indexation required by this condition 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.</p> <p>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.</p>
35.	<p>The developer shall pay to the planning authority a financial contribution of €204,028.92 in respect of 'the 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. The application of any indexation required by this condition 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.</p> <p>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.</p>
36.	<p>The developer shall pay the sum of €68,000 (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), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in lieu of the provision of public open space. The contribution will be used to fund improvements to Cabinteely Park which is adjacent to the subject site. This contribution shall be paid prior to commencement of development or</p>

	<p>in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.</p> <p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
37.	<p>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 local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local 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 An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

Paul O'Brien
Planning Inspector

9th September 2019