



An  
Bord  
Pleanála

## Inspector's Report 311210-21

<b>Development</b>	Demolition of existing building and construction of 3-5 storey apartment block with 25 no. units.
<b>Location</b>	7 – 9 Clarence Street and George's Place, Dún Laoghaire, Co. Dublin.
<b>Planning Authority</b>	Dún Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21A/0519
<b>Applicant(s)</b>	Kavco Group
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First & Third-Party v. Decision
<b>Appellant(s)</b>	(1) Kavco Group (2) Ann Mulcrone, Mabel Fitzpatrick & Vivienne Fitzpatrick
<b>Observer(s)</b>	(1) Brendan Farrell, (2) Grainne Howard, (3) Andrea Comiskey

**Date of Site Inspection**

19<sup>th</sup> May 2022

**Inspector**

Louise Treacy

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 0.13 ha and is located on the northern side of the junction of George's Place and Clarence Street, Dún Laoghaire, Co. Dublin. The site currently accommodates a 2-storey, flat-roofed commercial building known as Harbour View Business Centre. The building has a stated floor area of 451 m<sup>2</sup> and the primary occupant is a car repair premises (Tramyard Motors). The existing building directly adjoins the rear (northern) site boundary and extends across the central/north-western portion of the site, with the remainder being used for car storage/car parking. Vehicular access to the site is available from George's Place and Clarence Street.
- 1.2. The site is bounded by George's Street and Clarence Street to the south and west respectively and a 4-6 storey apartment complex (The Anchorage) directly to the north. A 2-storey end of terrace dwelling (No. 5 Bentley Villas) adjoins the site to the east. The existing buildings on the southern site of George's Place opposite the subject site are also primarily residential in nature, including The Bentley House apartment complex and The George's Street apartment complex, with building heights ranging from 2 – 5 storeys. A 4-storey apartment building (Marina View) is also located to the south-west of the subject site, on the opposite side of Clarence Street.
- 1.3. Dún Laoghaire train station is located approx. 500 m to the east of the site, while the Salthill and Monkstown Dart station is located approx. 770 m to the west. The site is also proximate to several Dublin Bus stops. Dún Laoghaire pier and the sea front is located approx. 5 minutes walking distance to the north of the application site.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the demolition of the existing building on the site and the construction of a 3-5 storey apartment building containing 25 no. apartments comprising 5 no. 1-bedroom, 15 no. 2-bedroom and 5 no. 3-bedroom apartments. Roof gardens and a central courtyard will be provided as communal open space for future residents. 25 no. car parking spaces, 36 no. bicycle spaces and dedicated bin storage are located at basement level. The basement access for vehicles and bicycles is via ramp onto George's Place. The proposed development

will comprise all other associated site works, electric vehicle charging points, drainage, boundary treatments and landscaping.

- 2.2. The proposed building footprint has an L-shaped configuration reflecting that of The Anchorage apartment complex adjoining to the north. The proposed development directly adjoins the northern site boundary and steps back from the western and southern site boundaries, enclosing an area of public open space in the north-eastern corner of the site. The ground floor level of the proposed development is set slightly above the level of the adjoining footpaths at George's Place and Clarence Street, with landscaped buffers proposed to the development frontages along the southern and western site boundaries. Two pedestrian entrances are proposed into the block from George's Place, with no vehicular or pedestrian access proposed from Clarence Street.
- 2.3. The proposed development steps back from the northern site boundary adjacent to The Anchorage above 1<sup>st</sup> floor level and from the eastern site boundary adjacent to No. 5 Bentley Villas above 2<sup>nd</sup> floor level. The private open spaces serving the proposed apartment units are orientated towards the southern and western site boundaries. A landscaped roof garden is also proposed, with inaccessible green roofs proposed below at 3<sup>rd</sup> and 5<sup>th</sup> floor levels.
- 2.4. The car and bicycle ramps to the basement level is located at the south-eastern corner of the site adjacent to the boundary with No. 5 Bentley Villas. The basement will accommodate car and cycle parking, in addition to a plant and bin store.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Notification of the Decision to Refuse Permission issued on 29<sup>th</sup> July 2021 for 3 no. reasons, which can be summarised as follows:

- (1) The proposed development, by reason of massing, scale, design and proximity to the site boundaries, would adversely impact on the residential amenity of adjacent properties by reason of overlooking, overshadowing and overbearing appearance.

- (2) Having regard to the prominent location of the subject site, it is considered that the proposed development, by reason of its design, height, scale, mass and poor interface with the public realm, does not achieve the development objectives of the Dún Laoghaire Urban Framework or Urban Design Principles of Policy UD1.
- (3) The proposed development of the site for residential use only, would represent an inappropriate use at ground floor level in a town centre, would be injurious to the vibrancy of the town centre and would be contrary to the zoning objective at this location “to protect, provide for and / or improve major town centre facilities”. The proposed development would contravene materially a development objective indicated in the County Development Plan for the zoning of land 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**

#### **3.2.2. Basis of Planning Authority’s decision.**

#### **3.2.3. Other Technical Reports**

**3.2.4. Transportation Planning (20<sup>th</sup> July 2021):** Recommended that Further Information be requested in relation to: (i) pedestrian priority along the footway across the vehicular entrance on George’s Place, (ii) an appropriate ground floor loading bay / drop-off zone within the application site and swept path analysis drawings at A1 scale, (iii) a taking-in-charge drawing of the access junction, (iv) details and drawings of accessible short-stay cycle parking and long-stay cycle parking within the development, including details of visitor access to same, (v) a drawing indicating that all car parking spaces can accommodate future electric charging points, (vi) a detailed Quality Audit including Road Safety, Access, Cycle and Walking Audits demonstrating compliance with DMURS, (vii) a Framework Mobility Management Plan.

