



An
Bord
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential tenancies Act 2016

Inspector's Report ABP 305859-19 (Addendum)

Development

Demolition of 'Benoni' and extant single storage buildings, construction of 234 no. apartments, crèche, gym and associated site works.

Location

Former Doyles Nursery and Garden Centre and 'Benoni', Brennanstown Road, Cabinteely, Co. Dublin.
(www.brennanstownroadshd2.ie)

Planning Authority

Dun Laoghaire Rathdown County Council.

Applicant

Atlas GP Limited.

Prescribed Bodies

1. The Minister for Culture, Heritage and the Gaeltacht.
2. The Heritage Council.
3. An Taisce.
4. Irish Water.
5. National Transport Authority.
6. Transport Infrastructure Ireland.
7. Inland Fisheries Ireland.

Dun Laoghaire Rathdown County
Childcare Committee.

Planning Authority Decision

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Observer(s)

79 Submissions noted and 5
responses from prescribed bodies
(refer to Appendix 1 for list).

Date of Site Inspection

12th February 2020.

Date of Oral Hearing

10th June 2020.

Inspector

Dáire McDevitt.

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Appendix 1 Oral Hearing Attendees.

Appendix 2 List of written submissions received.

1.0 Introduction

- 1.1. This is an addendum report and should be read in conjunction with the previous Inspector's report prepared in respect of the proposed strategic housing development ABP 305859-19 and submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016 as amended.
- 1.2. Pursuant to Board Direction BD-005232-20 an Oral Hearing was held in respect of flooding. A limited Agenda issued to all parties and the specific items addressed in the Oral Hearing were as follows:
 - Further clarification regarding site specific information in relation to the risk of flooding, analysis of such risk, and appropriate flood avoidance measures. (The clarification sought should seek to address, *inter alia*, the issues raised in the 'Drainage Section Report' dated 9th December 2019 and the 'Parks and Landscape Services Section Report' dated 16th December 2019 of the 'Dun Laoghaire-Rathdown County Council Chief Executive Report' dated 7th January 2020 received by An Bord Pleanála on the 7th of January 2020.)

2.0 Oral Hearing

- 2.1 An Oral Hearing was scheduled to take place on the 8th April 2020, this was rescheduled due to the Covid 19 pandemic restrictions and associated lockdown.
- 2.2 An Oral Hearing was held on the 10th of June 2020. This was a blended hearing with some parties present in person at the Offices of An Bord Pleanála, 64 Marlborough Street, Dublin 1 with others attending remotely via MS Teams. The Oral Hearing commenced at 10.00am and closed at 12:50pm approximately. The hearing, in the main, comprised a verbal presentation, with accompanying powerpoint presentation, on behalf of the applicant presented by Suzanne McClure (Brock McClure Planning), Emma McKendrick (AECOM Drainage), Kevin Forde (AECOM HydroGeo). Jim Dowdall (Enviroguide Environmental) and Cass Roche (PC Roche Landscape

Architects). All presentations, drawings and reports were made available to all parties and accessible on the applicant's website.

- 2.3 Dun Laoghaire Rathdown County Council was represented remotely by Bernard Egan (Senior Executive Engineer, Drainage) and Donal Kearney (Assistant Parks Superintendent) who gave presentations. Also present was Liam Walsh (Senior Planner).
- 2.4 8 Observers attending the Oral Hearing remotely (two consultants signed in on behalf of the one observer, therefore has been counted as one). Observers did not wish to make submissions or pose questions at the Hearing.
- 2.5 Due to the Covid 19 Pandemic and associated restrictions. The applicant prepared presentations with accompanying audio and accompanying documentation/reports dealing with the issues raised by the Planning Authority or those who made submission in respect of flood risk. This package of information was made available on their website (www.brennanstownroadshd2.ie) on the morning of the Oral Hearing. To ensure that third parties, who had not attended in person, had every opportunity to participate as fully in the oral hearing as they would if they attended in person, it was agreed that additional time be provided to allow written submissions to be presented to the Inspector in respect of the Oral hearing matters raised. Submissions were to be sent in to the Board within 2 working days of the hearing (allowing for posting in of such submissions to the Board's offices). Written submissions in respect of the 'Limited Agenda were only accepted and considered.
- 2.6 8 written submissions were made by Michael O'Brien (Cabinteely & District Residents Association), Aideen O'Brien, Tara O'Brien, Kerrie O'Brien, Liam Mulcahy, CADRA (c/o Michael O'Brien), Imelda Galvin and Karen Keaveney. Of the submissions received, those made by Aideen O'Brien and Tara O'Brien did not directly address the submission or topic the subject of the Limited Agenda Oral Hearing, and therefore, as outlined in the correspondence and instructions relating to the limited oral hearing, and in the interest of natural justice they will not be addressed in this report.
- 2.7 Mr M.O'Brien, Ms. Kerrie O'Brien, Ms Imelda Galvin, Mr L. Mulcahy and Ms K. Keaveney expressed the following concerns relating to the Oral Hearing Process:
1. Timelines, proceedings, participation and inclusion of discussion on the astro turf and play areas,

2. Request to reschedule the Oral Hearing post Covid-19 pandemic,
3. To broaden the Oral Hearing to all matters raised in original submissions.

I am satisfied, that the Board are entitled to allow for a limited agenda hearing, and therefore the broadening of the Oral Hearing to cover all issues is not applicable and that the Oral Hearing was to be carried out in line with the Board Direction.

The issue of the astro turf, as it relates to development that may potentially impact on lands within the flood plain, is a relevant topic and relates the limited agenda hearing.

2.8 Due to technical issues in respect of the Planning Authority's presentation to the hearing, the Oral Hearings' Order of Proceedings was altered on the day to enable the Planning Authority's technical issues to be resolved. Therefore the submissions presented by the Planning Authority, although presented at the hearing after the applicant's, should be read as preceding the Applicant's and therefore are set out first in this report.

2.9 **Submission Bernard Egan, Drainage Section on behalf of by Dun Laoghaire Rathdown County Council.**

The submission refers to the original application and not the applicant's submission made to the Oral Hearing.

- The sole focus of the Planning Authority's recommendation of refusal on flooding issues is that the applicant has not demonstrated that the proposal passes the Development Plan Justification Test and thus is not in accordance with the requirements of sections 4.7.1.1 and 4.10.2 of Appendix 13 (Strategic Flood Risk Assessment) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and should therefore be refused planning permission.
- The rationale for this position is as was set out in the Drainage Planning report, the recommendation of which were transposed as the second recommended reason for refusal in the Chief Executive's report.
- Should the Board accept that the development footprint, based on modified flood extents can be considered in principle at this location, then Drainage

Planning is of the opinion that the analysis contained in the AECOM Flood Risk Assessment is appropriately detailed and provides sufficient evidence to pass the Development Management Justification Test subject to proposed conditions as set out in the Drainage report and as subsequently included in the Chief Executive's report. The proposed conditions address the issue (i), (ii) and (iii)(opening paragraph) that the Board required to be addressed.

2.10 Submission Donal Kearney, Parks and Landscape Services, on behalf of by Dun Laoghaire Rathdown County Council.

The submission refers to the original application and not the applicant's submission made to the Oral Hearing.

- The Parks department recommends refusal on the grounds of site characterisation and landscape design. On the basis that the landscape design and the proposed adverse impacts on the current site for the proposed development have not been assessed collaboratively with the entire team of consultant disciplines and that their input into the design of the project is clearly absent. The full involvement of the team is required to provide safer less flood risk options than those proposed.
- Currently the site is predominately open green space with overgrowth of trees and vegetation, naturally providing water attenuation in the soil strata and bedrock layers beneath the surface throughout the site.
- Significant topographical modifications of cut and fill are proposed onto this already heavily sloped site towards Cabinteely stream, which currently is in a flood risk zone and has moderated ecological status. All groundwater status (which is below surface level) depends on streams and river for equilibrium. Any influence of a non-porous structural development removes this and the natural soil attenuation that currently exists forcing a greater requirement of water storage in the stream.
- A site analysis does not appear to include (or lacks transparency) for winter months (October to March) and would have seemed more appropriate to provide seasonal variance when heavy rainfall increases in aquifer recharge and discharge increasing risk of flooding and run off and potential polluting contaminants to the stream.

