



An
Bord
Pleanála

Inspector's Report ABP-307972-20

Development	Construction of a detached split level 2 storey dwelling with 3 storey atrium and vehicular entrance to the side of existing detached 2 storey house and associated works.
Location	Fairways, Violet Hill, Church Road, Killiney, Co. Dublin.
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0378
Applicant(s)	Barry Fitzgibbon
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Barry Fitzgibbon
Observer(s)	David Allman Paul T. Murphy Paul P. Murphy

Michael Reilly

Date of Site Inspection

10th February, 2021

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located to the north of Church Road, Killiney, Co. Dublin, where it occupies a comparatively elevated position at the northern / north-eastern end of the small cul-de-sac of housing known as Violet Hill which affords uninterrupted views towards the Dublin Mountains. It has a stated site of 0.082 hectares, is irregularly shaped, and comprises the north-western extent of the garden area of the adjacent property of “Fairways” (a substantial two-storey, detached, split-level dwelling house) with the lands rising north-eastwards on travelling away from the roadway. It is bounded by Killiney Golf Course to the rear / northeast and is set between “Fairways” to the southeast and another substantial residential property (“Carrig Mor”) to the northwest with the intervening boundaries defined by mature hedging & planting.
- 1.2. Violet Hill is a narrow laneway that rises north-westwards from Church Hill and comprises a ‘T’-shaped cul-de-sac of private housing (in excess of 20 No. properties) characterised by low density residential development predominantly composed of large, detached dwellings of varying forms and appearance set within substantial plots. The area is gradually densifying with several instances of plot subdivisions accommodating additional housing development or the demolition of larger houses having made way for the construction of multiple units, however, the mature setting and sylvan character of the laneway is in marked contrast to the suburban nature of the wider area e.g. ‘The Watsons’ residential development to the west of Church Road.
- 1.3. Church Road (the R118 Regional Road) is a heavily trafficked route that extends between its (roundabout) junction with Rochestown Avenue (R828) / Sallyglen Road (R118) / Avondale Road to the north and the Wyattville Road to the south which in turn provides access to the N11 National Road and the M50 Motorway.

2.0 Proposed Development

- 2.1. The proposed development consists of the subdivision of an existing housing plot and the construction of a four-bedroom, detached, split-level dwelling house (floor area: 310m²) with independent vehicular access via a new splayed entrance arrangement onto the adjacent laneway (Violet Hill) to the immediate west. The

contemporary design of the proposed dwelling is characterised by its 'wedge-like' shape and is primarily of a two-storey construction cut into the hillside with the first-floor level recessed behind the building line of the lower floor so as to provide for a front terrace area set behind glass panelling. The curved detailing of the front elevation incorporates an extensive glazed component whilst the design also includes for a third storey study / atrium space which will serve as a lightwell to the lower-level accommodation. External finishes will include rendered blockwork, masonry, brick & mortar panels, and folded zinc roofing. Water and sewerage services are available via connection to the public mains.

- 2.2. On 6th May, 2020 the Planning Authority issued a Certificate of Exemption (PA Ref. No. V/029/20) pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 24th July, 2020 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following single reason:

- The proposed development is located off Church Road (Regional Road R118), which provides an important part of the link road between Dun Laoghaire Town Centre and the M50/N11, and for which there is a 'Six Year Road Objective' as part of the Cherrywood to Dun Laoghaire Strategic Route (R118 Wyattville Road to Glenageary Roundabout) as identified on Map 7 and Policy ST25: Roads in the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The proposed development would lead to an intensification of traffic using the existing right-of-way (Violet Hill) accessing onto the heavily trafficked Church Road. The additional traffic turning movements, particularly right turn movements, generated onto Church Road, which is a single carriageway with a relatively higher speed limit of 60kmh, would result in an increased accident risk at this location and would have a seriously adverse impact on the carrying capacity of the link road. The proposed development would, therefore, be premature pending the construction of the planned

upgrade of Church Road including the objective to provide a Bus Priority Scheme along Church Road, would have a negative impact on the accident risk and capacity of the strategic roadway of Church Road, and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports:*

Details the site context, planning history, and the applicable policy considerations, before stating that the overall principle of the proposed development is generally acceptable. It then analyses the proposal and concludes that the contemporary house design and layout proposed can be accommodated on site, although concerns are expressed as regards the potential to detract from the residential amenity of the neighbouring property to the southeast ('Fairways') by reason of overlooking (given the need to clarify the positioning of the first-floor fenestration within the south-eastern elevation relative to that dwelling in light of the limited separation distances involved) as well as that of 'Carrig Mor' to the northwest by way of overshadowing and a visually overbearing appearance. Further concerns arise as regards the traffic impact of the proposed development with reference to the submission received from the Transportation Planning Dept. The report concludes by recommending a refusal of permission for the reason stated.

3.2.2. *Other Technical Reports:*

Drainage Planning, Municipal Services Dept.: Recommends that further information be sought in respect of the foul and surface water drainage arrangements.