**3.2.5. Drainage Planning (21<sup>st</sup> July 2021):** Recommended that Further Information be requested in relation to: (i) the proposed green roof and its compliance with Appendix 16: Green Roof Guidance Document of the development plan, (ii) details of

maintenance access to green roof, (iii) detailed cross-section of the proposed build-up of the green roof and commentary on its compatibility with PV panels, (iv) discharge rate for the site, (v) evidence that there is adequate storage for the 1 in 100 year storm event, (vi) the provision of a flow control device in an accessible chamber to allow for maintenance and access.

- 3.2.6. **Housing Department (16<sup>th</sup> June 2021):** Recommends that a Part V condition be attached should planning permission be granted for the proposed development.
- 3.2.7. **Architects Department (22<sup>nd</sup> July 2021):** Considers that the scale, building mass and ambition of the elevational treatment does not attain a level of design quality that could be permitted and the building's relationship to the public realm is poorly conceived.
- 3.2.8. **Municipal Services Department (30<sup>th</sup> June 2021):** Notes that no public lighting is required.
- 3.2.9. **Environment Section (19<sup>th</sup> July 2021):** Appropriate conditions identified in the event planning permission is granted.
- 3.2.10. **Environmental Health Officer (9<sup>th</sup> July 2021):** Appropriate conditions identified in the event planning permission is granted.
- 3.2.11. **Parks and Landscape Services (23<sup>rd</sup> July 2021):** Considers the open space design to be of a high standard and the overall approach, innovation, tree and plant species are supported. Concerns noted over the provision of open space, the omission of any play facilities, the absence of radial sunlight within the amenity spaces and future maintenance access to the roof garden.
- 3.2.12. Appropriate conditions identified in the event planning permission is granted.

### 3.3. **Prescribed Bodies**

- 3.3.1. None.

### 3.4. **Third Party Observations**

- 3.4.1. A total of 9 no. third-party observations were made on the application from: (1) SBA Architects on behalf of John and Mary Maher, Quarry Road, Rathmichael, Co. Dublin, (2) Reid Associates on behalf of Ann Mulcrone, 2 Connaught Place, Crofton Road, Dún Laoghaire, Mabel Fitzpatrick, Connaught House, Crofton Road, Dún

Laoghaire and Vivienne Fitzpatrick, mews to rear of 1 Connaught Place, Stable Lane, Crofton Road, Dún Laoghaire, (3) Declan Foley, 24 The Anchorage, Clarence Street, Dún Laoghaire, Co. Dublin, (4) Vincent Cahill, 18 The Anchorage, Clarence Street, Dún Laoghaire, Co. Dublin, (5) Colin Galavan on behalf of The Anchorage Residents Association incorporated as Anchorage Management Company, The Anchorage, Crofton Road, Dún Laoghaire, Co. Dublin, (6) Brendan Farrell, 8 Bentley Villas, Dún Laoghaire, Co. Dublin, (7) John Humphreys, 8 The Anchorage, Clarence Street, Dún Laoghaire, Co. Dublin, (8) Grainne Howard, 3 Bentley Villas, Dún Laoghaire, Co. Dublin, (9) Andrea Comiskey, 5 Bentley Villas, Dún Laoghaire, Co. Dublin.

- 3.4.2. The issues which are raised can be summarised as follows: (1) overdevelopment, (2) overbearing impacts on Bentley Villas, (3) overshadowing impacts on the open space and units within The Anchorage development, (4) no sunlight/daylight analysis submitted, (5) wind impacts, particularly near junction of Clarence Street and George's Place, (6) breaching of building line, (7) little usable communal open space at ground floor level, particularly for children, (8) inadequate consideration of appropriate assessment screening, (9) insufficient contextual information submitted, (10) disproportionate mix of social housing provision in the proposed development and immediate town centre, (11) planning notices do not accurately describe the tenure of the proposed development, (12) the proposed development excludes first time buyers, rental tenants and those looking to down-size, (13) proposed housing mix is a material contravention of the development plan, (14) traffic impacts, (15) excessive building height, (16) overlooking of The Anchorage from the proposed roof terrace, (17) scale/density of development should be reconsidered, (18) photomontages of the 3-D model are misleading, (19) negative impact on property values, (20) public right-of-way across the corner of the site, (21) inaccurate CGI images, (22) height of boundary treatments not confirmed, (23) car parking impacts, (24) poor quality design, (25) commercial use of the site should be protected, (26) additional noise impacts from proposed balconies, (27) construction impacts should be appropriately managed, (28) apartment nos. 3 & 9 should be relocated to the top floor of the development at the street corner, (29) excessively large wall will separate the proposed courtyard space from that within The Anchorage development, (30) insufficient cycle parking, (31) noise impacts to No. 5 Bentley Villas from proximity of

proposed car park entrance, (32) further consideration of number of electric charging car parking spaces required, (33) improvements required to pedestrian and cycling infrastructure adjoining the site, (34) greater detail required regarding site excavation and building works in advance of planning permission being granted, (35) unacceptable construction impacts on local residents, (36) light pollution, (37) inadequate separation distances and privacy impacts to No. 5 Bentley Villas.

## **4.0 Planning History**

- 4.1. **Planning Authority Reg. Ref. D96A/0698:** Planning permission granted for development on a site bounded by George's Place, Clarence Street and Crofton Road, Dún Laoghaire, Co. Dublin comprising a new car sales showroom and workshops and 58 apartments including demolition of existing buildings and decommissioning of existing petrol station. The showroom and workshop to be 2-storeys fronting onto George's Place and Clarence Street and accessed from George's Place. The apartments to be two blocks of 6 and 7 storeys over basement car park, accessed from Clarence Street.
- 4.2. No further details in relation to this application are available on the Planning Authority's website.

