



Development

The addition of two floors / two 2 bedroom apartments (total area 190 sq.m.) with balconies front and rear, to rear 3 storey section of the approved development (Planning ref: D18A/1118). Proposed development will increase the approved gross area to 1165sqm and apartment numbers from 3 to 5. Approved development (gross area 975 sq.m.) consists of a terraced 2 storey building to the front with new shopfront, 3 storeys to the rear and basement to provide services, storage and bicycle parking for both retail unit and residential units. Retail unit extending throughout the whole ground level. 1 x 2 Bedroom apartment above retail unit to front with courtyard at 1st floor level and 1 x 2 Bedroom apartment on each of 1st and 2nd floor levels to the rear (total 3 apartments) including circulation area between levels.

Location 3 Kilbogget Villas, Old Bray Road,
Cabinteely, Dublin 6.

Planning Authority Dún Laoghaire Rathdown County
Council

Planning Authority Reg. Ref. D20A/0571

Applicant(s) West Group Investments Ltd.

Type of Application Permission

Planning Authority Decision Refusal

Type of Appeal First Party v. Decision

Appellant(s) West Group Investments Ltd.

Observer(s) None.

Date of Site Inspection 15th March, 2021

Inspector Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the village centre of Cabinteely, Dublin 6, where it occupies a position within a small, mixed-use terrace of two-storey properties known as Kilbogget Villas which extends south-eastwards along the northern side of Old Bray Road from the signalised junction of Johnstown Road / Brennanstown Road / Old Bray Road. Although Cabinteely itself is now a suburb having been swallowed up by the growth of the surrounding urban area, it retains some elements of its original village form with a mix of late 19th Century and later buildings one and two storey high and a variety of terraced cottages and some small retail outlets, restaurants, and a public house. Although bypassed by the N11 National Road to the northeast, the village crossroads continues to be a well trafficked junction, notwithstanding that the Old Bray Road to the south is a cul-de-sac. To either side of the village are large office campuses used by the Bank of Ireland.
- 1.2. The site itself has a stated area of 0.044 hectares and comprises an elongated rectangular shaped plot occupied by a two-storey, mid-terrace building with a ground floor retail use and upper floor residential (both presently vacant). The immediate site surrounds are characterised by a variety of local shopping, a public house, and a beauty salon, whilst the adjacent streetside properties to the northwest and southeast of the application site are occupied by a café / coffee shop and a restaurant respectively. To the rear, the site adjoins the garden of a neighbouring dwelling house (separated by a narrow lane) and a commercial yard with the N11 National Route beyond same.

2.0 Proposed Development

- 2.1. The proposed development amounts to the amendment of the mixed-use development already approved on site under PA Ref. No. D18A/1118 / ABP Ref. No. ABP-303723-19 through the addition of two further floors of residential accommodation (floor area: 190m²) comprising 2 No. two-bedroom apartments (with balconies front and rear) to the three-storey element to the rear of the permitted scheme. Accordingly, the proposal will increase the gross floor area of the wider development to 1,165m² and the total number of apartments from three to five. The

oval-shaped design and configuration of the additional floors will match the corresponding lower levels of the approved scheme, although the proposal will necessitate some alterations to the layout of the second floor in order to accommodate access to the proposed third and fourth floors.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 7th October, 2020 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:

- It is considered that the proposed building by reason of its height, form, fenestration and position tight on the side boundaries of the site, will be visually incongruous, will have a significant negative visual impact on the streetscape and a negative impact on the residential dwelling known as Beaupre and the adjacent two-storey mixed use building; in terms of overshadowing and overbearing impact, and is contrary to Section 8.2.3.4 'Additional Accommodation in Existing Built Up Areas' of the County Development Plan 2016-2022. The proposed development is not considered to be consistent with the proper planning and sustainable development of the area and the provisions of the County Development Plan 2016-2022.
- It is considered that the proposal would endanger public safety by reason of the absence of any off-street car parking spaces for the residential units of proposed development giving rise to illegal/inappropriate parking on roads in the area resulting in a traffic hazard or obstruction of road users and would be contrary to Table 8.2.3 'Residential Land Use–Car Parking Standards' of the County Development Plan 2016- 2022. The proposed absence of off-street car parking provision in connection with the residential units proposed would set an undesirable precedent and may lead to other similar developments on adjoining sites and would adversely affect the use of the existing road by traffic 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 principle of the proposed development is acceptable.