- Maintenance details of the stream from the applicant are absent on what 'appropriate maintenance' is required on the Cabinteely stream and how that may impact on the ecology of the stream, whilst also how it prevents any flood control measures without compromising either. The unknown running costs and maintenance details of the Riparian way and Cabinteely stream remains absent or lacks transparency.
- Mr Kearney include 6 recommendations in his report that he recommended should be addressed

2.11 Submission by Suzanne McClure, Brock, McClure Planning and Development Consultants, on behalf of the Applicant.

- 2.11.1 Ms McClure gave an overview of the applicant's submission at the Oral Hearing, which is summarised hereunder.
- 2.11.2 Following a brief overview of the proposed development, the submission concentrates on two areas identified in the limited agenda: a) Application for Development in Areas at Risk of Flooding and b) Development Plan Justification Test.
- 2.11.3 With regard to application for development in areas at risk of flooding, Ms McClure noted that the key issue relates to the designation of a section of land along the riparian corridor of the Cabinteely Stream as residential zoning 'A' *To protect and/or provide residential amenity* and as Flood Zone A and B within the Strategic Flood Risk Assessment.
- 2.11.4 Section 5.2.5.2 of the current Dun Laoghaire Rathdown County Development Plan notes *Development proposals in areas where there is an identified or potential risk of flooding or that could give rise to a risk of flooding elsewhere must be accompanied by a Site Specific Flood Risk Assessment and Justification Test where appropriate (refer to Development Management section 8.2.10.4 and Appendix 13 SFRA for further detail).*
- 2.11.5 Section 8.2.10.4 refers to applications for larger developments in Areas at Risk of Flooding and requirements for said applications. This includes the requirement for a SSFRA prepared by a Qualified Chartered Engineer and provides a checklist for application to comply with, including that the Development Management 'Justification Test' has been passed.

- 2.11.6 A Site Specific Flood Risk Assessment (SSFRA) was prepared by AECOM Consulting Engineers and submitted with the application complies with section 5.2.5.2 and section 8.2.10.4 of the Dun Laoghaire Rathdown County Development Plan and in particular includes completion of the Development Management Justification Test carried out in accordance with Box 5.1 in the Flooding Guidelines. The policies outlined in the current Development Plan are therefore considered to be addressed within the material provided in the subject application.
- 2.11.7 The extant permission (ABP 301044-18) included identical flood management measures associated with the development site. Following the proposed works to the riparian corridor as part of the subject development, the only lands within the flood plain will be within the Riparian Corridor which will be retained as amenity space within the site.
- 2.11.8 Reference to the A&L Goodbody legal submission submitted with the application which identifies the distinction between the zoning of the site (zoned residential A) and the designation of part of the site as Flood Zone A and B.
- 2.11.9 The site is zoned Residential 'A', there is no map based objectives associated with the site in relation to flooding and therefore the zoning for the site cannot be caveated in any way.
- 2.11.10 If the Board conclude that the proposal materially contravenes the Development Plan, it is submitted that permission can be granted having regard to Section 5(6) of the Planning and Development (housing) and Residential Tenancies Act 2016 and Section 37(2)(b)(i-v). The subject proposal in relation to Flood Risk Management matters should be granted permission for the following reason: a) the development is of strategic importance, b) there are conflicting objectives in the current County Development Plan in relation to flooding whereby the land is zoned Objective 'A' while also being within Flood Zone A and B that identifies vulnerable development as being not appropriate in these locations, c) granting permission is in accordance with regional policies that seek urban consolidation and maximising the use of infill land and d) there is an extant permission (ABP 301044-18 granted in 2018) for a similar development layout with identical flood management works proposed.
- 2.11.11 The Development Management Justification Test was considered by the applicant to be the appropriate justification test for the subject proposal and complied with Box

5.1 of the Flood Risk Management Guidelines within the Site Specific Flood Risk Assessment (SSFRA) prepared by AECOM Consulting Engineers.

2.11.12 The DLR Drainage Section set out in their report dated 9th December 2019 that the Development Plan Justification Test should be passed in order for the application to be in compliance with section 4.7.1.1 and 4.10.2 of Appendix 13 of the County Development plan. It is Ms McClure's understanding that the Development Plan Justification Test under Box 4.1 is a function of the Planning Authority and was therefore completed as per section 4.2 of Appendix 13 of the DLR County Development Plan. Nevertheless for the purposes of completeness Brock Mc Clure Planning Consultant have set out how the proposal complies with the Justification Test for Development Plans as set out in Box 4.1 of the Flood Risk Management Guidelines.

2.11.13 The Board is requested to have due regard to the evidence now put forward and to conclude that the subject proposal complies with relevant planning policy and objectives in relation to flood risk.

2.11.14 All flood issues within the site can be appropriately managed with the only works being the clearing of debris from the Cabinteely Stream and re-profiling of the 10m wide riparian corridor.

2.12 Submission by Emma McKenderick, AECOM Ireland Ltd, on behalf of the applicant

2.12.1 Ms McKenderick reviewed the Flood Risk Assessment (FRA) prepared by AECOM that was submitted at pre-application stage and oversaw the preparation of the FRA submitted with the application.

2.12.2 Ms McKenderick's submission to the hearing can be summarised as follows:

- The Eastern Catchment Flood Risk Assessment and Management (CFRAM) Study did not include the Cabinteely Stream. The flood hazard Mapping Website (www.floodmaps.ie) does not record any flooding in the vicinity of the development site. As there is insufficient information available to determine the fluvial risk at the site a hydraulic model of the Cabinteely Stream was developed by AECOM. The output of the hydraulic model was used to prepare flood extent mapping for the 10%, 1% and 0.1% AEP events.

- It is proposed to modify the 10m wide riparian corridor along the west bank by reducing levels at this location. By re-grading the riparian corridor, the volume of floodwater that can be stored is increased and there is a reduction in water levels along the frontage of the proposed development.
- The re-grading of the riparian corridor and subsequently, the decrease in the water levels results in the following positive impacts: the re-grading of the riparian corridor can be undertaken in advance of any development works taking place, once the regrading work is complete the entire development lands are located within flood zone C, the compensatory storage provided exceeds the existing flood water storage available within the development site, the impact of floodwater on the lands across the stream have been reduced and there is no adverse impact on the downstream or upstream environments. There is a better conveyance for overland flow along the riparian corridor compared with the existing condition (the existing condition allows for the accumulation of stagnant water), there is no requirement to raise ground levels on the site, no flood mitigation measures are required.

2.12.3 In response to the issues raised by DLRCC Drainage Planning Section in their report dated 9th December 2019, it is stated:

- The purpose of the Strategic Flood Risk Assessment (SFRA) is to undertake the required level of flood risk assessment to enable a local authority to undertake the sequential approach, including the Justification Test.
- The drainage report incorrectly makes reference to section 4.10.2 of Appendix 13 “modifying ground levels to raise land above the design flood level” noting that for this approach to be valid the Development of the site must have been justified through the SFRA based on the existing (unmodified) ground levels. It is not intended to raise the ground levels of the site, rather it is proposed to re-grade the 10m wide riparian corridors (lower levels).
- Additional extended cross-section have been included with the Oral Hearing submission to clearly show the relationship between the existing and proposed ground levels (with levels), existing and proposed flood extents (with levels) and the proposed buildings.

- Cut and fill contour maps (with levels) along with flood extents (with levels) for the 1.0% and 0.1% AEP events along with Architectural cross section are also included as part of the Oral Hearing submission.
- The riparian corridor will not contain any Engineering, Architectural or Landscaping features that would have the potential for obstruction of flow paths. A layout plan is included with the Oral Hearing submission prepared by PR Roche & Associated.

2.12.4 In response to the issues raised by DLRCC Parks and Landscape Services.

- The flood risk on the site is as a result of fluvial flow not groundwater.
- No channel modification or instream works are proposed so there will be no impact on aquatic life.
- The riparian corridor is to be retained as a 'green corridor' (ie conveyance is the prime function) for higher return period events, while for the lower return period events will serve as amenity such as riverside walks and public open space

2.12.5 In response to submission by Inland Fisheries Ireland (IFI).

- The applicant concurs with the IFI recommendations and confirms that all works will be completed in line with the recommendations made by IFI.

2.12.6 In response to the submission by Michael O'Brien.

- While it is proposed to clear debris from the stream, the main flood mitigation measure is the regrading of the Riparian corridor (west bank of the river). In determining the flood risk, the river flows used in the hydraulic model have been adjusted to include a 20% allowance for climate change.
- Following works to the Riparian corridor the entire site will be located in Flood Zone C. the 1000 year flood level has been calculated as +31.14m and the lower level is +31.50m thus providing 360mm freeboard.
- The submission states that 'as currently presented, the development will be located within Flood Zone A and will therefore materially contravene the County Development Plan by locating vulnerable development (residential) within Flood Zone A'. In response it is noted that following works to the Riparian corridor the entire site will be located in Flood Zone C.

2.12.7 In response to the submission by Imelda Gavin.

- The applicant confirms that the works proposed takes full recognisance of policy LHB25 of the current Dun Laoghaire Rathdown County Development Plan.
- A flood risk assessment has been undertaken in accordance with the Planning System and Flood Risk Management Guidelines November 2009. The assessment demonstrated that the works proposed will not increase the flood risk elsewhere.