## **5.0 Policy and Context**

### **5.1. Dún Laoghaire-Rathdown County Development Plan 2022-2028**

- 5.1.1. This planning application was lodged when the 2016-2022 development plan was in force. The 2022-2028 county development has been adopted in the interim and is the relevant local planning policy document for the adjudication of this appeal case.

### **5.2. Land Use Zoning**

- 5.2.1. The site is subject to land use zoning MTC which has the objective "to protect, provide for and-or improve major town centre facilities". Residential development is permitted in principle under this zoning objective.

### **5.3. Towns, Villages and Retail Development**

- 5.3.1. **Policy Objective MFC1: Multifunctional Centres** – It is a policy objective of the Council to embrace and support the development of the County's Major Town



Centres, District Centres and Neighbourhood Centres as multifunctional centres which provide a variety of uses that meet the needs of the community they serve.

5.3.2. **Policy Objective RET5: Major Town Centres** – It is a policy objective of the Council to maintain the two Major Town Centres - Dún Laoghaire and Dundrum – as the primary retail centres in the County and to support their evolving multifunctional role. The vitality of the towns will be enhanced by their mixed-use nature. In addition to retail, these centres must include community, cultural, civic, leisure, restaurants, bars and cafes, entertainment, employment and residential uses. Development shall be designed so as to enhance the creation of a sense of place.

5.3.3. **Policy Objective RET11: Active Street Frontages Non-Retail Uses** - It is a Policy Objective of the Council to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of mixed-use Neighbourhood Centres.

#### 5.4. **Residential Development**

5.4.1. **Policy Objective PHP18 (Residential Density):** It is a policy objective to: increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill / brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12; Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.

5.4.2. **Policy Objective PHP20: Protection of Existing Residential Amenity** – It is a policy objective to ensure the residential amenity of existing homes in the Built-Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

5.4.3. **Policy Objective PHP27: Housing Mix** – It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future regional HNDA.

- 5.4.4. **Policy Objective PHP42: Building Design & Height** – It is a policy objective to encourage high quality design of all new development; ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF).

## 5.5. **Quantitative Standards for Residential Development**

- 5.5.1. **Habitable Rooms:** Shall comply with appropriate national guidelines/standards in operation at the date of application (see section 5.11 below).

- 5.5.2. **Residential Density:** As a general principle, the objective is to optimise the density of development in response to type of site, location and accessibility to public transport.

- 5.5.3. **Car and Cycle Parking:** A maximum car parking standard of 1 space per 1/2/3+ apartment unit applies in MTC areas. Cycle parking is required at a rate of 1 long-stay parking space per residential unit (minimum of 2 spaces), with visitor parking required at a rate of 1 short-stay space per 5 residential units. Further details of the preferred design of cycle parking facilities are provided in the Planning Authority's "Standards for Cycle Parking and Associated Cycling Facilities for New Developments" (January, 2018).

## 5.6. **Roof Gardens**

- 5.6.1. Consideration of the use of roof gardens as communal open space shall be on a case-by-case basis and will not normally be acceptable on a site where there is scope to provide communal open space at grade, as roof gardens do not provide the same standard of amenity particularly to young children. Consideration must also be given to the overall design, layout, and location of the roof garden, including its height.

- 5.6.2. Roof gardens will be considered subject to the following: (i) safety consideration including safe access by children, (ii) wind and climate assessment, (iii) daylight and sunlight assessment (on small town centre infill schemes, where all communal open space is provided by way of a roof garden, daylight and sunlight standards should be higher than minimum standards for more than 50% of the development), (iv) maintenance issues, (v) provision of suitable landscaping plans which provide for a diverse range of plants which have year round interest, pollinator friendly and are

suitably adapted to the rooftop conditions, (vi) visual assessment, (vii) proximity to vents.

- 5.6.3. Applications for developments with a roof area  $\geq 300 \text{ m}^2$  shall provide green roofs in accordance with the Council's Green Roof Policy (2020).

#### 5.7. **Public open space**

- 5.7.1. Residential developments in existing built-up areas shall be required to provide 15% of the site area as public open space. On sites of less than 0.25 ha, the Council may consider a Section 48 contribution in lieu of public open space.

#### 5.8. **Infill Development**

- 5.8.1. Infill development will be encouraged in the County. 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.

#### 5.9. **Building Heights**

- 5.9.1. The Building Height Strategy is contained in appendix 5 of the 2022 -2028 county development plan.
- 5.9.2. **Policy Objective BHS 1 – Increased Height:** It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links (i.e. within 1000 m / 10 minute walk band of LUAS stop, DART stations or Core/Quality Bus Corridor, 500 m / 5 minute walk band of Bus Priority Route) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area (NPO 35, SPPR 1 & 3).
- 5.9.3. Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3, there may be instances where an argument can be made for increased height and / or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance-based criteria set out in table 5.1 which is contained in section 5. The

onus will be on the applicant to demonstrate compliance with the criteria. Within the built-up area of the County, increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.

#### 5.10. **Appendix 17: Interim Dún Laoghaire Urban Framework Plan**

5.10.1. The interim Urban Framework Plan includes a map of the primary town centre quarter and 3 no. secondary quarters. The subject site is not located within any of the identified quarters.

5.10.2. **Objective No. 15:** Seek to ensure a balanced development of the Town Centre through the development management process, and to require appropriate uses at ground floor level and at corner sites which contribute to the vibrancy of the town centre.