Transportation Planning: References the planning history of both the application site and the surrounding area before stating that Church Road is listed as a Six-Year Road Objective as part of the Cherrywood to Dún Laoghaire Strategic Route (R118 Wyattville Road to Glenageary Roundabout) in Table 2.2.5 of the County Development Plan and is also listed in Table 2.2.3 as part of a proposed QBC along the R118 from Wyattville to Dún Laoghaire (with a preliminary design and EIS having been prepared for the road upgrade and QBC scheme which envisages a dual carriageway on Church Road). The report subsequently emphasises that it is the

additional turning manoeuvres (and right-turn movements in particular) into / out of Violet Hill onto the heavily trafficked Church Road as a result of the proposed development which are of concern rather than the additional traffic volumes generated on Church Road. It then refers to the potential road safety / traffic hazard implications arising and the adverse impact on the carrying capacity of the link road. It is further stated that new residential development (such as that proposed) which exits directly onto Church Road should not proceed prior to the construction / completion of the planned upgrade of Church Road, including the QBC scheme, for the following reasons:

- The proposed development would lead to an intensification of traffic hazard using the existing right of way (Violet Hill) access from / onto the heavily trafficked Church Road (R118 Regional Road).
- The additional traffic turning movements from Violet Hill onto Church Road, which is part of the link between Dún Laoghaire Town Centre and the M50 / N11 (with this particular stretch of road comprising a relatively higher speed (60kph) single carriageway urban road between the dual carriageway Wyattville Road and the Sallyglan Road that has no vehicular accesses), would result in an increased risk of accident at the junction in question.
- Church Road experiences significant traffic queuing at peak hours. It is also considered that the additional traffic turning movements generated by residential development, and right-turns in particular from / onto Church Road, would have an adverse impact on the carrying capacity of the link road.
- The proposal would set an undesirable precedent for further development in the area that would increase the risk of accidents on Church Road and affect the carrying capacity of the road leading to increased queueing.

Until such time as Church Road is upgraded in accordance with the County Development Plan, including the objective to provide a Bus Priority Scheme along that route, it is stated that any additional residential development along the road, with the associated increase in turning movements, will have a negative impact on the risk of accident and the capacity of this busy strategic route. Accordingly, it is recommended that permission be refused for the following reasons:

- Due to endangerment of public safety as a result of the additional traffic turning movements, and right-turn manoeuvres in particular, on this single carriageway section of the relatively higher speed (60kmh) heavily trafficked Church Road (Regional Road R118) generated by the residential development – i.e. the residential development and resulting additional traffic turning movements, particularly right-turn manoeuvres, generated on this single carriageway section of the relatively higher speed (60kmh) heavily trafficked Church Road would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise, as per Clause 4 of the Fourth Schedule (Reasons for the Refusal of Permission which Exclude Compensation) of the Planning and Development Act, 2000.
- Precedent – i.e. the proposed development, by itself, or by the precedent that a grant of permission would set for other relevant development, thereby resulting in additional traffic turning movements, particularly right-turn manoeuvres, on the heavily trafficked Church Road (Regional Road R118), would adversely affect the use of Church Road by road users, as per Clause 7 of the Fourth Schedule (Reasons for the Refusal of Permission which Exclude Compensation) of the Planning and Development Act, 2000.

In the event of a decision to grant permission, the report also recommends the attachment of a series of conditions.

3.3. **Prescribed Bodies**

Irish Water: No objection, subject to conditions.

3.4. **Third Party Observations**

- 3.4.1. A total of 3 No. submissions were received from interested third parties and the principal grounds of objection / areas of concern raised therein can be derived from my summation of the observations received on the first party appeal.

4.0 **Planning History**

4.1. **On Site:**

PA Ref. No. D19A/0276 / ABP Ref. No. ABP-304834-19. Was refused on appeal on 15th January, 2020 refusing Barry Fitzgibbon permission for the construction of a

detached split level dwelling house with dormer roof and a vehicular entrance, to the side of the existing detached two-storey house.

- It is the policy of the planning authority, as set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022, to promote high quality design (Policy UD1: Urban Design Principles and Section 8.2.3.1 Quality Residential Design refers). This policy is considered to be reasonable. Having regard to the visually prominent location of this infill site at the main junction of the Violet Hill roadway, and to the established built form and character of the area, it is considered that the proposed development would be incongruous in terms of its design, which would be out of character with the streetscape and would set an undesirable precedent for future development in this area. The proposed development would seriously injure the visual amenities of the area, would be contrary to the stated policy of the planning authority, in relation to urban development and would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. D15A/0181 / ABP Ref. No. PL06D.244922. Was granted on appeal on 13th August, 2015 permitting Barry Fitzgibbon outline permission for the construction of a detached two-storey house and a vehicular entrance to the side of the existing detached two-storey house.