2.13 Submission by Kevin Forde, AECOM Ireland Ltd, on behalf of the applicant

- Mr Forde was engaged by the applicant to review the available hydrogeological information pertaining to the proposed development.
- Mr Forde noted DLRCC commentary that the proposed development could interrupt the natural groundwater flow to an existing borehole located at the nursery/garden centre. However, stated that there is no record of any existing abstraction boreholes present on or in the vicinity of the site. The four standpipes installed during the 2017 geotechnical site investigation constitute narrow diameter monitoring installations only and were not designed for groundwater abstraction or potable use. As there is limited bedrock groundwater potential in the vicinity of the site and the depth of superficial deposits are not sufficient to support groundwater abstraction for the proposed development, Mr Forde did not consider that the development will potentially impact the yield of any unrecorded groundwater abstraction that may be present in the vicinity of the site.
- Shallow groundwater is present beneath the site within the permeable layers of the superficial deposits and the upper/weathered part of the bedrock.
- The deepest excavation level for the development is understood to be approx. 27.85m AOD, with the deepest basement level being 28.3m AOD. This constitutes the carpark basement level of Block C, which is understood to be developed along the eastern boundary of the site.
- Based on groundwater level data available, the groundwater levels were between approx. 27.7m AOD to 28m AOD in February 2019 and approx. 28.4m

AOD and 28.7m AOD in March 2020 at the site. As such, the excavation and basements will extend less than 1m below the recorded winter/spring groundwater level at the site (seasonal high groundwater levels), so there is likely to be a potential minor alteration to the groundwater flows locally within the superficial deposits or weathered bedrock during certain periods of the year as a result of the proposed development.

- The groundwater flow in the superficial deposits is towards the Cabinteely Stream to the east of the site. As such, there will be a minor impact on groundwater baseflow to the river from the groundwater in the superficial layer. However, the implementation of an appropriate drainage strategy should mitigate any major impact.
- The areas to the west and north of the site are considered hydraulically up gradient of the site. The Cabinteely Stream, being the local topographic low, likely acts as a groundwater discharge zone and also a hydraulic boundary, which will limit any groundwater level impacts from the development to the east of the stream.
- It is, therefore, considered that the proposed development will result in a potential alteration of the natural shallow groundwater flow, but this will be minimal due to the limited penetration of basements and foundations below the groundwater levels at the site (approx. 1m or less based on available groundwater measurements). However, the implementation of an appropriate drainage strategy should mitigate any impact on the Cabinteely Stream.
- The drainage Strategy should address the potential for high groundwater levels to occur around the basement areas to minimise flood risk to the basements during the operational period of the development.
- The seasonal variation of the groundwater levels at the site will be better established by further monitoring prior to construction, however both rounds of groundwater monitoring conducted at the proposed development site to date were done in the first quarter of the year (28 February 2019 and 18 March 2020) when annual groundwater levels are typically at their highest following winter rainfall. In particular the March 2020 groundwater level monitoring

followed record rainfall in February 2020 and likely represents near-highest groundwater levels at the site.

- The DLRCC report questioned whether the removal of superficial deposits and bedrock could result in groundwater level rising and thus increase the flood risk to the Stream.
- As outlined in the AECOM 2019 FRA report (ref. 6993-08-17 Rev B), the Cabinteely Stream poses a fluvial flood risk to the proposed development but there was no risk identified from pluvial flooding (surface runoff). Additionally no mapped groundwater flooding was recorded on the Office of Public Works maps contained within the AECOM 2019 Flood Risk Assessment report.
- The removal of the superficial deposits at the site will remove the groundwater storage potential of these deposits. However, these deposits are thin across the site, so the groundwater storage potential of these extra strata during rainfall events is limited.
- The superficial deposits were dry in August/September 2017 and all 15 trail pit/borehole locations at the proposed development site. The saturated thickness of the superficial deposits under winter/spring groundwater conditions on the 18 March 2020 was 1.82m at BH01 and 0.47m at BH02. The groundwater level was 1.71m below the top of rock at BH06 (Bh05 is damaged, preventing groundwater levels measurements).
- The implementation of an appropriate drainage strategy on the site and mitigation actions to the riparian corridor, as outlined on the AECOM 2019 Flood Risk Assessment report, will be sufficient to a) compensate for any loss of groundwater storage due to excavation, b) address potential increased in groundwater levels due to basement construction and c) deal with surface water runoff from the development.
- The flood risk on the site is as a result of fluvial flow and is not groundwater related.

2.14 Submission by Jim Dowdall, Enviroguide Consulting, on behalf of the applicant

- Submission deals with issues raised in the Parks and Landscaping Services report.

- The treatment of the riparian corridor was an important element of the previous planning application (Ref. ABP 301044-18). Following submission of the initial landscape plans, with limited biodiversity features in the riparian corridor, it was proposed to place native trees and shrubs within 10m riparian strip to act as a light buffer between the proposed development and the Cabinteely Stream to limit the impact on bats and otters.
- A series of bio-retention areas/ponds and tall reed beds are proposed that would assist in providing a light barrier to the stream while providing an increased biodiversity resource. The purpose of connecting the attenuation (primarily the road attenuation) to the bio-retention areas is to provide additional flow but, to also provide additional filtering capacity to improve water quality, prior to entering the stream.
- No pipes are proposed in this area that would require maintenance.
- There are currently two impasses on the stream. As this barrier has silt behind it, it would be expected that there would be a flush of silt downstream upon removal. Therefore two layers of geotextile terram (road grade) will be placed on the lower broken impasse downstream to catch silt. If the outermost layer becomes saturated with silt it should be immediately replaced (while the second layer remains in situ). When it is felt that all silt has been contained the geotextile can be removed. This should be carried out in dry weather and monitored by an aquatic ecologist.
- As will be detailed in the CEMP the treeline and upstream obstruction, in addition to the reprofiling of the riparian corridor including preparation of ponds and reedbeds will be carried out as part of the first phase of development.
- The CEMP will incorporate all of the advice and recommendations from all consultants with inputs into this project design. The CEMP will be a mandatory document during the construction phase. It will recommend ongoing monitoring of the Cabinteely stream during the construction phase and further monitoring to be recommended as part of the Operational Management Plan.

2.15 Submission by Cass Roche, PC Roche and Associates, Landscape Architects and Site Planners, on behalf of the applicant.

- This submission is in response to the Parks and Landscape Services report.
- The landscape layout indicated existing site contours and spot levels within the site and on the adjoining lands. The detailed sections prepared by the architect and engineers clearly indicate the proposed extent of cut and fill. It is not intended to retain any trees on the existing site. Any new planting will take place into prepared planting pits in the re-profiled site with an adjusted natural water table.
- The Landscape proposals outline principles that were discussed with the arborist consultant before achieving the final landscape proposals.
- An updated landscape layout with complete drainage layout and manhole positions shown on the drainage layout was discussed in detail with the drainage consultants and the Arborist before finalising the application landscape layout.
- The landscape design detail proposals to the riparian Corridor and the stream were discussed in detail with the IFI and the DLRCC Biodiversity Officer. Details shown on the landscape drawing.
- The Cabinteely Stream and potential link to Cabinteely Park is outside the applicant's ownership. The potential link through these lands was discussed and agreed in principle with the planning department of DLRCC.
- Detailed consideration was given to the location, design and provision of play facilities and equipment.

2.16 Comments by Dun Laoghaire Rathdown on the Applicants submission

2.16.1 On the day of the Oral Hearing, the Planning Authority indicated that they had not had an opportunity to review the applicant's proposal in full and therefore were not in a position to make detailed comments on same. They considered, that in principle, the proposal appeared to address their concerns. They indicated that they did not consider it necessary to adjourn the hearing to provide additional time for them to comment further or question the applicant and that conditions could be applied to a permission to ensure that any potential issues would be addressed.

2.16.2 The following additional commentary was received by written submission from the Planning Authority on the 12th June 2020.

- In Section 14 of the AECOM Civil Engineering submission it is stated that “...*there is no requirement to raise ground levels on the site...*” and in Section 18 it is stated that “*The Drainage report incorrectly makes reference to section 4.10.2 of Appendix 13 “modifying ground levels to raise land above the design flood level” noting that for this approach to be valid the Development at the site must have been justified through the SFRA based on the existing (unmodified) ground levels. It is not intended to raise ground levels on the site, rather it is proposed to re-grade the 10m wide riparian corridor (lower levels)*”
- Figure 23 of the AECOM Flood Risk Assessment submitted as part of the planning application showed raised ground levels in proximity to the proposed apartment blocks.
- Appendix A- Section AA Pre-Development and post Completion works to Riparian Corridor (page 16) of the documents submitted to ABP on the 10th June 2020 shows that that raising of land levels is being proposed (if the dotted black line represents existing (pre-development) levels).
- Appendix A- Section A and B Pre-Development and post Completion works to Riparian Corridor River Side Section A (1) and River Side Section B (1) (page 20) shows fill (shaded light green and annotated by text on the sections).
- Though Sections A(1) & B(1) would appear to show that flood waters may not reach the site (unaltered ground profiles) it should be noted that the AECOM FRA shows that the route of flood waters is north of Sections A(1) & B(1) (approx. Section RS 268.36 of AECOM Drawing No. PR396202-ACM-XX-DR-CE-10-0401) and therefore the proposed fill along, and to the north of,

Sections A(1) & B(1), at the building lines, will be required to prevent flood waters reaching the site.

- *Appendix A- Section AA Post-Development* (page 24) shows a variation of the land raising shown on *Appendix A- Section AA Pre-Development and post Completion works to Riparian Corridor* (page 16).
- *Appendix A- Sections AA and BB Post Development* (page 28) and *Sections DD and EE Post Development* (page 29) show raising of land levels (shaded light green).