#### 5.11. **Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)**

5.11.1. The key development standards for apartment units in the context of this application are summarised below:

- **Overall floor area:** 1-bedroom unit - 45 m<sup>2</sup>; 2-bedroom/4-person unit – 73 m<sup>2</sup>; 3-bedroom unit – 90 m<sup>2</sup>. The majority of the units in a scheme of more than 10 apartments shall exceed the minimum floor area standards by 10%.
- **Unit Mix:** Max. 50% 1-bedroom units, with no requirement for 3-bedroom units. No more than 10% of the total number of units in any private residential development may comprise 2-bedroom / 3-person apartments.
- **Storage space:** 1-bedroom unit - 3 m<sup>2</sup>; 2-bedroom / 4-person unit – 6 m<sup>2</sup>; 3-bedroom unit – 9 m<sup>2</sup>. As a general rule, no individual storage room should exceed 3.5 m<sup>2</sup>. Storage for bulky items should also be provided outside individual apartment units.
- **Dual Aspect Ratio:** Minimum 50% dual aspect units; where single aspect apartments are provided, the number of south facing units should be maximised, with east and west facing units also acceptable.

- **Floor to Ceiling Height:** Min. of 2.4 m required, but 2.7 m encouraged.
- **Lift and Stair Cores;** Max. of 12 apartments per floor per core.
- **Private amenity space:** 1-bedroom unit - 5 m<sup>2</sup>; 2-bedroom/4-person unit – 7 m<sup>2</sup>; 3-bedroom unit – 9 m<sup>2</sup>. Gardens or patios/terraces shall be provided for ground floor units and balconies for upper levels. Balconies should have a minimum depth of 1.5m in one usable length and should adjoin and have a functional relationship with the main living areas.
- **Communal amenity space:** 1-bedroom unit - 5 m<sup>2</sup>; 2-bedroom/4-person unit – 7 m<sup>2</sup>; 3-bedroom unit – 9 m<sup>2</sup>.

5.11.2. The recreational needs of children must be considered as part of communal amenity space. Small play spaces (85 – 100 m<sup>2</sup>) catering for children up to the age of 6 to be provided in a scheme with 25 or more units of 2 or more bedrooms.

5.11.3. Private and communal amenity space may adjoin each other, but there should be a clear distinction, with an appropriate boundary treatment and/or a 'privacy strip' between the two. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.

- **Public open space:** No requirement identified under the Guidelines.
- **Bicycle parking:** 1 cycle storage space per bedroom, with visitor parking required at a rate of 1 space per 2 residential units. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement / enlargement, etc.
- **Car parking:** In central and /or accessible urban locations (including those within 10 mins walking distance of DART, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.

5.11.4. Provision shall be made for the **storage and collection of waste** materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/ lift core and designed for the projected level of waste generation and types and quantities of receptacles required.

## **5.12. Urban Development and Building Heights Guidelines for Planning Authorities (2018)**

- 5.12.1. It is Government policy that building heights must be generally increased in appropriate urban locations, with a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good public transport accessibility. Applicants shall demonstrate to the satisfaction of the Planning Authority or the Board, that the proposed development complies with a number of identified criteria at the scale of the city / town, district / neighbourhood / street and the site / building as per section 3.2 of the Guidelines.

## **5.13. National Planning Framework (NPF)**

- 5.13.1. The NPF sets out objectives which aim to secure more compact and sustainable growth patterns in urban areas in the period to 2040.
- 5.13.2. **National Policy Objective 3b** seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

## **5.14. Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region**

- 5.14.1. **RPO 4.3:** Support the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

## **5.15. Natural Heritage Designations**

- 5.15.1. None.

## 5.16. EIA Screening

5.16.1. Class (10)(b) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.16.2. It is proposed to construct 25 no. apartments which is significantly below the 500-unit threshold noted above. The site has an area of 0.13 ha and is well below the applicable threshold in this case of 2 ha. The introduction of this residential scheme would have no adverse impact in environmental terms on surrounding land uses. The site has already been developed for commercial purposes and is located within a developed area of the town centre of Dún Laoghaire. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not like to have a significant effect on any European site. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dún Laoghaire-Rathdown County Council, upon which its effects would be marginal.

5.16.3. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination, an environmental impact assessment report for the proposed development was not necessary in this case.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A **first-party appeal** against the Planning Authority's Notification of the Decision to Refuse Permission has been lodged by Manahan Town Planning Consultants on behalf of the applicant. The grounds of appeal can be summarised as follows:

- The development is 3-storeys in height alongside the existing 2-storey houses. While the proposed roof is above the eaves of the adjoining house, it is below the ridge line of this house, and as such, cannot be considered an abrupt transition in scale as asserted by the Planning Authority.
- The site can accommodate a higher development density without any adverse impacts on the residential or visual amenities of the area.
- The subject site is not located in a "Residual Suburban Area" as claimed by the Planning Authority and therefore, the Upward or Downward Building Height Modifiers do not apply at this location. The Planning Officer has undertaken a contradictory assessment by identifying the site as being both in a town centre location and a suburban location.
- The Planning Officer has determined that the subject site is not located within an area with exceptional public transport accessibility, which is an absurd view of the Planning Authority's own town centre, with the site being zoned MTC – major town centre.
- The proposed development addresses the building line of the two adjoining streets, enabling the building to sit comfortably within the site.
- An L-shaped building is the most suitable form of residential development on the site. The need for set-backs from the adjoining building and to create an open courtyard between them, removes the scope to create an area of public realm along the public footpath. Instead, the building appropriately addresses the public footpath.
- Apartment floor areas, dual aspect, storage and private open space all meet or exceed the minimum requirements, and therefore are considered



acceptable. The proposed unit mix is acceptable having regard to the town centre location of the site.