However, concerns arise with respect to the overall design, height and density of the proposal, with particular reference to its visual impact on the surrounding streetscape and the potential to detract from the amenity of adjacent properties by reason of overshadowing and / or an excessively overbearing appearance. In this regard, while it is acknowledged that both national and local planning policy advocate for increased densities and building heights in appropriate locations, such as within established suburban cores and in urban locations with good public transport accessibility, it is considered that the scale and height of the proposed building is out of proportion with the established pattern of development in the immediate area. With respect to the issue of car parking, reference is made to the report of the Transportation Planning Dept. and the assertion contained therein that the lack of any off-street car parking will result in inappropriate / illegal parking on adjoining roads to the detriment of public safety and amenity. It is also suggested that the lack of off-street car parking would set a precedent for future development which would further injure the amenities of the area. The report thus concludes by recommending that permission be refused for the reasons stated.

3.2.2. *Other Technical Reports:*

Municipal Services Dept., Drainage Planning: States that notwithstanding the grant of permission issued under ABP Ref. No. ABP-303723-19 (PA Ref. No. D18A/1118), further details are required of the foul and surface water drainage arrangements, including the proposed 'green' roof and the rainwater harvesting system.

Environmental Health Services: No objection, subject to conditions.

Transportation Planning: Recommends that the proposed development be refused permission on the following grounds:

- Endangerment of public safety due to the lack of sufficient off-street car parking spaces for the residential element of the proposed development creating potential for illegal / inappropriate parking on roads in the area and

affecting local amenity – i.e. the residential element of the proposed development 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, the residential element of the proposed development, by itself, or by the precedent which the grant of permission in respect of the lack of sufficient off-street car parking spaces provided for this type of residential development may lead to other developments on adjoining sites and would adversely affect the use of the existing road by traffic – i.e. Clause 7 of the Fourth Schedule (Reasons for the Refusal of Permission which Exclude Compensation) of the Planning and Development Act, 2000.

3.3. **Prescribed Bodies**

Irish Water: No objection, subject to conditions.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

4.1. **On Site:**

PA Ref. No. D18A/1118 / ABP Ref. No. ABP-303723-19. Was granted on appeal on 3rd September, 2019 permitting West Group Investments Limited permission for the demolition of the existing building on site and the erection of a part two, part three-storey building with the taller element located to the rear, comprising a ground floor retail unit with three two bedroom apartments above, internal courtyard, roof terrace, private amenity space provided by balconies, refuse storage, cycle storage and all other ancillary works. A basement will provide ancillary storage and services to both the retail and residential uses.

4.2. **On Adjacent Sites:**

PA Ref. No. D20A/0409. Was granted on 2nd September, 2020 permitting DMVF Ltd. permission for the change of use at first floor level from restaurant to residential. The development includes; access from the ground floor to 1 no. 2-bed residential unit (c.

97 sqm) at first floor level, internal modifications of first floor layout and replacement of 4 no. windows to front elevation (including 1 no. modified ope). All at No. 4 Bray Road, Cabinteely Village, Dublin 18.

PA Ref. No. D18A/0884. Was granted on 13th December, 2018 permitting Dunbury Holdings Limited permission for the change of use to office from existing restaurant use to the existing first floor including minor internal amendments at The Village Centre, Killbogget, Bray Road, Cabinteely Village, Dublin 18.

PA Ref. No. D17A/0391. Was granted on 27th July, 2017 permitting Dunbury Holdings Limited & Owen Owens permission for a redevelopment to include the ground floor change of use of 2 existing units (56m²) from retail use to restaurant use with ancillary retail, off license and take away with new additional stair connection to existing vacant first floor restaurant (100m²) to form one 2 storey unit with new internal bin store and new hand painted signage to existing remodelled shopfront and new retractable external canopy to shopfront with new external feature lighting and associated site works. All at Units 1-4, The Village Centre, Killbogget, Bray Road, Cabinteely Village, Dublin 18.

PA Ref. No. D17A/0051. Was granted on 20th April, 2017 permitting Dunbury Holdings Limited & Owen Owens permission for a redevelopment to include the ground floor change of use of 3 existing units from retail use to restaurant use with ancillary retail, off license and takeaway with new additional stair connection to existing vacant first floor restaurant to form one 2 storey unit with new internal bin store and new hand painted signage to existing remodelled shopfront and new retractable external canopy to shopfront with new external feature lighting and associated site works. All at Units 1-4, The Village Centre, Killbogget, Bray Road, Cabinteely Village, Dublin 18.