4.2. On Adjacent Sites:

None.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. D18A/0838 / ABP Ref. No. ABP-303043-18. Was granted on appeal on 21st March, 2019 permitting Hugh Brady and Yvonne O'Meara permission for the construction of a two-storey detached dwelling with new vehicular access onto Violet Hill, general landscaping and associated site works at a site at "Aspen", Violet Hill, Church Road, Killiney, Co. Dublin.

4.4. Other Relevant Files:

PA Ref. No. D19A/0475 / ABP Ref. No. ABP-305485-19. Was refused on appeal on 21st January, 2020 refusing Hamilton Harrow Developments Limited permission for modifications to the internal access road and curtilage of Harrow House and the

construction of 1 No. two-storey detached dwelling at Harrow House, Church Road, Killiney, Co. Dublin.

- Having regard to the quantum of development proposed, providing a total of two units within a site area of 0.47 hectares, the Board considered that the resultant residential density and mix of house types failed to comply the requirements of the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (Department of Environment, Heritage and Local Government, May 2009) and the provisions of the Dún LaoghaireRathdown County Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

N.B. In deciding not to accept the Inspector's recommendation to refuse permission for reasons of prematurity pending the determination of the road layout for the area and the detailed design for the proposed Bus Priority Scheme, the Board had regard to the recently granted residential developments (An Bord Pleanála Reference Numbers ABP-301334-18 and ABP-301148) along Church Road and considered that the design of the proposed development which is set back from the road edge would not compromise the bus or road objectives on Church Road.

ABP Ref. No. ABP-304823-19. Was granted by the Board on 15th October, 2019 permitting Strand Court Ltd. permission for a strategic housing development comprising the construction of 210 No. residential units (apartments) in three blocks (A, B and C) ranging in height from three to seven storeys, including lower ground floor / basement level, incorporating 27 No. one-bed units, 160 No. two-bed units and 23 No. three-bed units; on lands at Churchview Road and Church Road, Killiney, Co. Dublin.

PA Ref. No. D17A/0868 / ABP Ref. No. ABP-301128-18. Was granted on appeal on 6th September, 2018 permitting Crekav Trading GP Limited permission for the provision of 42 No. residential units to include 18 No. dwelling houses and 24 No. apartments on lands consisting of 'Arranmore' and 'San Michele', Church Road and No. 19 Watson Road, Killiney, Co. Dublin.

ABP Ref. No. ABP-301334-18. Was granted by the Board on 6th July, 2018 permitting Crekav Trading GP Limited permission for a strategic housing

development comprising the provision of 102 No. residential units in a mix of 68 No. apartments, 13 No. courtyard units and 21 No. houses on lands at Kylemore, Woodlawn, Smallacre and Rockwinds, Church Road, and No. 66 Watson Drive, Killiney, Co. Dublin.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' note that in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

5.2. Development Plan

5.2.1. ***Dún Laoghaire Rathdown County Development Plan, 2016-2022:***

Land Use Zoning:

The proposed development site is zoned as 'A' with the stated land use zoning objective '*To protect and-or improve residential amenity*'.

Other Relevant Sections / Policies:

Chapter 2: Sustainable Communities Strategy:

Section 2.1: Residential Development:

Policy RES3: Residential Density:

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- ‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009)
- ‘Urban Design Manual - A Best Practice Guide’ (DoEHLG 2009)
- ‘Quality Housing for Sustainable Communities’ (DoEHLG 2007)
- ‘Irish Design Manual for Urban Roads and Streets’ (DTTaS and DoECLG, 2013)
- ‘National Climate Change Adaptation Framework
- Building Resilience to Climate Change’ (DoECLG, 2013)

Policy RES4: Existing Housing Stock and Densification:

It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Section 2.2.8: Public Transport:

Policy ST12: Quality Bus Network:

It is Council policy to co-operate with the NTA and other relevant agencies to facilitate the implementation of the Bus Network measures as set out in the NTA’s ‘Greater Dublin Area Draft Transport 2016-2035’ and to extend the bus network to other areas where appropriate subject to design, public consultation, approval, finance and resources.

Table 2.2.3: Proposed Bus Priority Schemes:

- Cherrywood to Blackrock via Wyattville Dual Carriageway, Church Road, Rochestown Avenue, Abbey Road, Stradbroom Road, Monkstown Link Road, Temple Hill and Frascati Road.
- Cherrywood to Dún Laoghaire via Wyattville Dual Carriageway, Church Road, Sallyglan Road, Upper Glenageary Road and Mounttown Lower (including Graduate and Deerhunter Roundabout)

Section 2.2.10: *Roads:*

Policy ST25: Roads:

It is Council policy, in conjunction and co-operation with other transport bodies and authorities such as the TII and the NTA, to secure improvements to the County road network – including improved pedestrian and cycle facilities.

Table 2.2.5: Six-Year Road Objectives:

- Cherrywood to Dún Laoghaire Strategic Route (R118, Wyattville Road to Glenageary Roundabout).

Chapter 8: Principles of Development:

Section 8.2.3: *Residential Development:*

Section 8.2.3.4: *Additional Accommodation in Existing Built-up Areas:*

(v) Corner/Side Garden Sites:

Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)):

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- Accommodation standards for occupiers.
- Development Plan standards for existing and proposed dwellings.