- While the Planning Officer considered that the proposed open space did not comply with development plan standards, the Parks and Landscape Services Department identified issues with respect to the open space which could be resolved by way of condition. Suitable amenity open space can be provided having regard to the town centre location of the site and its accessibility to the walks and amenities along Dún Laoghaire pier and sea front.
- The requirements of the Transportation Planning Department can also be complied with by way of planning condition, with no objection arising to the number of car and cycle parking spaces or the location of the basement access.
- The requirements of the Drainage Planning Department can also be complied with by way of planning condition.
- The applicant does not object to the requirement for an Operational Waste Management Plan to be prepared for the written agreement of the Planning Authority.
- Should planning permission be granted for the proposed development, the applicant will enter into a Part V agreement with the Planning Authority. The remainder of the units will be constructed for sale.
- The height of the proposed development is appropriate having regard to the existing building heights in the surrounding area.
- The overall building design concept is based on providing a contemporary façade which makes a positive contribution to the street.
- The massing of the building has been broken up vertically and horizontally through the movement created in the façade and the use of materials.
- The refusal of permission based on the potential depreciation of properties in the vicinity is unfounded – cognisance must be had to the current housing climate and continuous rising house prices. The proposed development will provide a contemporary design response on an infill site, and if anything, will

increase the value of the existing properties which are similar in size and scale.

- The residential scheme will be managed by a management company and noise will not impact on the amenities of neighbouring residential properties.
- The Planning Authority's assessment that the proposed development would not comply with SSPR3 of the Building Height Guidelines is contested and the criteria set out in Section 3.2 and SSPR 3 have been fully considered in the proposed development.
- A key objective of the National Planning Framework and the Building Height Guidelines is to greatly increase the levels of residential development in our urban centres and to significantly increased building heights and densities. Development plans must also support increased density and building heights to support investment in public transport.
- The subject site is one of the few sites in the Dún Laoghaire area that is within easy reach of a variety of employment, social and economic centres that can accommodate denser residential development with sufficient open amenity space and accessible public open space in accordance with national and regional planning policy.
- The MTC zoning extends over a very large area and beyond what might commonly be regarded as the town centre of Dún Laoghaire. Within this area, there are many streets and collections of buildings which are fully residential only. It is unreasonable to require each of these buildings to have commercial use at ground floor level.
- It is not accepted that the lack of commercial use on the ground floor renders the proposal a material contravention of the County Development Plan.

6.1.2. A **third-party appeal** has also been lodged against the Planning Authority's decision by Reid Associates on behalf of Ann Mulcrone, 2 Connaught Place, Crofton Road, Dún Laoghaire, Mabel Fitzpatrick, Connaught House, Crofton Road, Dún Laoghaire and Vivienne Fitzpatrick, mews to rear of 1 Connaught Place, Stable Lane, Crofton Road, Dún Laoghaire. The grounds of this appeal can be summarised as follows:

- While the Planning Authority refused planning permission for 3 no. reasons, it is submitted that there are significant additional reasons for refusal, particularly relating to the disproportionate mix of social housing provision. This issue was not considered by the Planning Authority in their assessment of the application.
- Failure to include the additional reasons for refusal fails to acknowledge the importance of development plan policy RES7 and the housing strategy in this area.
- It is understood that the developer intends to lease the entire development to an approved housing body or the Local Authority for social housing, and as such, the planning notices are misleading and deficient, and the application is invalid.
- Recent case law (Balscaden case) imposes an onus on the Board to ensure compliance with the Planning Regulations and the applicant's failure to comply with same is a fundamental flaw precluding the Board from granting permission.
- The proposed development excludes first time buyers and private rental tenants.
- The purpose of Part V housing legislation is to integrate social housing within the broader housing mix. It is noted that there is a significant concentration of social housing directly opposite and immediately proximate to the subject site.
- The proposed allocation of the entire 25 residential units for social housing would have a disproportionate impact on the social housing mix and tenure in the centre of Dún Laoghaire and would not contribute to a sustainable, balanced residential community.
- The proposed leasing of the residential units as social housing would materially contravene the development plan housing strategy (section 2.1.2 of the development plan and policy RES7) and should be refused planning permission on that basis.

## **6.2. Applicant Response**

6.2.1. A response to the third-party appeal was lodged by Manahan Town Planners on 21<sup>st</sup> September 2021, which can be summarised as follows:

- The appellants have provided no evidence to back up their claim that the entire development is to be leased to an approved housing body as social housing. The applicant intends to provide 2 no. units within the development for social housing, with the remaining units being available for sale.
- The unit mix is set out on the planning drawings and the Part V proposals are set out clearly and in a transparent fashion.
- The planning notices are not incorrect or misleading and adequately describe the development as required under the Planning Regulations. Thus, the planning application is not invalid.
- The entire appeal is based the appellants' consideration that the applicant intends to sell or lease the residential units for social housing. There is no evidence to support this contention, and as such, this matter cannot be taken into consideration in the Board's assessment.

## **6.3. Planning Authority Response**

6.3.1. A response to the appeals was received from the Planning Authority on 16<sup>th</sup> September 2021. The Planning Authority considers that the grounds of appeal do not raise any new matters and the Board is referred to the Planning Officer's report.

## **6.4. Observations**

- 6.4.1. Observations on the appeal were received from: (1) Brendan Farrell, 8 Bentley Villas, George's Place, Dún Laoghaire, Co. Dublin, (2) Grainne Howard, 3 Bentley Villas, Dún Laoghaire, Co. Dublin, and (3) Andrea Comiskey, 5 Bentley Villas, Dún Laoghaire, Co. Dublin.
- 6.4.2. No new issues have been raised (see section 3.4.2 of this report for a summary of the issues raised in the third-party observations).