PA Ref. No. D15A/0393. Was granted on 10th September, 2015 permitting C & T Pielow permission for the change of use of unoccupied part of ground floor and entire first floor to restaurant as an addition to and incorporated into previously approved food preparation kitchen and retail food outlet, granted permission under Reg. Ref. No. D08A/0710, including minor internal alterations. All at 2 Killbogget Villas, Old Bray Road, Cabinteely Village, Dublin 18.

PA Ref. No. D08A/0710. Was granted on 18th September, 2008 permitting Suzy Pierce permission for a change of use of part of ground floor from medical consulting rooms to food preparation kitchen and retail food outlet including minor alterations and external projecting signage to front with remaining part of consulting rooms at ground and first floor to be left unoccupied. All at 2 Kilbogget Villas, Old Bray Road, Cabinteely Village, Dublin 18.

PA Ref. No. D05A/0362. Was granted on 23rd June, 2005 permitting Ray Hardy permission for the construction of a new first floor overground to provide office accommodation above the existing shop and restaurant and the change of use of part of the shop to an entrance for the office accommodation, all at 99 Johnstown Road, Cabinteely, Dublin 18.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*' provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document, these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes. Furthermore, these Guidelines apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease. They also apply to housing developments that include apartments that are built specifically for rental purposes, whether as 'build to rent' or as 'shared accommodation'. Unless stated otherwise, they apply to both private and public schemes. These updated guidelines aim to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types. They also seek to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens.

5.1.2. The '*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*' are intended to set out national planning policy guidance on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework. They aim to put into practice key National Policy Objectives contained in the NPF in order to move away from unsustainable "business as usual" development patterns and towards a more compact and sustainable model of urban development. Greatly increased levels of residential development in urban centres and significant increases in the building heights and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. In this regard, the Guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.

5.1.3. 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 located in an area zoned as 'NC' with the stated land use zoning objective '*To protect, provide for and / or improve mixed-use neighbourhood centre facilities*'.

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 the 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.

Policy RES7: Overall Housing Mix:

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

Chapter 8: Principles of Development:

Section 8.1: Urban Design

Policy UD6: Building Height Strategy:

It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

Section 8.2 Development Management:

Section 8.2.3: Residential Development:

Section 8.2.3.3: Apartment Development

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

(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.

(ix) 'Living-Over-The-Shop':

In encouraging the residential use of the upper floors of commercial properties in established retail/commercial areas - including the districts of Dún Laoghaire, Blackrock, Dundrum, Glasthule, Dalkey, Sandycove and Monkstown - the Council will consider possible dispensations from normal standards to facilitate 'Living-Over-The-Shop' developments that will contribute positively to the renewal of areas

provided any proposed modifications will not have a negative impact on visual amenities or the existing streetscape.

- Derogations for older commercial buildings in appropriate cases may be given in respect of private open space, parking, and unit size standards.
- Derogations for car parking may be allowed in acceptable existing town/central locations at the discretion of the Planning Authority.

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 1.8km east of the site.
- The Loughlinstown Woods Proposed Natural Heritage Area (Site Code: 001211), approximately 2.0km southeast of the site.
- The Dingle Glen Proposed Natural Heritage Area (Site Code: 001207), approximately 3.0km southwest of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location in an established built-up area outside of any protected site, the nature of the receiving environment, 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

- The application proposes a five-storey commercial and residential development designed so that the taller element is located away from adjacent streets thereby the reducing visual impact on the public realm.
- The application site is set back from Johnstown Road by distances ranging from 26m to 28m whilst the road itself is a typical urban street with very few points from which views of the proposed development could be appreciated. For example, on leaving the church by the southern narrow lane, the view towards the site would be blocked by the restaurant ('Veda') and hairdressers ('Dandelion'). From the northern pedestrian access to the church, only a fleeting glance would be seen between 'Beaupre' and the commercial units. It is not considered that the proposal would have an adverse impact on Johnstown Road and, therefore, it would not be contrary to Policy UD1: *'Urban Design Principles'* or Section 8.2.3.4: *Additional Accommodation in Existing Built-up Areas'* of the Development Plan. Such a case can also be made for views from Old Bray Road (due to the width of the street, views of the proposed development will be limited).
- The dwelling house to the immediate west of the site ('Beaupre') is owned by Mr. Ray Hardy, a Director of West Group Investments Ltd. (the applicant). Mr. Hardy also owns the mixed-use building referred to in the reasons for refusal. The refusal of permission suggests that the proposed arrangement would have a negative impact on the adjacent dwelling ('Beaupre') and two-storey mixed use building, however, it is not considered that the impact on the dwelling would be materially greater in terms of overshadowing or overbearing than that attributable to the permitted development on site.