Conclusion:

Mr Egan acknowledges that if the raising of ground levels is restricted to the riparian corridor then the applicant would be technically correct that there is no raising of ground levels within the building footprint.

However raising ground levels in the riparian corridor, albeit at the edge, does alter the flood plain characteristics and extents i.e. keeps flooding from the applicant site and thus the Drainage Planning reference to the applicability of Section 4.10.2 of Appendix 13 of the Dun Laoghaire Rathdown County Development Plan remains valid.

Mr Egan noted that, notwithstanding the above, it would appear to be the case that the inconsistencies raised in the Drainage Planning report on the full application namely “On Plus Architecture site Drawing No. 393_WS_05_01 the flood extents for both the 1.0%AEP and 0.1% AEP events, with a corresponding depth of water c. 0.75m, are shown at the edge of Block C.”, have been substantially addressed.

Mr Egan concludes that if the Bord accepts that the development footprint, based on modified flood extents can be considered in principle at this location, then Drainage Planning is of the opinion that the analysis contained in the AECOM Flood Risk Assessment is appropriately detailed and provides sufficient evidence to pass the Development Management Justification Test, subject to the suggested conditions 6

and 7 of the Chief Executive's report submitted to An Bord Pleanála on the 7th January 2020.

2.17 Submission by CADRA (Cabinteely & District Residents Association) c/o Michael O'Brien (Chairperson of CADRA) received on the 12th June 2020.

2.17.1 The submission refers to the Local Authority submission to the Oral Hearing. I note that no comment has been made on the applicant's submission.

2.17.2 The submission consists of a report prepared by McCoy Consulting who were appointed by CADRA, in response to a request by Karen Keaveney dated the 5th June 2020 to carry out a Flood Risk Assessment Appraisal. It comprises a high level review undertaken by McCoy Consulting relating to flood risk at the proposed development. The report refers to the Planning Authority submission to the Oral Hearing (report dated 23rd March 2020). It does not appear to have considered the applicants submission made to the hearing on the 10th June 2020. The report notes:

- No reason to disagree with DLR Drainage Planning report dated 9th December 2019 relating to the application. And states that the proposed development 'has not demonstrated that the proposal passes the Development Plan Justification Test and thus is not in accordance with the requirements of the DLRCC SFRA'.
- No reason to disagree with the supplementary DLR statement dated 23rd March 2020 that the proposed development would be contrary to the 'proper' planning, understood in this context to refer to the OPW Planning System and Flood Risk Management Guidelines, which are consistent with the requirements of the DLRCC SFRA.
- The following key concept of the proposed development would be contrary to the core objectives of the OPW Guidelines (and as such the Development Plan) and which should be afforded significant determining weight:
 - Proposed development includes 'inappropriate' development (where appropriateness is defined by vulnerability as stated by the OPW Guidelines) i.e. residential development in Flood Zone A/Flood Zone B. Such development can only be sited in these Flood Zones subject to a Justification Test. In the absence of an accepted Justification

Test, then the proposal do not comply with the sequential approach to be adopted in determining appropriate land use.

- Flood Zoning should be based on the present day, existing scenario i.e Flood Zoning is not permitted to be changed by any proposed development or other works. Changes to the flood extent would first require Justification for encroachment onto the present day flood Zone.

2.18 Submissions received from Michael O'Brien, Kerrie O'Brien have a similar content.

Submissions by Aideen O'Brien and Tara O'Brien do not contain any commentary or views in respect of the Oral Hearing's Limited Agenda topic. As outlined in the Board's correspondence issued to all parties in advance of the oral hearing, I do not propose to address or further consider issues not related to the Oral Hearing's Limited Agenda topic, ie flood risk.

2.19 Submission by Michael O'Brien (Cabinteely and District Residents Association) received on the 12th June 2020.

2.19.1 Summarised as follows:

- A 3D model of the project should be requested.
- The hydrologists diagrams indicate the topography of the valley 100 years ago, with no buildings and no examples of the impact this development will have on the area. To be representative they should present the site as it will look when built upon. The claim that the development will not impact the river is merely his opinion.
- Borehole tests were carried out in 2017 during dry weather.
- In relation to flooding the submission refers to the conflicting objectives set out in the current County Development Plan and that the current proposal would be a material contravention of the Plan. Land Use Zoning Objective A (residential) and Flood Zone A&B. Copies of the DLR Drainage Planning Section report and Parks & Landscape Service report referred to in the Limited Agenda for the Oral Hearing are included with this submission.

2.19.2 Mr O'Brien expressed concerns which may be summarised as follows:

1. Due to storm events blockages to the stream may occur and this would have implications for flooding and surcharging of surface water;
2. Locating a car park on lands subject of flooding may be a risk to residents;
3. The development materially contravenes the Plan, as it is located within Flood zone A.

2.20 Submission by Kerrie O'Brien received on the 12th June 2020.

2.20.1 This submission uses the same template as Mr Michael O'Brien's submission which has been set out above and does not raise issues that have not been addressed in my summary of Mr O'Brien's submission which I refer the Board to.

2.21 Submission by Imelda Galvin received on the 12th June 2020.

2.21.1 The submission may be summarised as follows:

- The submission by Brock McClure Planning Consultants refers to the existing permission on site for 115 units (ABP 301044-18) and that this establishes a pattern of development for the area and the subject site. Attention is drawn to the Drainage Planning report dated 23rd March 2020 which notes that Drainage Planning erred in its previous recommendation as it was contrary to the policies contained in Appendix 13 (Strategic Flood Risk Assessment) of the County Development Plan 2016-2022.
- The permission granted under ABP 301044-18 was erroneous, in the context of flood risk issues, it is not appropriate to rely on that permission to justify another erroneous permission under the current application.
- Concern that new conditions have been added and adherence to these conditions must be strictly monitored to ensure compliance.
- Lack of detail on who will be responsible for maintaining the Cabinteely Stream.
- Lack of appropriate information in the original submission relating to site characterisation and landscape design. Flood risk and potential disturbance of current site topographical and soil conditions were not adequately evaluated or considered.

- Concerns expressed that the relationship between the groundwater with the superficial layer and Cabinteely stream is not known. A matter that should be investigated further.

2.21.2 The proposal is not appropriate for the area in Cabinteely and shows no respect for existing residences nearby.

2.22 Submission by Liam Mulcahy received on the 12th June 2020.

2.22.1 Mr Mulcahy states:

The concerns raised by the Dun Laoghaire Rathdown Planning Department were not adequately addressed by the applicant (e.g. lack of transparency, no collaborative assessment carried out by arborist, landscape architect, geosurveyor and ecological structural engineer.

2.22.2 Similarly Dun Laoghaire Rathdown stated that the Ground Investigations report on the foundational design of the dwelling basements was not satisfactorily conclusive and needed further work. No evidence was noted that this issue was addressed and therefore the Planning Authority's recommendation for refusal should remain.

2.22.3 As a resident of Carraig Glen he can vouch that flooding does take place in heavy winter rains in the area behind his house and is caused by overflowing of the Cabinteely Stream. If measures (reprofiling, cleaning etc) are undertaken by the developer to address this issue the consequences could be flooding further along the stream and despite assurances from the applicant there is no guarantee that clearing the stream will solve any potential flooding.

2.22.4 Climate change has made many of the models used by hydrologists to assess these issues prone to error and we have had many instances in the recent past of "one in a hundred year" events occurring on a regular basis.

2.22.5 Given the uncertainty raised by Dun Laoghaire Rathdown and their original recommendation for refusal this development should not be allowed to proceed. The oral hearing did not remove the uncertainty raised.

2.23 Submission by Karen Keaveney received on the 12th June 2020.

2.23.1 This submission included a Flood Risk Opinion prepared by RPS Consulting UK & Ireland dated 10th June 2020. The Scope of the review is a) a review of the proposed SHD for the construction of 234 apartments on the site in relation to flood risk management and b) give an opinion in relation to the adequacy of the flood risk assessment undertaken on half of the developer and highlight any concerns as part of the RPS review.

2.23.2 The review has considered the FRA prepared by AECOM (dated 1st November 2019), the relevant planning drawings, Drainage Planning Section Report (9th December 2019), Parks & Landscape Services Report (16th December 2019), An Bord Pleanála Correspondence to Ms K. Keaveney (2nd June 2020). The review does not appear to have considered the applicants submission made to the hearing on the 10th June 2020.

2.23.3 Review of Drainage Planning Section report:

- Refusal was recommended principally on the grounds that the undertaking of a development of the nature proposed within an identified Flood Zone (A or B) contravenes the stated planning objectives for the area. It is argued that, as a minimum, an assessment of a proposed development within Flood Zone A & B needs to satisfy the requirements of a Justification Test as defined in the Guidelines. The Drainage Planning Section concluded, based on its own assessment that the proposed development fails to pass the (Development Plan) Justification Test. Therefore refusal was recommended.
- However, the Drainage Planning Section report also noted that if Board Pleanála accepts that the development could proceed in principle at this location then the Drainage Planning is of the opinion that the Flood Risk Assessment as prepared by AECOM provides sufficient evidence to pass the site-specific Development Justification Test subject to certain proposed Conditions namely:
 1. Provision of additional drawings showing section of the site and flood levels etc

2. Ensuring that flow paths are un-obstructed within the site and food storage area in particular
3. Provision of construction management plan demonstrating appropriate management of flood risk during construction.