## **6.5. Further Responses**

- 6.5.1. A response to the 1<sup>st</sup> party appeal was received from Reid Associates on 21<sup>st</sup> September 2021 on behalf of Ann Mulcrone, 2 Connaught Place, Crofton Road, Dún Laoghaire, Mabel Fitzpatrick, Connaught House, Crofton Road, Dún Laoghaire and Vivienne Fitzpatrick, mews to rear of 1 Connaught Place, Stable Lane, Crofton Road, Dún Laoghaire (third-party appellants).
- 6.5.2. The response largely reiterates the content of the appellants' appeal submission. It is also submitted that: (1) the service core is unduly dominant, (2) there is no defensible space between the building line and the public domain (3) the materials palette is inappropriate for this prominent urban site.

## **7.0 Assessment**

- 7.1. I am satisfied that the main issues for consideration in this case include:
- Compliance with Land Use Zoning
  - Development Massing, Height & Scale
  - Development Design & Interface with Public Realm
  - Compliance with Development Management Standards
  - Housing Mix
  - Surface Water Drainage
  - Appropriate Assessment
- 7.2. Each of these issues is addressed in turn below.
- 7.3. **Compliance with Land Use Zoning**
- 7.3.1. The Planning Authority refused planning permission for the proposed development for 3 no. reasons, including that the proposed development of the site for residential purposes only, would represent an inappropriate use at ground floor level in a town centre, would be injurious to the vibrancy of the town centre and would be contrary to the site's zoning objective. As such, it was considered that the proposed development would contravene materially a development objective indicated in the development plan for the zoning of land.

- 7.3.2. Dún Laoghaire-Rathdown County Council's Planning Officer considered that the proposed development would not comply with the MTC land use zoning objective which applies to the site or policy RET: 9 (Non-Retail Uses) of the 2016 development plan, which sought to control non-retail uses on principle shopping streets of the major town centres. The Planning Officer noted that this policy allowed some discretion, including where the proposal would increase the residential population of the commercial centre. The Planning Officer also considered the proposed development would be contrary to objective no. 11 of the Dún Laoghaire Urban Framework Plan (appendix 12 of the 2016 development plan) which sought to ensure the balanced development of the town centre through the development management process, requiring appropriate uses at the ground floor level and on corner sites, which contribute to the vibrancy of the town centre.
- 7.3.3. In responding to this refusal reason, the applicant's agent submits that the MTC zoning extends over a very large area and beyond what might commonly be regarded as Dún Laoghaire town centre. It is submitted that there are many streets and collections of buildings which are fully residential and that it is unreasonable to require each of these buildings to have commercial use at ground floor level. The applicant's agent does not accept that the lack of commercial use on the ground floor renders the proposal a material contravention of the development plan.
- 7.3.4. While the 2022-2028 development plan has been adopted since this planning application was lodged, I note that the policy context concerning the subject site remains largely the same. The site remains zoned for MTC purposes and residential development is permissible under this zoning objective. Policy objectives MFC1 (Multifunctional Centres) and RET5 (Major Town Centres) support the development of Dún Laoghaire a multi-functional centre with a mix of land uses to support its vitality. Policy objective RET11 (Active Street Frontages Non-Retail Uses) states that it is a policy objective of the Council to control the provision of non-retail uses at certain locations, including at ground floor level in the principal shopping streets of Major Town Centres. In reviewing the Interim Dún Laoghaire Urban Framework Plan (appendix 17 of the 2022 county development plan), I note that the subject site is not located within the primary town quarter or the 3 no. secondary town quarters.

- 7.3.5. In my opinion, the provision of residential uses at ground floor level on the subject site would not materially contravene a development objective for the zoning of land as determined by the Planning Authority. In reaching this conclusion, I note that residential development is permitted in principle under the site's MTC zoning objective. While Policy Objective RET11 seeks to control non-retail uses at ground floor level in the principal shopping streets of Major Town Centres, in my opinion, the subject site is not located on such a street, as determined with reference to the Interim Urban Framework Plan. The adjoining land uses at this location are primarily residential nature, and as such, I consider it would be unreasonable to refuse planning permission on this basis.
- 7.3.6. In the event the Board disagrees with my assessment and considers that the proposed development would materially contravene the development plan, I note that planning permission could be granted under Section 37(2)(b) of the Planning and Development Act, 2000 (as amended). This section of the Act states that, where a planning authority has decided to refuse planning permission for a development on the grounds that it materially contravenes the development plan, the Board can only grant permission where it considers that:
- (i) the proposed development is of strategic or national importance,
  - (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or,
  - (iii) permission should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directive under section 29, the statutory obligations under any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or,
  - (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.
- 7.3.7. In my opinion, permission could be granted for the proposed development under Section 37(2)(b)(iii) of the Act having regard to the policy guidance of the NPF, and in particular, National Policy Objective 3b, which seeks to deliver at least 50% of all new homes in the cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints. I further consider that the proposed

development would be in accordance with Regional Policy Objective 4.3 of the RSES, which seeks, inter alia, to support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City and suburbs.