It should also be noted that there are no windows within the proposed development which address either the adjacent dwelling house ('Beaupre') or the mixed-use building.

- The proposed development will not be visually incongruous and will not have a significant visual impact on the streetscape.
- The impact of the development on 'Beaupre' and the adjacent two-storey mixed use structure, both of which are in the ownership of a Director of West Group Investments Ltd., is similar to that of the approved building. The proposal therefore accords with Section 8.2.3.4 of the Development Plan and is consistent with the proper planning and sustainable development of the area.
- The development already approved on site under PA Ref. No. D18A/1118 / ABP Ref. No. ABP-303723-19 does not include any car parking.
- The site is located in the centre of Cabinteely village and benefits from close proximity to a range of retail, commercial and employment generating uses.
- Cabinteely benefits from excellent public transport links which provide viable and sustainable alternatives to the private car. The site is served by a range of public transport services with bus stops on Bray Road, Johnstown Road and the N11 which serve as a high-quality bus corridor with high capacity, high frequency services in operation (please refer to the grounds of appeal for details of the bus services available).
- Improvements to the Transport for Ireland website and the use of smartphone applications will ensure that bus users are able to access 'Real Time Passenger Information' thereby reducing the amount of time users spend waiting at bus stops and increasing the overall usage of buses and other forms of public transport.
- The Laughanstown Luas Stop on the Green Line is located c. 1.18km to the southwest (an approximate walking distance of 21 minutes). Services operate at a frequency of every 9 to 16 minutes throughout the day, serving Cherrywood and the City Centre, and linking with the wider Luas network.
- There are dedicated cycle lanes in both directions along the N11 whilst an advanced bicycle stop line is in place on Old Bray Road at its junction with Johnstown Road. High quality public bicycle parking is also available on Bray Road, approximately 50m south of the site.

- Car sharing is an increasingly important transport option in urban areas and it should be noted that 'GoCar' (which provides for the short-term hire of car and vans) is available in Cabinteely village with a dedicated parking space provided c. 100m south of the application site. In this respect, the Board's attention is drawn to the wider benefits of car-sharing options such as 'GoCar', including reductions in car ownership & dependency and the increased use of more sustainable travel options.
- The National Transport Authority's 'BusConnects' programme aims to greatly improve bus services in Dublin and comprises many elements including the provision of bus corridors and the redesigning of the bus network. The 'E1' bus route from Cabinteely will provide peak time services every 8 minutes during the week, connecting to the city centre. The L27 route will connect Ballyogan, Cabinteely & Dun Laoghaire with buses every half hour.
- The Luas Green Line is to be extended to Bray and is also planned to link with the proposed Metrolink at Charlemount. In addition, the new Luas station at Brennanstown (when opened) will provide additional access to Luas services and while this stop is a similar distance from the site as that at Laughanstown, it is likely that access to the Brennanstown stop will be more direct once development around it is completed.
- The proposed development finds support in national, regional and local planning policy (including 'Smarter Travel: A Sustainable Transport Future', the Transport Strategy for the Greater Dublin Area, 2016-2035, the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly, the Dún Laoghaire Rathdown County Development Plan, 2016-2022, and the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020') which promotes a shift towards more sustainable travel choices / transport options and a reduced reliance on the private car.
- Table 8.2.3 of the County Development Plan sets out the maximum number of car parking spaces required by a particular development type, however, it also states that a reduced parking standard may be acceptable depending on a number of factors (e.g. the location of the site relative to town centres, district

centres & high-density commercial / business areas, the proximity of public transport, the availability of on-street parking controls in the immediate area, and the implementation of a Travel Plan where a significant modal shift towards sustainable travel modes can be achieved). Furthermore, the Plan notes that consideration will be given to 'car-free' housing on suitable small-scale sites which have high levels of public transport accessibility, convenient and safe access to local shops and community facilities, and / or are located very close to town centres.

- The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020' provide for the removal of car parking requirements in certain circumstances where there are better mobility solutions with a view to reducing costs. In this regard, the subject site is an 'Accessible Urban Location' for the purposes of the Guidelines which state the following:

'In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.'

'These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services'.