- Building lines followed where appropriate.
- Car parking for existing and proposed dwellings.
- Side/gable and rear access/maintenance space.
- Private open space for existing and proposed dwellings.
- Level of visual harmony, including external finishes and colours.
- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.
- Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.

It is also recognised that these sites may offer the potential for the development of elderly persons accommodation of more than one unit. This would allow the elderly to remain in their community in secure and safe accommodation. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

(vii) Infill:

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th Century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

Section 8.2.3.5: *Residential Development – General Requirements*

Section 8.2.4.9: *Vehicular Entrances and Hardstanding Areas*

Section 8.2.8.4: *Private Open Space – Quantity*

5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code: 001206), approximately 200m northeast of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 2.4km east of the site.
- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 2.6km northeast of the site.

5.4. EIA Screening

5.4.1. Having regard to the minor nature and scale of the development proposed, the site location outside of any protected site, the nature of the receiving environment in an existing built-up area, the intervening pattern of development, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- On foot of the grant of outline permission issued on site in 2015, and following consideration of the Board's decision with respect to ABP Ref. No. ABP-304834-19, the subject application was lodged with a view to developing the property. In this regard, it is submitted that the provision of one additional

dwelling house on these serviced lands should not have any major impact on the future upgrading plans for Church Road. Furthermore, the applicant is amenable to supporting the provision of traffic control restrictions onto Church Road (including a stipulation prohibiting right-hand turning movements from Violet Hill onto the main carriageway) in the interests of traffic and pedestrian safety).

- The application as lodged, including the revised house type proposed, aims to develop a single infill dwelling within a long-established housing scheme and has sought to address the reason cited for the earlier refusal of ABP Ref. No. ABP-304834-19. Accordingly, it is considered that the decision to refuse permission has not given due weight to the Board's previous determination of ABP Ref. No. ABP-304834-19 and is both unreasonable and unjustified.
- The assessment by the Planning Authority has determined that the proposal is consistent with Development Plan policy as regards infill housing whilst the contemporary design & layout is also acceptable. It has been further indicated that the proposal will not give rise to any undue overlooking of adjacent properties and that concerns with regard to the front building height and the potential for overshadowing can be addressed by way of condition in the event of a grant of permission.
- The subject proposal has taken due cognisance of the grant of outline permission previously issued on site under ABP Ref. No. PL06D.244922 and the precedent for the comparable subdivision of other sites at Violet Hill to facilitate the construction of additional housing.
- The property at 'Fairways' is underutilised and has ample scope to accommodate an additional serviced plot as proposed.
- Having regard to the planning history of the area, the subject proposal could be viewed as akin to a change of house type (with specific reference to PA Ref. Nos. D12A/0459 & D16A/0619).
- The principle of a dwelling house on site has already been established under ABP Ref. No. PL06D.244922 and the subject application follows that template in every respect, including the house type and its position within the plot.

- Parallels can be drawn between the subject proposal and the Board's determination of PA Ref. No. D18A/0838 / ABP Ref. No. ABP-303043-18 wherein the reporting inspector concluded that the construction of a further infill dwelling at Violet Hill would not adversely affect the carrying capacity of Church Road or undermine the stated development objectives of the Local Authority for the future development of that road in terms of bus priority or other improvements.
- By way of further precedent, the Board is referred to the Planning Authority's assessment of PA Ref. No. D19A/0198 in the context of the Development Plan objectives for Church Road and its decision to grant permission for that development which involved the extension of a local childcare facility. The subject proposal should be assessed in the same manner, particularly as its traffic generation will be much lower.
- With respect to the concerns of interested third parties, it is considered that these matters have been satisfactorily addressed.
- While previous Development Plans have included the QBC and Six-Year Road Objectives for Church Road, they have not been implemented to date and the prevailing traffic context remains unchanged since the grant of outline permission issued under PA Ref. No. D15A/0181 / ABP Ref. No. PL06D.244922. In effect, the purported 6-year road plan has been in place for over a decade and the passage of time that has since elapsed must now be taken into consideration i.e. it is not a 6-year plan.
- There are parallels to be drawn between the subject proposal and the decision of the Board to grant permission for the construction of a new dwelling house on lands at Aspen, Violet Hill, Church Road (ABP Ref. No. ABP-303043-18). In that instance, the reporting inspector stated the following:

' . . . permission has recently granted by the Board for a development of 102 no. residential units (ABP-301334-18) and 42 no. units (ABP-301148-18) onto Watson Road. The traffic generated by both developments will ultimately end up on Church Road. The impact of such additional traffic generation was not considered by the Board to compromise the bus or road objectives on Church Road. Nor were the developments considered to endanger public safety or

create an undesirable precedent that would affect the carrying capacity of Church Road. In this context, I fail to see how a single house would seriously adversely affect the carrying capacity of Church Road.