#### **7.4. Development Massing, Height & Scale**

- 7.4.1. Refusal reason no. 1 of the Planning Authority's decision states that the proposed development, by reason of massing, scale, design and proximity to the subject site boundaries, would adversely impact on the residential amenity of adjacent properties by reason of overlooking, overshadowing and overbearing appearance.
- 7.4.2. In considering the foregoing, I note that the proposed development is effectively 3-storeys in height adjacent to No. 5 Bentley Villas fronting onto George's Place, comprising 2 no. residential floors over the entrance to the basement car park. Based on the ground floor level stated on Proposed Elevation 1-1 (Drawing No. 3.1.200), the development has an overall height of 10.225 m at this location at a set-back of approx. 0.5 m from the shared property boundary. The building height at the junction of George's Place and Clarence Street is 5-storeys / 16.375 m to plinth level, with the overall height to the top of the lift / stair core being 19.575 m fronting onto George's Place. The building height reduces to 2-storeys (6.851 m) to the rear of the site adjoining The Anchorage apartment scheme, which is 4-storeys in height at this location.
- 7.4.3. While I acknowledge the residential dwellings at Bentley Villas are 2-storeys in height, I also note that the modern apartment schemes at The Anchorage, Marina View, Bentley House and The George's Place apartment complex, have increased building heights of 4 – 6 storeys. As such, I am satisfied that the subject site is suitable to accommodate an increased building height having regard to the existing pattern of development and national planning policy which seeks to generally increase heights in urban locations as set out in the Urban Development and Building Height Guidelines for Planning Authorities (2018).
- 7.4.4. Notwithstanding the foregoing, I consider that the proposed building height adjacent to No. 5 Bentley Villas is excessive having regard to the 2-storey height of the existing dwelling, the difference between the site levels as illustrated on Drawing No. 3.1.101 (Proposed Ground Floor Plan), and the scale and proximity of the proposed



development to the shared boundary. The applicant's appeal submission includes CGI images of the proposed development, with its relationship to No. 5 Bentley Villas primarily shown in the CGI view of the south-east elevation (figure no. 8). In my opinion, the image shown in figure 8 is misleading, as it suggests that the flat roof of the proposed development sits below the ridge line of this dwelling. The applicant's agent states on page 10 the appeal submission, that figure 8 "shows how the proposed development is a three-storey building alongside the existing 2 storey houses. Indeed, while the proposed roof is above the eaves of the adjoining house, it is below the ridge line of that house".

- 7.4.5. A review of Drawing No. 3.1.200 (Elevations 1-1 and 2-2) which accompanies the planning application (extracted as figure 10 in the applicant's appeal submission), confirms that the overall height of the 3-storey element of the proposed development exceeds the ridge height of No. 5 Bentley Villas by approx. 4.3 m. In my opinion, the proposed development would have an overbearing impact on No. 5 Bentley Villas by reason of its height and proximity to the shared boundary. As such, I consider that the proposed 2<sup>nd</sup> floor level of the proposed development adjacent to No. 5 Bentley Villas (apartment no. 17) should be omitted to reduce the overbearing and overshadowing impacts which would arise to this property. In the event the Board decides to grant planning permission for the proposed development, I consider that this matter can be addressed by condition.
- 7.4.6. I do not consider that any overlooking of No. 5 Bentley Villas would occur, given that no windows are proposed in the eastern/side elevation of the proposed development adjoining this property. While some additional overshadowing of the rear garden of No. 5 Bentley Villas would likely occur from the west during the late afternoon / evening, I note that it would continue to receive sun throughout the morning and early afternoon. Given the location of the subject site within the town centre and its suitability to accommodate infill development, I do not consider that the overshadowing impacts which would occur would be sufficient to justify a refusal of planning permission in this instance.
- 7.4.7. In considering the impact of the proposed development on The Anchorage apartment scheme to the north, I note that the proposed development has an L-shaped configuration around an internal courtyard, reflecting the pattern of this adjoining apartment scheme. The ground and 1<sup>st</sup> floor levels of the proposed

development directly adjoin the shared northern site boundary, while the proposed 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floor levels step back from The Anchorage, with separation distances of approx. 4.4 m, 5.7 m and 16.5 m arising respectively. No windows are proposed on the northern elevation of the proposed development at these levels.

- 7.4.8. While I acknowledge that limited separation distances are proposed at the 2<sup>nd</sup> and 3<sup>rd</sup> floors, I also note that the apartments directly to the north within The Anchorage have limited fenestration on their southern elevations, with their primary elevations orientated to the east and west. As such, I am satisfied that no undue overlooking, overshadowing or overbearing impacts would arise in this context.
- 7.4.9. The rear / north-eastern elevation of the proposed development is set-back at 1<sup>st</sup> - 4<sup>th</sup> floor levels from the remaining units within The Anchorage, with separation distances of between 22m – 24.296 m arising. In my opinion, these separation distances would not be unreasonable in a town centre context, and I consider that no undue overbearing or overshadowing impacts would arise. I further note that the proposed bedroom accommodation (rather than primary living spaces) is arranged along the northern elevation of the proposed development facing onto the neighbouring development, which together with the proposed separation distances, would reduce the potential for overlooking impacts to arise.
- 7.4.10. I also note the separation distances which arise to the existing residential developments on the southern side of George's Street and the western side of Clarence Street opposite the subject site, ranging from approx. 17 – 20 m (Drawing No. 3.1.009: Proposed Site Layout Plan refers). In my opinion, these separation distances would be acceptable in this urban context, given that the existing developments are located on the opposite sides of the public roads at these locations.
- 7.4.11. In conclusion, I consider that, subject to the height reduction recommended above, the proposed massing, height and scale of the development would be acceptable on this town centre zoned site, having regard to the pattern and scale of the existing residential developments on the neighbouring sites at this location.