These Conditions as suggested by the Drainage Planning Section are considered appropriate. Also it is Mr B. Brice (RPS) opinion that this concedes that the Flood Risk Assessment, as prepared by the Developer, is adequate once the 'planning principle' that a development of the type and nature is deemed acceptable on the proposed site.

2.23.4 Review of Parks & Landscape Services Report:

- Refusal was recommended on the grounds that, in its opinion, there was insufficient assessment of the impact on groundwater pathways and the potential future flood risk as a result of the earthworks proposed for the development. This recommendation appears to point to a deficiency in the Flood Risk Assessment as prepared by the Developer.

2.23.5 Review of Developer's Flood Risk Assessment:

- As referred to above the Flood Risk Assessment (FRA) notes that it was prepared in accordance with the Guidelines. The FRA report was prepared to address the requirement of a Stage 1, 2 and 3 Site Specific Flood Risk Assessment as defined in the Guidelines. This includes Flood Risk Identification, Initial Flood Risk Assessment and Detailed Flood Risk Assessment. Specifically, the FRA considered site specific flood risks and identified that fluvial flooding from the Cabinteely Stream (a tributary of the Loughlinstown River) bounding the site on the east is the primary flood risk source.
- The drainage network must be appropriately designed to reduce surface water flows from all hard surfaces within the development to at least preconstruction 'Greenfield' runoff rates and it must be maintained in perpetuity. This proposed approach could mitigate increased flood risk downstream of the development from surface water.
- Generally, the hydrological and hydraulic modelling assessment appears to have been undertaken in accordance with industry norms. The model was used to define the existing and future (post development) flood plain within the site.

- A number of the proposed apartment blocks will be located with Flood Zone A or B. This is generally not in accordance with the Guidelines and was correctly highlighted by the Drainage Planning Section. The applicant proposes compensatory flood storage as mitigation for this loss of flood plain. As noted above this is only appropriate if this development first passes the Justification Test.
- There is an inherent uncertainty in the statistically based hydrological calculations used to estimate of flood flows. The sensitivity of the predicted flood flows / levels to this uncertainty does not appear to have been presented within the FRA. Under predicted flood flows may result in an underestimate of the flood risk to ground floor / basement level of the buildings or critical ground level infrastructure.
- The report demonstrates that, in theory, the proposed flood storage area will locally reduce peak flood water levels within the site. This is appropriate and will help reduce flood risk within the site.
- The model was also used to undertake a number of 'sensitivity tests' which considered the potential increase in risk if the culverts at the downstream side of the site become partially blocked. Predicted water levels do not increase to a level that is above the proposed floor levels for the apartment blocks in the immediate vicinity of the stream.
- The FRA does not directly address Dun Laoghaire-Rathdown Parks & Landscape Services concerns in relation to groundwater impact of the development. If springs or other groundwater flows are interrupted by the development there is a potential to adversely increase flows in the Cabinteely Stream. This risk should be addressed by the Developer.
- In addition the success of the proposed flood risk mitigation measures i.e. surface-water attenuation, drainage system, provision of compensatory flood storage and assumed river channel conveyance capacity etc. will require the implementation of an appropriate long term (permanent) maintenance regime. This is referred to within the FRA and must be implemented. Further flood risk management plans are also required as identified in the FRA.

2.23.6 Summary

- As a general principle development within a floodplain can result in an increased flood risk to either the development or others in the area. It is therefore not considered to be best practice.
- In order for development to be considered appropriate within a floodplain, it is required that it must first pass a Justification Test as defined in the Guidelines as published in 2009 by the DoEHLG/OPW. Furthermore compensatory measures, such as provision of flood plain storage to mitigate for the loss of flood plain, can only be considered appropriate once a development is shown to pass the Justification Test. Dun Laoghaire-Rathdown County Council have correctly highlighted that the development does not appear to pass this Test and is therefore not appropriate for this site. It should therefore be Refused Planning.

3.0 Assessment

3.1. This report should be read in conjunction with the previous Inspector's report in respect of the proposed strategic housing development ABP 305859-19 dated 20th February 2020. Following the holding of an Oral Hearing on the 10th June 2020 with a limited agenda relating to flooding. I have assessed and reviewed the information presented at the Oral Hearing relating to flooding having regard also to the original submission, plans and particulars and the Site Specific Flood Risk Assessment, flood related drawings and landscaping.

3.2. I consider that key issues relevant to the limited agenda oral hearing and matter of further clarification to be:

- Oral Hearing Process.
- Policy Context.
- Justification Test.
- Technical Issues.

3.3. Oral Hearing Process

3.3.1 A number of those who made submission expressed concerns regarding the nature and extent of the oral hearing. I have considered these submission and am satisfied that the Board was within its rights to hold a limited agenda oral hearing having regard

to the provisions of the Planning and Developments Acts. The purpose of the oral hearing in terms of matters that were subject of further discussion, and to which the Board sought clarity were clear and unambiguous,

3.3.2 The Limited Agenda set out was *Further clarification regarding site specific information in relation to the risk of flooding, analysis of such risk, and appropriate flood avoidance measures. (The clarification sought should seek to address, inter alia, the issues raised in the 'Drainage Section Report' dated 17th December 2019 and the 'Parks and Landscape Services Section Report' dated 16th December 2019 of the 'Dun Laoghaire-Rathdown County Council Chief Executive Report' dated 7th January 2020 received by An Bord Pleanála on the 7th of January 2020.)*

3.3.3 The applicant, Planning Authority and all participants were given an opportunity to attend the oral hearing in person or remotely (online), and the planning authority and a number of the participants (observers) availed of the opportunity to make written submissions in respect of the oral hearing by the 12th June 2020.

3.3.4 In the interest of clarity the following clarification and chronology of reports on file is highlighted:

- The applicant submitted documents in response to the issues raised in the DLRCC Drainage Division report dated 9th December 2019 and the Parks and Landscape Services report dated 16th December 2019 Included in the Chief Executive's Report dated 7th January 2020.
- Mr Forde (AECOM Ireland Ltd) in his submission refers to a review of a FRA prepared by AECOM dated May 2019. The FRA on file is dated November 2019. Mr Forde in his submission references the AECOM Flood Risk Assessment document submitted with the application which is the document of November 2019.
- Ms Galvin in her submission refers to a DLR Drainage Section report dated 23rd March 2020 and a subsequent report that was circulated on the 11th June 2020. I would highlight to the Board that the report of the 23rd March 2020, the report presented at the Oral Hearing on the 10th June 2020 and the report circulated on the 11th June 2020 are the same report. The original Oral Hearing was scheduled to be held on the 8th April 2020 but as rescheduled due to the Covid 19 pandemic and associated lockdown.

- Ms Galvin referred to the later version of the Drainage report (received on the 11th June 2020) in her submission which states that the applicant has submitted detailed reports and drawings that satisfy the requirements of Municipal Services subject to 8 detailed conditions. Ms Gavin expressed concern that new conditions have been added and would insist that adherence to these conditions must be strictly monitored to ensure compliance. I have examined the DLRCC Drainage Report presented at the Oral Hearing and note that 8 conditions are not recommended.

3.4 Policy Context

- 3.4.1 The principle of the development on lands zoned A Residential and issues pertaining to potential material contravention of local objectives (SLO 130 and ST25 relating to Brennanstown Road) were addressed in my report dated 20th February 2020. Issues raised by observers in written submissions of the 12th June 2020 in relation to land use zoning and specific local objectives are not assessed as part of the Oral hearings' limited agenda.
- 3.4.2 Mr O'Brien raised concerns that residential development on Flood Zone A would materially contravene the development Plan.
- 3.4.3 The applicant submitted a Material Contravention Statement with the application relating to the designation of a section of land along the riparian corridor of the Cabinteely Stream as Residential Zoning A – To protect and/or provide residential amenity and as Flood Zone A and B within the Strategic Flood Risk Assessment (Appendix 13).
- 3.4.4 The applicant included a legal submission with the application that outlined the conflicting objectives and policies pertaining to flood risk management contained in the Development Plan and the SSFRA.