I note that the proposed development does not propose a significant alteration of the existing road layout as referred to in the Council's first reason for refusal. The proposed development whilst creating a new entrance on Violet Hill, will have no discernible impact on the road layout of Church Road, utilising as it will an existing access point that has wide visibility in both directions.

I am satisfied that the construction of a single in-fill dwelling on a residential cul-de-sac that is close to reaching its development potential will not seriously or adversely affect the stated development objectives of Dun Laoghaire Rathdown County Council for the future development of Church Road in terms of bus priority or road improvements'.

- The decision of the Planning Authority concerns a traffic management issue rather than a planning matter. In this regard, the Board's attention is drawn to the traffic management arrangements in place at the nearby Killiney Shopping Centre where there are signs stipulating a 'left-turn only' on exiting that property. Similar signage could be erected in the subject instance and the applicant is agreeable to paying for same.
- It could generally be agreed that since the onset of the COVID-19 pandemic there has been a reduction in traffic levels and research has suggested that the pandemic has altered road use patterns in Dun Laoghaire. Therefore, given that more people are working from home and as this work pattern is predicted to become more established, it is reasonable to submit that traffic levels will remain comparatively low until such time as the Local Authority's six-year road plan is implemented.
- The overall design and layout of the proposed access / entrance arrangement, including the capacity of the laneway to cater for the additional traffic volumes, were closely examined in the Board's previous assessment of ABP Ref. No. PL06D.244922.

- Given that the only issue cited in the Board's refusal of ABP Ref. No. ABP-304834-19 concerned the house type proposed, and as this matter has now been addressed to the satisfaction of the Planning Authority, the subject application should be granted permission.

6.2. Planning Authority Response

- The reasoning on which the Planning Authority's decision was based, as per the plans and particulars submitted with the application on 3rd June, 2020, is set out in the planning report that has already been forwarded to the Board.
- The matters raised in the report of the Drainage Planning Division should be taken into account in the assessment of the appeal.

6.3. Observations

6.3.1. A total of 4 No. observations have been received from interested parties (David Allman, Paul T. Murphy, Paul P. Murphy & Michael Reilly) in respect of the subject appeal and, therefore, in the interests of conciseness, and in order to avoid unnecessary repetition, I propose to summarise the key issues raised under the following headings:

6.3.2. *Traffic Considerations:*

- The exacerbation of the existing traffic hazard at the junction of Violet Hill with Church Road, with particular reference to 'shunt'-type collisions and vehicles crossing the footpath & cycleway.
- Incidences of traffic delays / queuing at the junction of Violet Hill with Church Road with several incidences of near misses arising from motorists taking unnecessary risks in order to exit onto the main carriageway.
- The inadequacy of the car parking arrangements and the prohibition of parking along the laneway serving Violet Hill.
- Deficiencies in the sightlines available from the proposed entrance onto Violet Hill.

- There is a definite trend that remote working / working from home (primarily attributable to the COVID-19 pandemic) will become more established with the result that traffic / commuter volumes will reduce thereby freeing up road capacity.

6.3.3. *Overall Design & Layout:*

- The proposed development would undermine the architectural integrity and setting of the established pattern of development at the top of Violet Hill.
- The proposal is out of character with the surrounding area.
- There is no substantive difference between the subject application and that refused permission under PA Ref. No. D19A/0276 / ABP Ref. No. ABP-304834-19.
- The overdevelopment of a restricted / constrained site.

6.3.4. *Detrimental Impact on Residential Amenity:*

- The proposed development will have a detrimental impact on the residential amenity of neighbouring properties (including 'Carrig Mor' to the northwest) by reason of overlooking, visual impact, overhanging etc.
- The close proximity of the proposed construction to the applicant's dwelling house (i.e. 'Fairways') will result in a loss of amenity and the devaluation of that property.
- Concerns that the removal of planting along the site boundary shared with 'Carrig Mor' could potentially result in damage to that property.

6.3.5. *Ecological / Biodiversity Considerations:*

- The existing hedgerows and native planting alongside the golf club should be retained given their contribution to the amenity and biodiversity of the area.
- The potential for damage to the trees & hedging, including their root systems, along the shared site boundary with 'Carrig Mor' to the northwest.

6.3.6. *Other Issues:*

- Concerns that the proposed development will result in increased volumes of groundwater / surface water runoff flowing into / through Violet Hill.

- The inadequacy of the water pressure within Violet Hill to cater for the demands of additional development.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design & layout / visual impact
- Impact on residential amenity
- Traffic implications
- Other issues
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is zoned as 'A' with the stated land use zoning objective '*To protect and-or improve residential amenity*'. Moreover, the surrounding area is primarily residential in character whilst the prevailing pattern of development comprises large, detached dwellings of various forms and architectural styles set within substantial plots. The area is also gradually densifying with several examples of plot subdivisions having been undertaken to accommodate additional housing development whilst in other instances larger houses have been demolished to make way for the construction of multiple units. In this respect, I would suggest that the proposed development site can be considered to comprise a potential infill site / plot subdivision situated within an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates

successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Such an approach would correlate with the wider national strategic outcomes set out in the National Planning Framework 'Project Ireland: 2040', including the securing of more compact and sustainable urban growth such as is expressed in National Policy Objective 35 which aims to '*increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights*'.