The development site is within 5 minutes of high frequency bus stops serving the city centre (Bus 145 has services every 10 minutes from 06:50 - 21:00 hours and is therefore considered to be high frequency).

- Planning policy recognises a correlation between the reduction of car parking and car ownership & car use. Section 8.2.4.5: 'Car Parking Standards' of the Development Plan further recognises that reduced car parking provision is

acceptable and outlines a set of circumstances in which reduced parking is appropriate. In this respect, it is submitted that the proposed development satisfies the necessary criteria as follows:

- The site is located in the centre of a vibrant village with access to retail, commercial and employment generating uses – thereby reducing the need to drive.
 - The site is served by excellent public transport.
 - The characteristics of the development are such as to conclude that the site is appropriate for car-free development.
 - There is a varied mix of land uses in the surrounding area.
 - Parking is controlled in the immediate area.
 - A Travel Plan is proposed which will ensure that more sustainable modes of transport are used (a Travel Plan is required as a condition of the approved scheme).
 - The proposal can be justified on sustainability grounds.
- In accordance with the provisions of the Development Plan which provide for the elimination or reduction of car parking, the Board is referred to the submitted details with respect to the provision of bicycle parking and car-sharing as supported by the site location within a village centre and the availability of drop-off, service and visitor parking spaces in the vicinity.
 - Accessibility and mobility in this instance are facilitated by the site location at the centre of an urban village and adjacent to a high capacity public transport corridor. The application site offers the opportunity to develop an exemplar of sustainable residential development with minimal requirements for private vehicular transport in accordance with the overarching policy objective of sustainable development and the minimisation of private vehicular transport.
 - In its earlier approval of ABP Ref. No. ABP-303723-19, the Board found the car-free nature of the development proposed to be acceptable, subject to the provision of a Travel Plan.

- With respect to the suggestion that the proposed development could give rise to illegal / inappropriate parking on roads in the area thereby resulting in a traffic hazard or the obstruction of road users, it is contended that future residents of the scheme will be encouraged to such an extent not to own a car that car ownership will be zero. It is also proposed that residents of the development will not be allowed to obtain a parking permit for the surrounding area (with existing 'Pay & Display' parking being prohibitively expensive and unlikely to be a viable option). Parking enforcement by the Local Authority will ensure that there is no illegal parking in the area.
- In light of a national housing shortage, and in keeping with the Government's *'Bringing Back Homes, Manual for the Reuse of Existing Buildings'*, the proposed development will provide for new homes in a village centre location.
- Having regard to the construction costs etc. involved in developing car parking, the provision of a car-free scheme would lead to a wider range of more affordable accommodation in Cabinteely.
- An allowance should be made for the car parking demand generated by the retail floorspace over the two floors of the existing building on site.
- Notwithstanding that the proposed development is considered to accord with the Development Plan, the Board is requested to consider the accompanying amended drawings which have sought to address the Planning Authority's first reason for refusal. The following changes are offered:
 - The reduction in height of the proposal by one floor resulting in the omission of 1 No. apartment unit.

6.2. Planning Authority Response

- States that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. Observations

None.

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 relevant to the appeal are:

- Overall design / impact on residential & visual amenity
- Traffic & car parking considerations
- Appropriate assessment

These are assessed as follows:

7.2. Overall Design / Impact on Residential & Visual Amenity:

- 7.2.1. The proposed development involves the addition of two floors of apartment accommodation atop the three-storey element of the mixed-use scheme already approved on site under PA Ref. No. D18A/1118 / ABP Ref. No. ABP-303723-19. In this respect, whilst the oval-shaped design, internal configuration and external finishes of the additional floors will match the corresponding lower levels of the permitted development, it is apparent that the principal consideration in assessing the subject proposal concerns the overall increase in building height and the associated impact, if any, on the amenity of neighbouring properties and the visual amenity of the wider area.
- 7.2.2. At the outset, it should be noted that the historical centre of Cabinteely village is characterised by a mix of one and two storey terraces, mostly a mix of commercial and residential development, with the existing buildings and streetscape broadly typical of late 19th and early 20th Century construction. While several properties in the area are listed in the National Inventory of Architectural Heritage (e.g. the Garda Station at the junction of Brennanstown Road / Old Bray Road and the gable-fronted garage building trading as 'Cabinteely Motors'), neither the subject site nor the wider terrace of which it forms part are included in the NIAH. In this respect I would concur with the previous reporting inspector in their assessment of ABP Ref. No. ABP-303723-19 that while the area is not necessarily of the highest architectural or

historic quality, the village nevertheless retains a distinct and attractive character and as such new development should be expected to respect the existing scale and pattern of development while enhancing the overall townscape.