- 3.4.5 The Planning Authority stated in their submission of the 12th June 2020 that alterations to existing floodplain extents (Flood Zone A&B) to ensure that all highly vulnerable development would be located outside the altered Flood Zone A&B should comply with the Development Plan Justification Test in order to be considered acceptable. As the applicant's proposal to raise ground levels in the riparian corridor, albeit at the edge, alters the flood plain characteristics and extents, the development therefore should comply with section 4.10.2 of Appendix 12 of the Dun Laoghaire Rathdown Development Plan 2016-2022. Mr. Egan concluded that the proposal did not accord with section 4.7.1.1 or 4.10.2, Appendix 13 (Strategic Flood Risk Assessment) as the applicant had not demonstrated that the proposal passed the Development Plan Justification Test. This matter is addressed in section 3.5 below.
- 3.4.6 The applicant at the Oral hearing set out how the development complied with the Development Plan Justification Test (Box 4.1 in the Guidelines). The applicant further set out that it is proposed to re-grade the riparian corridor not raise the ground levels of the site which I address in more detail in section 3.5. I have examined the documentation submitted at the oral hearing and I am of the view that a re-grading of the riparian corridor is proposed and not the raising of ground levels. I note Section 4.7.1.1 of the SSFRA that states *it is not appropriate for new, highly vulnerable development to be located on greenfield lands in Flood Zone A or B, particularly outside the core of a settlement where there are no flood defences. Such proposals do not pass the Justification Test. Instead a less vulnerable use should be considered.*
- 3.4.7 This conflicts with section 5.2.5.2 (Policy CC15 Flood Risk Management) and section 8.2.10.4(ii) Applications for Larger Developments in areas at Risk of Flooding of the Dun Laoghaire County Development Plan 2016-2022 which set out that larger developments area at risk of flooding require the submission of a SSFRA and the Development Management Justification Test. This matter is addressed further in section 3.5 below.
- 3.4.8 Notwithstanding the conflicting objectives and policies set out in the plan pertaining to flood risk management, I consider the non-compliance with these policies/sections of the Flood Risk Management not to be material given the proposed development's

general compliance with plan's Flood Risk Management objectives, and as such I do not consider this to be a material contravention of the Development Plan. However, if the Board wish to err on the side of caution I would direct the Board to Section 37(2)(b) (ii) and (iii) of the Planning and Development Act 2000, as amended, having regard to the policies outlined in the section 28 guidelines pertaining to flood risk assessment, and secondly that the policies and objectives of the Development Plan comprise inconsistencies. The Board could further rely on s.37(2)(b)(iv), in that permission has already been granted on the site for a residential development by the Board, and where the issue of flood risk was not raised by the Planning Authority, notwithstanding that the same Development Plan policies were applicable.

3.5 Justification Test

- 3.5.1 Brock Mc Clure Planning and Development Consultants prepared a response to the issues raised regarding the planning context of the application and in particular the issue surrounding compliance with the policies set out in the operative Development Plan, the Strategic Flood Risk Assessment (Appendix 13) of said plan and the Development Plan Justification Test.
- 3.5.2 With regard to the Planning Authority's comments that the proposal does not comply with the Development Plan Justification Test. I would draw the Board's attention to my report dated 20th February 2020 where I noted that in terms of Flood Risk Assessment and Flood Risk Management and notwithstanding that there is an extant permission on this site I consider that an assessment from first principles was required, i.e to determine if residential development is acceptable on Flood Zone A & B lands.
- 3.5.3 I note that the current Development Plan was adopted in 2016. At this time a SFRA was carried out. The application site is zoned Residential 'A' and includes lands identified as Flood Zones A&B. This has been justified by the Planning Authority in that the Plan contains robust policies and objectives that ensure that appropriate development is permitted (in principle) at appropriate locations. By virtue of a site being zoned residential does not imply that it is suitable for residential development and that a site specific analysis would be required. The policy underlying the Section 28 Flood Guidelines finds practical expression through the medium of Development Plans. Therefore the starting point of any FRA should be the provisions of the relevant Development Plan.

- 3.5.4 The location of the site on Flood Zones A and B does not preclude vulnerable development from taking place on said lands, rather it requires that the applicant demonstrate that the proposal complies with the Development Management Justification Test as is clearly set out in section 5.2.5.2 and section 8.2.10.4 of the Dun Laoghaire County Development Plan 2016-2022.
- 3.5.5 I have examined the Development Management Justification Test submitted with the SSFRA and the Development Plan Justification Test presented at the Oral Hearing. The Planning Authority has set out in its submission of the 12th June 2020 that the proposed development does not comply with the Development Plan Justification Test.
- 3.5.6 **Box 5.1** Justification Test for Development Management contained in the Flooding Guidelines sets out criteria that needs to be satisfied. The applicant has set out how the proposal complies with the criteria as follows: 1) The site is zoned residential in the operative County Development Plan 2), (i) a SSFRA has been carried out and outstanding issues clarified at the Oral Hearing, (ii) measures to minimise flood risk have been set out and further clarified in submissions made to the oral hearing, (iii) measures are included to ensure residual risks can be managed to an acceptable level, (iv) the development addresses the Justification Test criteria in a manner that is compatible with wider planning objectives.
- 3.5.7 In the interest of completeness the applicant at the Oral Hearing addressed The Development Plan Justification Criteria as set out in **Box 4.1** of the Guidelines.
- 3.5.8 Permission was granted under ABP 301044-18 for 115 units (Strategic Housing Development). At this time the issue of flood zone A and B and associated Justification Test was addressed by the Board when considering the application.
- 3.5.9 I note the DLR Drainage Planning Section report and their reference to erring in their previous recommendation under ABP 301044-18. Notwithstanding that the flood risk management and mitigation measures mirror those granted under ABP 301044-18. Each application for development is assessed on its own merits. I consider the crux of the matter in this instance is whether the onus is on the applicant to demonstrate

compliance with the Development Management Justification Test or the Development Plan one as required by the Planning Authority.

3.5.10 Having regard to the above, I therefore consider that vulnerable development on these lands (which re zoned residential A) are subject to the Development Management Justification Test. This has been carried out as part of the Site Specific Flood Risk Assessment submitted with the application. The Board direction BD-005232-20 for a Limited Agenda Oral Hearing related to the issue of flood risk, where the matter and FRA were further clarified.

3.5.11 The Planning Authority in both their original submission on file and at the Oral Hearing where of the view that if the Board accepts that the development footprint, based on modified flood extents can be considered in principle at this location, then Drainage Planning is of the opinion that the analysis contained in the AECOM Flood Risk Assessment is appropriately detailed and provides sufficient evidence to pass the Development Management Justification Test, subject to the suggested conditions 6 and 7 of the Chief Executive's report submitted to An Bord Pleanála on the 7th January 2020.3.4.9

3.5.12 The report prepared by RPS dated 10th June 2020 contained in Ms K. Keaveney's submission concedes that the FRA prepared by the applicant is adequate once the planning principle that a development of the type and nature is deemed acceptable on the proposed site.

3.5.13 I have examined the information on file and submission made with the Oral Hearing and I consider that given the revised flood extents that result from the proposed works to the riparian corridor, the strategic nature of the proposed development that in this instance the proposal complies with the Development Management Justification Test, which is the appropriate test in this instance.

3.6 Technical Issues

3.6.1 Astro Turf:

3.6.2 A number of the observers in their submissions of the 12th June 2020 raised issue with the applicant's reference to Astro turf surfaces etc in their submission to the Oral Hearing. The limited Agenda referred to the Reports from DLR Drainage Planning Section and the Parks and Landscape Services that were included in the Chief Executive's report dated 7th January 2020. In the interest of completeness the applicant addressed these in their submission and I considered them acceptable as the layout and materials used for surfaces on site has implications for rates of run off which could have implications for flood risk and management.

3.6.3 Mr Roche, on behalf of the applicant addressed issues raised by the Park and Landscape Services in their report dated 16th December 2020. At the Oral hearing Mr Kearny did not raise any issue in relation to the applicant's submission. No further comments were received from the Parks and Landscape Services on foot of the applicant's submission to the oral hearing.

3.6.4 I have examined the applicant's submission to the oral hearing and I consider that subject to the use of appropriate materials in combination with surface water drainage measures issues relating to potential runoff can be addressed.

3.6.5 Riparian Corridor Regrading:

3.6.6 A number of observers and the Planning Authority raised concerns regarding the changing levels within the riparian corridor.

3.6.7 DLR Parks and Landscape Services refer to significant topographical modifications of cut and fill are proposed onto this already heavily sloped site towards Cabinteely stream, which currently is in a flood risk zone. All groundwater status (which is below surface level) depends on streams and river for equilibrium. Any influence of a non-porous structural development removes this and the natural soil attenuation that currently exists forcing a greater requirement of water storage in the stream.

3.6.8 In relation to the extent of cut and fill proposed and the concerns raised by the Parks and Landscape Serviced I have examined Mr Forde's submission, on behalf of the

applicant, to the oral hearing and having regard to the extent of survey data to support the limited storage capacity provided by this superficial strata, and absence of evidence to the contrary, I am satisfied that the removal of this top layer/superficial layer will not have any notable impact on surface water run off or the sites natural or existing surface water storage capacity, and therefore there will be no material consequential impact on flooding or flood risk as a result of its removal.

3.6.9 In respect of any alteration to the sites ability to naturally store water by reason of impact to the ground water table, I am satisfied that as the depth of ground water table is 1.7m below the surface it will not be effected by any changes or removal of the superficial strata on site.