7.2.2. Further support is lent to the proposal by reference to Policy RES4: '*Existing Housing Stock and Densification*' of the Development Plan, which aims to increase housing densities within existing built-up areas having due regard to the amenities of established residential communities, wherein it is stated that the Planning Authority will encourage the densification of existing suburbs in order to help retain population levels by way of 'infill' housing that respects or complements the established dwelling types. These policy provisions are further supplemented by the guidance set out in Section 8.2.3.4: '*Additional Accommodation in Existing Built-up Areas*' of the Plan which details the criteria to be used in the assessment of proposals that involve the subdivision of an existing house curtilage and / or an appropriately zoned brownfield site to provide an additional dwelling. Indeed, the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

7.2.3. The site is also within walking distance of several Dublin Bus routes (with a preliminary design and EIS having been prepared for the upgrading of the Cherrywood to Dún Laoghaire Strategic Route (R118 Wyattville Road to Glenageary Roundabout) which will include for a 'Proposed Quality Bus / Bus Priority Route' planned along part of Church Road) and is a comparatively short distance from local schools, places of worship, employment opportunities, and other amenities. Cognisance should perhaps also be taken of the proximity of Killiney Train Station and the Draft Preferred Route Option for the 'Bray to City Centre Core Bus Corridor',

which forms part of the National Transport Authority's 'BusConnects' programme, which would equate to an approximate 2km walking distance from the site.

- 7.2.4. Therefore, having considered the available information, including the site context and land use zoning, and noting the infill nature of the site itself, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

7.3. Overall Design & Layout / Visual Impact:

- 7.3.1. By way of background to the subject proposal and the evolution of the design proposed, I would refer the Board in the first instance to its determination of ABP Ref. No. PL06D.244922 (PA Ref. No. D15A/0181) which granted outline planning permission for the construction of a detached dwelling house on site with Condition No. 1 of that decision serving to clarify that the outline permission was granted solely for the principle of '*a single storey house with dormer elements or a split level house*' on site. The rationale for the inclusion of this condition can be derived from the assessment of the reporting inspector wherein reference was made to the specifics of the site location and context, including its elevated nature, sloping topography, and relationship with neighbouring housing, with the result that a dwelling house similar in design to the adjacent properties was considered to be the most appropriate response in order to protect existing residential amenities and to integrate with the design character of the surrounding pattern of development.
- 7.3.2. The aforementioned grant of outline permission was subsequently followed by an application for full planning permission to construct a detached, split level dwelling house with a dormer roof on site. That proposal was ultimately refused permission on appeal under ABP Ref. No. ABP-304834-19 (PA Ref. No. D19A/0276) on the grounds that the proposed house design was incongruous and out of character with the streetscape with the result that it would seriously injure the visual amenities of the area and would set an undesirable precedent for future development. By way of elaboration, I would refer the Board to the analysis of the reporting inspector which stated that while the submitted design adhered to the requirements of Condition No. 1 of ABP Ref. No. PL06D.244922 in the strictest sense, it had resulted in an

elevational treatment and layout that was perfunctory in its treatment and execution. It was also suggested that in light of the visually prominent position of the site at the junction of Violet Hill, a more innovative design approach to the proposed infill dwelling would be appropriate in order to complement adjacent properties and to provide for visual interest in the streetscape.

- 7.3.3. Having considered the foregoing, in my opinion, the subject proposal represents an appropriate design response which is in keeping with the prevailing character of the area and takes due cognisance of the need to preserve the residential amenity of surrounding properties. The proposed dwelling will employ a contemporary design characterised by a 'wedge-like' shape and is primarily of a two-storey, split-level construction to be cut into the hillside with a third-storey study / atrium space serving as a lightwell to the lower-level accommodation. In this regard, I would suggest that several aspects of the design are broadly reflective of the outward appearances of some of the neighbouring properties along the top of Violet Hill. For example, the curved detailing of the front elevation and the extensive use of glazing is comparable to the dwelling house located at the north-western end of the cul-de-sac (three houses beyond the subject site) whilst the inclusion (and height) of the proposed 'third'-storey is similar to that of the three neighbouring properties to the northwest of the application site (please refer to the contiguous elevation shown in Drg. No. 200215/PL-07: '*Elevation*').
- 7.3.4. On balance, having regard to the site location, the planning history of the site, the surrounding pattern of development, and the provisions of Section 8.2.3.4 of the Development Plan, it is my opinion that the contemporary design and layout of the proposed development represents an appropriately innovative response to the site context and achieves a suitable balance between the need to respect the established character and residential amenity of the surrounding area and the desire to provide infill housing on the site. I would further suggest that the proposal to reduce the ridge height of the third-storey atrium space by 600mm (as detailed in the revised drawings submitted with the grounds of appeal) will serve to improve the overall design aesthetics and proportions of the proposed dwelling and, therefore, these revisions should be accommodated in any decision to grant permission.