- 7.2.3. The contemporary nature and form of the development already approved on site is a notable deviation from the more traditional and low-rise established pattern of development, however, it was considered that the three-storey element of that scheme would not be overtly visible from all but a few isolated points from public areas on Old Bray Road and Johnstown Road and it would not break the existing roofline as viewed from the adjoining public road. On balance, the wider design of that scheme was held to respect the overall pattern of development in the area while maximising the use of the site.
- 7.2.4. Whilst I am cognisant of the planning history of the application site and the rationale for the approval of ABP Ref. No. ABP-303723-19, in my opinion, the proposed building height and five-storey construction is wholly at odds with the prevailing character of the village centre and is without comparison locally. For example, although the office campuses to the northwest and southeast of Cabinteely include buildings of increased height, these are detached from the village centre while the structures themselves are set back from the public road and are screened in part by roadside boundary walls and / or planting.
- 7.2.5. The policy approach set out in Section 4 of the *'Building Height Strategy'* contained in Appendix 9 of the Development Plan states that the appropriate vehicle for identifying specific sites with the potential to accommodate increased building heights at a number of key centres in the county is by way of statutory (and non-statutory) local plans. It also illustrates the extensive area of the county covered by either an explicit or implicit building height policy, extant or planned, and introduces a new generic *'Building Height Policy'* (Section 4.8) for those residual areas of the County not covered by any existing policy or plan based height criteria.
- 7.2.6. Although Section 3.3: *'Public Transport Corridors'* of the Building Height Strategy acknowledges that the N11 corridor, owing to its width, strategic importance, and public transport facilities, has the potential to become an attractive urban corridor enclosed by taller buildings of high quality at locations which are also proximate to social and community infrastructure, in the absence of any specific policy provision

pertaining to building height as regards the subject site, it is appropriate to revert to the generic provisions of Section 4.8: '*Policy for Residual Suburban Areas not included within Cumulative Areas of Control*' which states that apartment schemes of up to 3-4 storeys in height may be permitted at appropriate locations, including at sites adjacent to key public transport nodes, provided they have no detrimental effect on existing character and residential amenity. Moreover, although a general recommended height of two storeys will apply within these 'residual' areas, it is acknowledged that there will be situations where minor modifications up or down in building height could be considered (i.e. 'upward' or 'downward modifiers'), although the presumption will be that any such increase or decrease will normally be in the region of one, or possibly two, floors.

7.2.7. Section 4.8.1 of the Building Height Strategy details a range of criteria against which 'Upward Modifiers' will be assessed, including potential urban design benefits, planning gains such as the significant improvement of the public realm, and the civic, social or cultural importance of the development in question, however, I would draw the Board's attention in particular to the provision whereby consideration will be given to increased building heights through the application of 'upwards modifiers' (i.e. in excess of the maximum 3-4 storey building height) where a development would contribute to the promotion of higher densities in areas with exceptional public transport accessibility (the definition of which includes those areas within a 500m walking distance on either side of the N11 National Route and 100m walking distance on either side of a QBC) provided high-quality residential environments are retained and enhanced. It is further stated that densities should be higher adjacent to these corridors / nodes and that they should grade down towards neighbouring areas so that they are lower in close proximity to residential areas.

7.2.8. At this point, it is also of relevance to refer to the '*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*' which aim to put into practice key National Policy Objectives of the NPF in order to move away from unsustainable "business as usual" development patterns and towards a more compact and sustainable model of urban development. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at

local authority and An Bord Pleanála levels. In this regard, the Guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. Furthermore, there is to be a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility.

7.2.9. Having regard to the aforementioned policy considerations, I am cognisant of the site location alongside the N11 Corridor and the proximity of accessible public transport to the effect that the broader principles of higher density development and increased building heights would find support therein. However, notwithstanding that the site is located within a 500m walking distance of the N11, the Planning Authority was not of the opinion that the applicant had established how the proposal would satisfy the criteria for 'upward modifiers' as set out in its 'Building Height Strategy'. It was further noted that Section 4.8.1 of the Strategy states that the overall positive benefits of a development would need to be of such a significance as to clearly demonstrate that any additional height would be justified and, therefore, it would be necessary for a proposal to meet more than one 'Upward Modifier' criteria.