3.6.10 DLR Drainage Planning Sections' refer to the modification of ground levels to raise land above the design flood event in their report dated 9th December 2019. Ms Kendrick in her submission on behalf of the applicant at the Oral Hearing clarified that it is not intended to raise ground levels on the site, rather it is proposed to re-grade the 10m wide riparian corridor (lower levels). The Planning Authority dispute this in their submission dated 12th June 2020. Mr Egan (DLRCC) in his submission notes that though Sections A(1) & B(1) would appear to show that flood waters may not reach the site (unaltered ground profiles) it should be noted that the AECOM FRA shows that the route of flood waters is north of Sections A(1) & B(1) (approx. Section RS 268.36 of AECOM Drawing No. PR396202-ACM-XX-DR-CE-10-0401) and therefore the proposed fill along, and to the north of, Sections A(1) & B(1), at the building lines, will be required to prevent flood waters reaching the site.

3.6.11 The applicant (AECOM) outlined that additional extended cross-section have been included with the Oral Hearing submission to clearly show the relationship between the existing and proposed ground levels (with levels), existing and proposed flood extents (with levels) and the proposed buildings. Cut and fill contour maps (with levels) along with flood extents (with levels) for the 1.0% and 0.1% AEP events along with Architectural cross section are also included as part of the Oral Hearing submission. The riparian corridor will not contain any Engineering, Architectural or Landscaping

features that would have the potential for obstruction of flow paths. A layout plan is included with the Oral Hearing submission prepared by PR Roche & Associates.

3.6.12 Mr Egan, DLR Drainage Planning in a written submission dated 12th June 2020 outlined that “if the applicants contention that the raising of ground levels is restricted to the riparian corridor then they would be technically correct that there is no raising of ground levels within the building footprint. However raising ground levels in the riparian corridor, albeit at the edge, does alter the flood plain characteristic and extents. Notwithstanding, it would appear to be the case that the inconsistencies raised in the Drainage Report on the full application (namely drawing no. 393_WS_05_01) have been substantially addressed”.

3.6.13 Mr Egan notes that if the Board accepts that the development footprint, based on modified flood extents can be considered in principle at this location, then Drainage Planning is of the opinion that the analysis contained in the AECOM Flood Risk Assessment is appropriately detailed and provides sufficient evidence to pass the Development Management Justification Test subject to suggested conditions.

3.6.14 I note that condition No. 6 included in the DLR Drainage Section submission refers to “The Site Specific Flood Risk Assessment is to be redrafted to include specific reference to all of these revised drawings and that the modelling has been undertaken in accordance with these revised drawings”. I do not consider amendments or revisions to a SSFRA are matters that should be addressed by condition.

3.6.15 I am satisfied that the drawings (along with additional cross sections) presented at the Oral Hearing clarified discrepancies in drawings submitted with the application, and that there is adequate information on file and contained in the AECOM FRA to demonstrate compliance and passing of the Justification Test, and that this has been broadly acknowledged by Mr Egan. The documents (drawings and cross sections) do not include revised proposals rather clarification of information that was lacking or unclear in the original drawings. I am satisfied that there is no material raising of the ground levels at the building footprint. I am also satisfied that there is no requirement for a revised SSFRA.

3.6.16 Cabinteely Stream

3.6.17 A number of the submissions received raised concerns regarding the requirements for clearing and cleaning Cabinteely Stream, and the need for this to take place during

construction and on an on-going basis thereafter. I am satisfied that this matter was covered in the reports and presentation of the applicant and note that it was to the satisfaction of the planning authority. The stream will be cleaned and an on going monitoring plan put in place, as outlined in the CEMP. Based on the information presented there is no evidence to suggest that there will be a downstream flood risk.

3.7 Conclusion

3.7.1 The applicant, in my view, has responded satisfactorily to the main outstanding issues in relation to flooding in the previous Inspector's report dated 20th February 2020.

3.7.2 All other matters relating to this application were assessed by me under the previous report dated 20th February 2020.

3.8 Appropriate Assessment

3.8.1 I have assessed the information submitted by the applicant, the planning authority, and observers at the Oral Hearing, in addition to the information contained in the original application relating to appropriate assessment.

3.8.2 There has been no changes arising from submissions presented at the Oral Hearing that would result in changes to the appropriate assessment screening carried out in the report dated 20th February 2020.

3.8.3 I consider it reasonable to conclude on the basis of the information on the file and as submitted at the Oral Hearing on 10th June 2020. And having regard to the AA Screening Report and to the Additional Biodiversity studies carried out and submitted with the application. I note that the development is not connected to any of the identified designated sites and there are no know indirect connections to these sites. I acknowledge the previous screening exercise carried out by the Board in 2018 and I note the urban location of the site, the lack of direct connections with regard to the source-pathway-receptor model, the intervening distances between the application site and the above designated sites and the nature of the development. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

4.0 Recommendation

In conclusion, I consider the principle of residential development to be acceptable on this site. I am of the opinion that this is a zoned, serviceable site within an established suburban area where a wide range of services and facilities exist. I have no information before me to believe that the proposal, if permitted, would put undue strain on services and facilities in the area. In my opinion, the proposal will provide a high quality development, with an appropriate mix of units and an acceptable density of development catering to a range of people at varying stages of the lifecycle. The provision of the riparian zone and the public open space will greatly enhance the amenity of the area for both existing and future occupiers. Importantly, the proposed pedestrian connections should be welcomed as a positive for the wider area. The proposed road improvements will aid in traffic safety, will reduce speeds, will provide increased facilities for vulnerable users and will facilitate the development of these zoned lands.

I am satisfied that the proposal will not impact on the visual or residential amenities of the area, in particular the properties along Brennanstown Road, to such an extent as to warrant a refusal of permission.

I consider the proposal to be generally in compliance with both national and local policy, together with relevant section 28 ministerial guidelines. I also consider it to be in compliance with the proper planning and sustainable development of the area and having regard to all of the above, I recommend that permission is granted, subject to conditions.

Having regard to the above assessment, I recommend that section 9(4) (a) of the Act of 2016 be applied and that permission is **GRANTED** for the development, for the reasons and considerations and subject to the conditions set out below.

5.0 Reasons and Considerations

Having regard to the:

- a) The site's location on lands with a zoning objective for residential development;

- b) The policies and objectives in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022;
- c) Nature, scale and design of the proposed development;
- d) Pattern of existing and permitted development in the area;
- e) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- g) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- h) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- j) The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- k) The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- l) The submissions and observations received, including the submissions made to the oral hearing on the 10th day of June 2020 and written submissions on the 12th June 2020;
- m) the Report of the Chief Executive Dun Laoghaire Rathdown County Council;

n) the report of the Inspector.

6.0 Recommended Order

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars lodged with An Bord Pleanála on the 7th day of November 2019 and submitted to the oral hearing on the 10th day of June 2020 by Atlas GP Limited care of Brock McClure Planning and Development Consultants, 63 York Road, Dun Laoghaire. Co. Dublin.

Proposed Development

A planning permission for a strategic housing development on lands at the former Doyle's Nurseries and Garden Centre and Benoni, Brennanstown Road, Cabinteely, Co. Dublin.

The proposed development will comprise 234 residential units in a mix of apartments and duplexes in three blocks (Block A, B and C) ranging in height from 1-8 storeys with associated residential facilities including open space, a gym, crèche and a Lower Foyer. Block A will consist of an approx. 248sq.m gym, approx. 67sq.m of circulation space and approx. 317sq.m of a crèche facility at Ground Floor Level, with 6 no. duplex residential units at first and second floor. Block B will consist of an approx. 254sq.m Lower Foyer at Ground Floor level and 29 no. apartments comprising 8 no. 1 bed apartments, 13 no. 2 bed apartments, 2 no. 3 bed apartments and 6 no. 3 bed duplex apartments from Ground to Second Floor Level. Block C will consist of 199 no. apartments comprising 63 no. 1 bed units and 136 no. 2 bed units from lower ground to sixth floor. Balconies are to be provided on Blocks A (south and southeast elevation), Block B (east elevation) and Block C (east and west elevations). The proposed development includes for the demolition of 'Benoni' (c.252 sq.m- a habitable dwelling proposed for demolition to facilitate the proposed development and main vehicular access) together with the extant single storey buildings associated with the Former Doyle's Nursery and Gardens (c. 690sq.m); vehicular access to the site is proposed at the location of the existing entrance to Doyle's Nursery Garden Centre facility adjoining the south of the subject site which is to be realigned and improved and which will serve both the Garden Centre and the proposed development (note: the

new Garden Centre is not part of the subject application site). Car parking is to be provided in the form on on-curtilage carparking, on-street parking and a basement car park over three levels for 184 spaces; the proposed development will also provide all ancillary and associated site development and landscape works including open space (c.9859sq.m) internal to the site, play areas. The removal of existing obstructions in the Cabinteely Stream adjoining the east of the site and the re profiling of the riparian corridor located west of the stream, and the provision of 2 no. Electricity Supply Board sub statins (c.44sq.m), and all necessary bin and bicycle storage including basement level stores for the apartment units.