7.4. Impact on Residential Amenity:

- 7.4.1. Having reviewed the available information, including the amended drawings submitted with the grounds of appeal which detail a 600mm reduction in the overall height of the proposed development, and in light of the site context, including its location within a built-up urban area, in my opinion, the overall design, scale, positioning and orientation of the proposed development, with particular reference to its relationship with (and separation from) adjacent housing, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by reason of overlooking, overshadowing, or an unduly overbearing appearance. In this regard, I am particularly cognisant that the minimum separation distances between the proposed dwelling and the neighbouring residences of 'Fairways' (c. 2m to the southeast) and 'Carrig Mor' (c. 7.5m to the northwest) are generally comparable to those previously considered by the Board in its assessment of ABP Ref. Nos. PL06D.244922 & ABP-304834-19 which were seemingly deemed acceptable.
- 7.4.2. In specific reference to the ground and first floor windows within the south-eastern gable of the proposed dwelling house and their proximity to existing fenestration within the opposing (north-western) elevation of the applicant's own property at 'Fairways', it should be noted that the windows (and doorways) in question (in both the existing and proposed dwellings) serve internal spaces, including kitchens, dining rooms & circulation areas, that would not typically be afforded the same level of amenity or privacy as living areas / bedroom etc. In addition, the proposed windows are to be finished in translucent glazing whilst the construction of a 2m high wall along the shared site boundary which will also serve to mitigate against any potential overlooking between the two properties.
- 7.4.3. Similarly, with respect to the neighbouring property of 'Carrig Mor' to the northwest, given the separation distances involved, the proposal to retain and reinforce the boundary hedgerow between the two sites, the nature of the accommodation to be served by the fenestration within the north-western elevation of the new dwelling, and the proposed use of translucent glazing, I am satisfied that no significant concerns arise as regards the potential for undue overlooking of that residence.
- 7.4.4. With regard to the positioning of the proposed dwelling house forward of the building line of 'Carrig Mor' to the northwest and the suggestion in the report of the case

planner that the new construction may give rise to the overshadowing of that property or appear visually overbearing when viewed from within confines of same, given the site context in a built-up area, the separation distances involved, the overall design & layout of the proposed development, and the level of screening likely to be offered by the reinforced boundary hedging, I am satisfied that the proposal will not give rise to any significant loss of amenity whilst any overshadowing will be limited in scope and would not be such as to warrant a refusal of permission.

7.4.5. In relation to the potential for damage to the existing trees & hedging along the site boundary shared with 'Carrig Mor', it should be noted that the proposal as submitted is to retain this planting in the first instance and to supplement it where necessary. Furthermore, the implementation of appropriate tree protection measures is proposed in Drg No. 053819-TS-02 Rev. B: '*Tree Retention and Protection Plan*'. Moreover, it is my opinion that any alleged damage to, or interference with, third party property attributable to the proposed development would essentially be a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property. It is not the function of the Board to adjudicate on property disputes or to act as an arbitrator in the assessment of damages and thus I do not propose to comment further on this matter.

7.4.6. With regard to the potential impact of construction activities on the residential amenities of surrounding property, whilst I would acknowledge that the proposed development site is located in an established residential area and that any construction traffic routed through same could give rise to the disturbance / inconvenience of local residents, given the limited scale of the development proposed, and as any constructional impacts will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition.

7.5. Traffic Implications:

7.5.1. The primary concerns of the Planning Authority with respect to the road safety / traffic implications of the proposed development would seem to be twofold and can be summarised as follows:

- The additional traffic turning movements (with particular reference to right-hand turns) at the junction of Violet Hill / Church Road to / from a heavily trafficked regional route.
- The prematurity of the proposed development pending the completion of planned upgrade works to Church Road (including the provision of a Bus Priority Scheme).

7.5.2. With respect to the additional traffic generation consequent on the proposed development and the associated turning movements to / from Church Road, I would suggest that there are direct parallels to be drawn between the subject proposal and the Board's previous assessment of ABP Ref. No. ABP-303043-18 when it granted permission for the construction of an additional dwelling house a short distance away on lands at "Aspen", Violet Hill. In that instance, the reporting inspector referenced the significant residential developments already granted by the Board under ABP Ref. Nos. ABP-301128-18 (42 No. units) & ABP-301334-18 (102 No. units) onto Watson Road and submitted that the traffic generated by both those developments would ultimately end up on Church Road. Moreover, it was noted that the impact of any such additional traffic generation was not considered by the Board to compromise the bus or road objectives on Church Road nor were those developments considered to endanger public safety or to create an undesirable precedent that would affect the carrying capacity of Church Road. Accordingly, the inspector failed to see how a single house would seriously adversely affect the carrying capacity of Church Road and concluded that the proposal would not seriously or adversely affect the stated development objectives of the Local Authority for the future development of Church Road in terms of bus priority or road improvements.