7.2.10. In my opinion, notwithstanding the site location relative to the N11 and the wider policy provisions in support of increased building heights at appropriate locations proximate to public transport nodes / corridors, the overall scale and height of the proposed development is excessive given the specifics of the site context and will appear visually incongruous within the wider streetscape, particularly on the approach to the site from the southeast. In this regard, the proposed five-storey construction will be positioned to the rear of a mid-terrace, two-storey property and will be surrounded by other low-rise development (single / two-storey buildings) and land uses (e.g. garden areas and open yards). Moreover, its siting is not such as to provide for a landmark location nor will it serve to define a prominent corner plot or provide for a gradual transition from neighbouring development. Furthermore, the overall building height will be increased by 6.375m to in excess of 15m when compared to the approved three-storey construction (with its approximate height of 9m) and I am not satisfied that such a development would not be unduly visually prominent when viewed from the immediate site surrounds. Accordingly, I would

concur with the assessment by the Planning Authority that the proposal as submitted represents an overly abrupt and visually obtrusive departure from the prevailing pattern of development.

7.2.11. With respect to the possible impact of the increased building height on the amenity of neighbouring properties, with specific reference to the dwelling house ('Beaupré') on the adjacent lands to the northwest, I would concur with the Planning Authority that the primary areas of concern are the potentially overbearing nature of the construction proposed and the likelihood for increased overshadowing / loss of light (for the purposes of clarify, cognisance must be taken of the need to preserve the residential amenity of existing and future occupants of adjacent property notwithstanding any current relationship between its owner and the applicant).

7.2.12. The wider visual impact and appropriateness of a development of the height proposed have been assessed elsewhere in this report, however, consideration must also be given to the more localised impact on the residential amenity of the adjacent two-storey dwelling house. In this regard, given the site context within the built-up area of Cabinteely village centre, and noting the limited separation available between adjoining properties, a balance must be struck between the need to provide for suitably located infill development and the protection of amenity. From a review of the submitted drawings, it is apparent that the five-storey element of the proposed construction will be located alongside the shared site boundary c. 7.5m away from 'Beaupré' at its closest point while the respective differences in building height and scale can be derived from 'Proposed Section A-A' included on Drg. No. 208. Although the curvature and oval-shape of the new construction will serve to lessen its overall bulk and massing when viewed from within the confines of the neighbouring dwelling house and garden area to the northwest, I am nevertheless inclined to concur with the Planning Authority that the proposal will have an unacceptably overbearing and oppressive influence on that property.

7.2.13. In terms of assessing the impact of the proposed development on the amenity of adjacent properties by reason of overshadowing, I would advise the Board that whilst the subject application has been accompanied by a series of shadow projection diagrams which allow for a comparison of the overshadowing / shading impacts attributable to the existing building on site and the subject proposal, it is regrettable that a comparable analysis was not submitted for the development as already

approved under ABP Ref. No. ABP-303723-19 (although I have had regard to the 'Daylight & Sunlight Analysis' previously undertaken for that application). Clearly, the proposed development will result in a notable increase in overshadowing of the adjacent dwelling house ('Beaupré') and its rear garden area between the months of March & September when compared to the existing building, however, the more relevant consideration is the added impact over and above that attributable to the approved scheme and, therefore, I have reviewed the 'Daylight & Sunlight Analysis' prepared in respect of ABP Ref. No. ABP-303723-19 with a view to comparing the overshadowing impacts of the permitted development with the subject proposal. In this regard, it would appear that the proposed development, when compared to the permitted scheme, will result in significantly greater overshadowing of 'Beaupré' (with particular reference to the two-storey element to the rear of that property) and its garden area over the summer months. Notwithstanding that it is not possible to quantify the probable reduction in sunlight hours at 'Beaupré' consequent on the proposed development in the absence of more precise data, on balance, I am not satisfied that the submitted proposal would not have an unacceptable detrimental impact on the residential amenity of that property by reason of overshadowing.

- 7.2.14. In addition to the foregoing, I would share the Planning Authority's concerns as regards the potential for the increased height of the proposed construction to undermine the future development of neighbouring lands (such as the yard area to the east / northeast) in this village centre location.
- 7.2.15. In an effort to address the Planning Authority's first reason for refusal (and the concerns already outlined), the Board has been requested to consider the amended drawings provided with the grounds of appeal wherein the height of the proposal has been reduced by one floor level resulting in the omission of 1 No. apartment unit. Whilst I would concede that this revised design represents an improvement over the scheme as initially lodged, I would nevertheless be of the view that the overall scale and height of the proposal remains excessive and will continue to be visually obtrusive given the site context.