The proposed development includes for measures to upgrade the Brennanstown Road including works within Dun Laoghaire Rathdown County Council (DLRCC) owned lands from the location of the proposed site entrance northwards as far as the junction of the Brennanstown Road with the Bray Road at Cabinteely Village and these works are to comprise road widening and realignment works, widening and resurfacing of the existing footpath located on the western side of the Brennastown Road as per the DMURS guidelines to a maximum of c.1.8m in width where physical constrains permit, the introduction of controlled pedestrian measures in the form of a 4 arm mini roundabout at the proposed site entrance at the junction with the Brennanstown Road and Lambourne Wood Estate, the construction of a c.2.5m wide pelican crossing at the north arm of this roundabout, the construction of a c.2.5m wide raised crossing at the south arm of this roundabout, and the construction of a raised table at the junction of the Brennanstown Road and Carraig Glen Estate further north of the subject site. The proposed development also includes for improved pedestrian and cyclist connections comprising a pedestrian footbridge to a c.21m span over the Cabinteely Stream at a location to the north east of the subject site to be of steel construction with recycled plastic non-slip boarding with c. 1.4m high safety railing providing connectivity for the site to Cabinteely Village, the Stillorgan QBC and DLRCC owner lands to the east of the subject site identified as a future walking and cycling route ('The Cabinteely Greenway'). The connectivity proposal also include for a new c.3m wide pedestrian and shared surface path connecting the site into the Brennanstown Avenue Estate to the south of the site. The new shared surface path will be c.55m long and connects into an existing footpath along Brennanstown Avenue.

All on lands measuring c.1.85 hectares nett (c.2.3 hectares gross including third party lands) bounded generally to the east by Cabinteely Stream, to the south by the new Doyle's Nursery and Garden Centre and residence at Brennanstown Avenue and to the west by the existing houses fronting onto Brennanstown Road at the Former Doyle's Nursery and Garden Centre ad 'Benoni', Brennanstown Road, Cabinteely, Co. Dublin.

The application contains a statement setting out how the proposal will be consistent with the objectives of the relevant development plan or local area plan. The application contains a statement indicating why permission should be granted for the proposed development having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to zoning of the land.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- a) The site's location on lands with a zoning objective for residential development;
- b) The policies and objectives in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022;
- c) Nature, scale and design of the proposed development;
- d) Pattern of existing and permitted development in the area;
- e) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

- f) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- g) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- h) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- j) The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- k) The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- l) The submissions and observations received, including the submissions made to the oral hearing on the 10th day of June 2020 and written submissions on the 12th June 2020;
- m) the Dun Laoghaire Rathdown Chief Executive's Report;
- n) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would achieve an acceptable standard of urban design and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would be acceptable in terms of traffic and pedestrian safety and convenience and would not present a flood risk or hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Screening Report for Appropriate Assessment submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment Screening of the proposed development.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
- (b) the absence of any significant environmental sensitivities in the area,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an Environmental Impact Assessment Report for the proposed development was not necessary in this case.

Conclusion on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible suburban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian and traffic safety and would be acceptable in terms of flood risk

management. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars presented to the An Bord Pleanála at the oral hearing on the 10th day of June 2020 and received by An Bord Pleanála on the 15th day of June 2020 and the 17th day of June 2020, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
- i) Full details and specifications of the footbridge to be provide over the Cabinteely River.
 - ii) Full details and specifications for the pedestrian/cycle shared surface path to the Brennanstown Avenue Estate.
 - iii) Full details of proposed green roofs.
 - iv) Proposals to safeguard the walls along the western side of Brennanstown Road during construction of the road improvement works, to be prepared by a Conservation Specialist.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. 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.

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

5. Prior to commencement of development, proposals for a numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development

6. 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.

7. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

8. The works to Brennanstown Road shall be completed to the satisfaction of the planning authority and shall be available for public use, prior to the first occupation of any of the proposed residential units

Reason: In the interests of traffic safety

9. The pedestrian bridge over the Cabinteely Stream and the pedestrian and cycle shared surface path connecting the site into Brennanstown Avenue to the south of the site shall be completed to the satisfaction of the planning authority and shall be available for public use, prior to the first occupation of any of the proposed residential units.

Reason: In the interest of amenity and the proper planning and sustainable development of the area.

10. The following requirements in terms of traffic, transportation and mobility shall be incorporated and where required, revised drawings / reports showing compliance with these requirements shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development:

- (a) The roads and traffic arrangements serving the site (including footpath connections and 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 including junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings, car parking bay sizes and road access to the development shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the Planning Authority for such road works.
- (c) Cycle tracks/paths within the development shall be in accordance with the guidance provided in the National Cycle Manual.
- (d) The materials used in any roads/footpaths/set down areas provided by the developer shall comply with the detailed standards of the Planning Authority for such road works.
- (f) The developer shall carry out a Stage 2 and Stage 3 Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), which shall be submitted to the Planning Authority for its written agreement.

The developer shall carry out all agreed recommendations contained in the audits, at the developer's expense.

Reason: In the interests of traffic, cyclist and pedestrian safety.

11. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 184 no. clearly identified car parking space shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

12. 488 no. bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

13. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all

units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

14. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

15. 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.

16. The developer shall enter into water and/or waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

17. Prior to the commencement of development the developer shall submitted for the written agreement of the Planning Authority.

- i) Details of the planned pedestrian crossing and installation, a headwall shall be in accordance with agreed method statements.

- ii) Methodology for the instream works for the removal of manmade barriers which shall be carried out in the fisheries open season (July to September).

Reason: In the interest of protect the Cabinteely Stream and its environment.

18. Surface water shall comply with the plans, particulars received by An Bord Pleanála on the 10th day of June 2020.

The flood storage and flow path areas should not contain any Engineering, Architectural or Landscaping features that would have the potential for obstruction of flowpaths. All Engineering, Architectural or Landscaping specification, schematic, drawings, etc, shall clearly show that unobstructed flow paths are being provided (in accordance with section 3.3.1 Appendix B of the Planning System and Flood Risk Management Guidelines).

Prior to the commencement of construction the applicant shall submit to the Planning Authority for its written agreement and CEMP and a Programme of Works that provides for:

- (a) the completion of the proposed flood storage works and flood routing works in advance of other construction works, or other acceptable temporary proposal(s) supported by hydraulic analysis, such that it can be clearly demonstrated that the full food storage routes area available at all stages of the proposed development and
- (b) the construction of the proposed bridge in such a manner that the full flood storage volumes and flood routes are available at all stages of the proposed development.

The applicant shall thereafter, unless otherwise agreed with the Planning Authority, be required to construct the works in accordance with the agreed CMP.

Reason: In the interest of public health and amenity.

19. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the Planning

Authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the in the submitted Arboricultural Assessment Report and accompanying documents. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

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

20. 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) 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

(b) 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

(c) 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

21. The site shall be landscaped in accordance with the submitted scheme of landscaping as amended by details submitted on the 10th day of June 2020, 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.

22. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

(c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

23. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company
- (b) The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the satisfactory future maintenance of this development in the interest of residential amenity.

24. 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.

Reason: In the interest of sustainable waste management.

25. A final Site Specific detailed Construction 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 commence.

The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) Prior to the commencement of development the developer shall submit for the written agreement of the Planning Authority details and methodology for the rock extraction and excavation works. This shall include timeframes and proposals to deal with vibration and noise.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and to protect the environment during the construction phase and also to avoid-impacts on water quality, fisheries, sustainable drainage and flooding

26. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, 0800 to 1400 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 residential amenities of property in the vicinity.

27. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. 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

28. Prior to first occupation of any of the units, the proposed pedestrian and cyclist links, including the footbridge shall be satisfactorily completed at the applicant's expense and available for public use.

Reason: In the interest of pedestrian, cyclist and traffic safety.

29. 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.

30. 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

31. 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.

32. 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.

33. 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.

Dáire McDevitt
Planning Inspector

18th June 2020

Appendix 1:
Oral Hearing Attendees:

Applicant.

In the Room:

- Suzanne McClure (Brock McClure Planning). (Presentation)
- Emma McKendrick (Aecom Drainage). (Presentation).
- Des Twomey (PLUS Architects)

On line:

- Kevin Forde (Aecom HydroGeo). (Presentation).
- Jim Dowdall (Enviroguide Environmental). (Presentation).
- Cass Roche (PC Roche Landscape Architects). (Presentation).
- Shaun Thorpe (Marlet).

Planning Authority:

On line:

- Liam Walsh (Senior Planner)
- Bernard Egan (Senior Executive Engineer Drainage). (Presentation).
- Donal Kearney (Assistant Parks Superintendent). (Presentation).
- Michelle Breslin (Senior Executive Planner).

Observers:

On line:

- Michael O'Brien.
- Gavin Cronin & Tony Manahan on behalf of Brennanstown Management Company.
- Liam Mulcahy.
- Fiona McCarthy.
- Donal Duffy.
- Karen Keaveney.
- Charles Delap.
- Cathal Duffy.

Appendix 2

List of written submissions received.

- CEDRA, Cabinteely and District Residents Association (c/o Michael O'Brien)
- Michael O'Brien (Chairperson CEDRA).
- Aideen O'Brien.
- Tara O'Brien.
- Kerry O'Brien.
- Imelda Galvin.
- Liam Mulcahy.
- Karen Keaveny