7.5.3. Further support is lent to the proposal by the more recent decision of the Board to grant permission under ABP Ref. No. ABP-304823-19 for a strategic housing development of 210 No. residential units with access from Churchview Road (which

in turn leads to / from Church Road) and the likelihood that traffic generated by that development will similarly end up on the main regional road. Cognisance should also be taken of the fact that whilst permission was refused for the construction of an additional dwelling at Harrow House, Church Road, under ABP Ref. No. ABP-305485-19, the reason for refusal was unrelated to traffic and the Board Order expressly stated that the design of the proposal would not compromise the bus or road objectives for the improvement of Church Road.

7.5.4. Having considered the foregoing, and noting that the subject proposal will avail of an existing access point onto the regional road which has the benefit of wide visibility in both directions, I am unconvinced that the limited additional traffic turning movements at the junction of Violet Hill / Church Road consequent on the proposed development would be such as to warrant a refusal of permission. While the report of the Transportation Planning Dept. of the Local Authority has sought to emphasise that the primary concern is the additional traffic turning movements to / from the main carriageway as opposed to the extra traffic generated on Church Road itself, considering the established nature of the existing junction arrangement, the limited scale of the proposed development (and the low number of traffic movements likely attributable to same in the wider context of Violet Hill and Church Road), the available sightlines, and the planned road improvements set out in the County Development Plan, I am satisfied that the proposed development will not give rise to such a level of additional traffic turning movements as to endanger public safety by reason of traffic hazard.

7.5.5. In relation to the assertion that the proposed development will be premature pending the completion of planned upgrade works to Church Road (including the provision of a Bus Priority Scheme), I note that scoping for the R118 Wyattville to Glenageary Road upgrade and QBC Scheme was previously considered by the Board under ABP Ref. No. PL06D.HS002 and that a preliminary design and EIS have seemingly been prepared for the road upgrade and QBC scheme which envisages a dual carriageway on Church Road. Accordingly, it would seem that the road layout for the area and the detailed design for the Bus Priority Scheme have been determined to some extent at this stage. In any event, given the site location a considerable distance from Church Road, and in light of the planning history of the area (with particular reference to previous Board decisions in the immediate site surrounds), in

my opinion, the proposed development would not compromise the wider road and bus improvement objectives for Church Road.

7.5.6. Finally, whilst I note the concerns of third parties as regards the siting of the proposed entrance onto Violet Hill and the sightlines available from same onto the laneway, I am cognisant of the site location at the end of a small cul-de-sac of housing and that traffic volumes in the area are likely to be relatively low given the limited number of dwellings involved whilst the carriageway width and alignment serves to mitigate against excessive traffic speeds. Furthermore, in my opinion, the proposed access arrangement is directly comparable to those serving existing houses in the immediate site surrounds. In addition, the proposed entrance arrangement is the same as that previously granted outline permission under PA Ref. No. D15A/0181 / ABP Ref. No. PL06D.244922 whilst no concerns were raised with respect to the same position of the entrance in the Board's assessment of ABP Ref. No. ABP-304834-19. Therefore, on the basis of the foregoing, I am inclined to suggest that the sightlines available from the proposed access point are within acceptable limits, particularly in light of the lower traffic volumes and speeds expected to be experienced along the laneway.

7.6. **Other Issues:**

7.6.1. *Infrastructural / Servicing Requirements:*

Although it has been suggested by a third party observer that there is inadequate water pressure within Violet Hill to cater for the proposed development, no such concerns have been raised by Irish Water which has indicated that it has no objection to the proposal, subject to conditions.

With respect to the surface water drainage arrangements, it is evident from the site plan that it is proposed to utilise a combination of rainwater harvesting and soakaways to dispose of runoff on site and I would suggest that any outstanding matters in this regard can be satisfactorily addressed by way of condition.

7.6.2. *Discrepancies in the Submitted Drawings:*

The Planning Authority is correct in that there are a number of inaccuracies in the submitted drawings as regards the positioning / sizing of certain windows within the gable elevations of the proposed dwelling house i.e. the floor plans do not correspond with the elevational details, however, I would suggest that these

discrepancies are minor in nature and can be satisfactorily clarified by way of condition.

7.7. Appropriate Assessment:

- 7.7.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the land use zoning of the site in the current Development Plan for the area, to the infill nature of the site, to the design, layout and scale of the proposed development, and to the nature and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would represent an appropriate residential density, would comply with the provisions of the Development Plan, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 19th day of August, 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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Revised elevational drawings corresponding with the floor plans lodged with the application shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of public health.

4. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to commencement of development.

Reason: In the interest of public health.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

6. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between the hours of 0800 and 1400 on Saturdays and not at all on Sundays or Public Holidays. Deviation from these times shall 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.

8. The construction of the development shall be managed in accordance with a Construction 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

9. 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.

Robert Speer
Planning Inspector

23rd March, 2021