7.3. Traffic & Car Parking Considerations:

- 7.3.1. The proposed development amounts to the amendment of the mixed-use scheme already approved on site under PA Ref. No. D18A/1118 / ABP Ref. No. ABP-

303723-19 through the inclusion of two further floors of accommodation to provide for 2 No. additional two-bedroom apartment units. Given that neither the subject proposal nor the permitted development includes for any off-street car parking, concerns have been raised that any associated increased demand on existing public parking facilities attributable to the additional accommodation proposed could potentially give rise to inappropriate / illegal or other haphazard parking practices in the surrounding area thereby endangering public safety by reason of traffic hazard or the obstruction of road users.

7.3.2. In this respect, I would refer the Board at the outset to the detailed analysis undertaken by the previous reporting inspector in their assessment of ABP Ref. No. ABP-303723-19 wherein it was acknowledged that whilst there appeared to be a significant shortfall in parking for demand in the wider area (seemingly primarily as a result of overspill parking from the two Bank of Ireland office complexes on either side of the village), and although the development did not include for any on-site parking and thus also fell short in terms of parking provision in reference to the requirements of both local and national planning policy (as set out in the Development Plan and the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities*'), it was considered that the appeal site was of the type envisaged as being suitable for car-free use in the development plan and that the development proposed would be consistent with national guidance. Therefore, the principle of a development without the benefit of curtilage or street parking was considered acceptable. By way of further comment, the reporting inspector noted the legitimacy of the concerns of local residents that the proposed apartments would place increased pressure on local parking facilities, however, this was deemed to be a longstanding problem and thus it was not considered appropriate to use it as a basis on which to effectively prohibit all possible redevelopment close to or near the junction in the village centre. Reference was also made to applicant's offer of implementing a travel plan whereby tenants of the proposed apartments would be prevented from owning cars (although the enforceability of such a proposition was questioned). Accordingly, having regard to the existing use of the lands, the zoning designation, and the nature of the area, it was concluded that the approval of a development with no specific car parking provision on site would be appropriate, subject to a condition requiring a Travel Plan

to be agreed with the planning authority, and this recommendation was accepted by the Board which culminated in a grant of permission for ABP Ref. No. ABP-303723-19.

7.3.3. Therefore, in light of the foregoing, and following a review of the available information, in my opinion, the key issue in respect of the subject proposal is whether or not the provision of 2 No. extra apartments over that previously approved on site under ABP Ref. No. ABP-303723-19 would give rise to such additional concerns as regards deficiencies in local parking provision as to warrant a refusal of permission by reference to the potential for increased incidences of inappropriate / haphazard parking and the associated endangerment of public safety by reason of traffic hazard or the obstruction of road users.

7.3.4. Having regard to the limited scale and nature of the proposed development, the planning history of the site, the site location on zoned lands within Cabinteely village centre, the fact that the site is well served by public transport (specifically the QBC on the nearby N11 National Route and the Luas Green Line, the Laughanstown stop being an approximate 20 minute walk away), the further improvements planned to public transport services in the area (including the future opening of the Brennanstown Luas stop and the advancement of the National Transport Authority's 'BusConnects' programme, with particular reference to the 'Bray to City Centre' Core Bus Corridor i.e. Route 13), and as the Board has already accepted that the appeal site is of the type envisaged as being suitable for car free use, I am satisfied that the provision of 2 No. additional apartment units would be acceptable in this instance and would not give rise to such an increase in demand locally for on-street parking as to warrant a refusal of permission on traffic safety grounds.

7.4. **Appropriate Assessment:**

7.4.1. 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 upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the site within Cabinteely village centre, its relationship with neighbouring properties, the established built form and character of the surrounding area, and the size, height, five-storey design and siting of the proposed development, it is considered that the proposed development would constitute an inappropriate intervention which fails to respect the site context and would further result in a visually discordant feature which would seriously injure the visual amenities of the area. Furthermore, the proposed development would be overbearing in relation to the adjacent residential property to the north / northwest and would lead to excessive overshadowing of that property. The proposed development would, therefore, be contrary to the provisions of Section 8.2.3.4: 'Additional Accommodation in Existing Built-up Areas' of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, would seriously injure the visual and residential amenities of property in the vicinity, would set an undesirable precedent for similar development in the area, and would be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

7th April, 2021