## **7.5. Development Design & Interface with Public Realm**

- 7.5.1. Refusal reason no. 2 of the Planning Authority's decision states that, having regard to the prominent location of the subject site, it is considered that the proposed development, by reason of its design, height, scale, mass and poor interface with the public realm, does not achieve the development objectives of the Dún Laoghaire Urban Framework or Urban Design Principles of Policy UD1.
- 7.5.2. As discussed above, I consider that the scale, height and mass of the proposed development would be acceptable on this brownfield, town centre site. In considering the design of the development and its interface with the public realm, I note that the Architect's Department of the Planning Authority considered that the scale, disposition of the building mass and the ambition of the elevational treatment, does not attain a level of design quality that could be permitted. It was also considered that the manner in which the building relates to the public realm is poorly conceived.
- 7.5.3. In responding to the Planning Authority's decision in this instance, the applicant's agent submits that the proposed development addresses the building line of the two adjoining streets and that the building sits comfortably within the site. It is submitted that an L-shaped building is the most suitable form of development and that the need for set-backs from The Anchorage apartment scheme, and to create an open courtyard between, removes the scope to create an area of public realm along the public footpath. It is submitted that the overall building design concept is based on providing a contemporary façade which makes a positive contribution to the street, with the massing of the building broken up vertically and horizontally through the movement created in the façade and the use of materials.
- 7.5.4. The building materials which are proposed to the building façades are detailed on the proposed elevation drawings (nos. 3.1.200 and 3.1.201) and the CGIs in the applicant's design statement. These include a variety of brick finishes and render, with charcoal grey aluminium window frames and glass balustrades to the private amenity spaces. In my opinion, the design of the proposed development would be acceptable at this location having regard to the pattern of recent apartment developments in the immediate vicinity. I also consider that the design of the proposed development reflects that of The Anchorage apartment scheme, which in my opinion, occupies a more prominent corner site facing towards the seafront.

- 7.5.5. The interface of the proposed development and the public footpath is illustrated on the Landscape Design Drawing No. 01. The ground floor building line is set back from the adjoining public footpaths and increases in depth from east to west along George's Place. The proposed set-back from the public street is less than 0.5 m to the balcony space serving apartment no. 6, increasing to approx. 3 m to the façade of apartment no. 1 at the corner of George's Place and Clarence Street. Apartment nos. 4 and 5 are centrally located at ground floor level fronting onto George's Place and are served by recessed balconies which are set back by approx. 1.7 m and 1.5 m respectively from the public footpath. Apartment no. 1 is served by a projecting balcony which wraps around the George's Place and Clarence Street frontages at a set-back of approx. 1.4 m. Thereafter, the ground floor façade fronting onto Clarence Street has a maximum set-back of approx. 5.4 m from the public footpath. A variety of planting and landscaping treatments are proposed between the ground floor building façades and the adjoining public streets.
- 7.5.6. I agree that the interface between the ground floor building façade and the public street is somewhat compromised and that an increased set-back may have delivered a more successful urban design outcome at this location. However, notwithstanding the foregoing, I note that the site comprises zoned town centre land and has the potential to deliver additional residential accommodation in line with national planning policy concerning the densification of existing urban areas. I also acknowledge that a reasonable balance must be struck in providing a development which responds to the adjoining residential developments at No. 5 Bentley Villas and The Anchorage, with the proposed building line onto George's Place and Clarence Street largely reflecting that of these neighbouring developments. Notwithstanding the foregoing, I consider that opaque glazing should be provided to the ground floor balconies fronting onto George's Place and Clarence Street to improve the privacy and usability of these spaces. This matter can be addressed by condition.
- 7.5.7. On balance, I consider that the design and interface of the proposed development with the public realm would be acceptable at this location and that it would be unreasonable to refuse planning permission on this basis.

## **7.6. Compliance with Development Management Standards**

- 7.6.1. The applicant's Housing Quality Assessment and planning drawings confirm that the proposed apartment units meet or exceed the required standards of the Apartment Design Guidelines (2020) in relation to overall floor area, unit mix, storage space, dual aspect ratios, the number of units per floor per core, floor to ceiling heights, and private amenity space.
- 7.6.2. As identified by Dún Laoghaire-Rathdown County Council's Planning Officer, the private amenity spaces serving apartment nos. 4 and 10 at ground and 1<sup>st</sup> floor levels respectively, are only accessible via the bedroom accommodation in each unit. In reviewing the floor plan drawings, I consider that access to the balconies could be provided from the living area of each unit. This matter can be addressed by planning condition should the Board decide to grant permission for the proposed development.
- Communal Amenity Space
- 7.6.3. The applicant's planning report states that a minimum requirement for 177 m<sup>2</sup> of communal open space arises to serve the development based on the standards of the 2020 Apartment Design Guidelines. It is stated that the proposed communal amenity space complies with same, including the ground floor landscaped courtyard of c. 288.6 m<sup>2</sup> and the rooftop garden of c. 150.2 m<sup>2</sup>. I note that these dimensions are not annotated on the Landscape Design drawings (nos.1 and 2).
- 7.6.4. The Parks and Landscape Services Department of the Planning Authority considered the open space design to be of a high standard with the overall approach, innovation, tree and plant species being supported. Concerns were also noted regarding the provision of open space, the omission of play facilities, the absence of radial sunlight within the amenity spaces and future maintenance access to the proposed roof garden. Appropriate conditions relating to the roof top planting, open space and play provision, landscape design and ecology, biodiversity and wildlife are identified in the event planning permission is granted for the proposed development.
- 7.6.5. In my opinion, the proposed quantum of communal amenity space would be acceptable having regard to the total amount provided. While I acknowledge that a shadow study has not been submitted as part of the planning application, I note that

BRE guidance indicates that for an amenity space to have good quality sunlight throughout the year, 50% of it should receive more than 2 hours of sunlight on the 21<sup>st</sup> March. Given the location of the ground floor courtyard in the north-eastern corner of the site, the height of the proposed development adjoining this space to the south, the location and open orientation of the roof garden and that the overall quantum of communal open space exceeds the minimum requirements, I am satisfied that this standard would be achieved in this instance.

7.6.6. While Parks and Landscape Services of Dún Laoghaire-Rathdown County Council considered that the proposed development does not meet the requirements for small place spaces for children up to the age of 6 under the 2020 Apartment Guidelines, I note that this provision relates to schemes with 25 + units of two or more bedrooms. As such, I am satisfied that the proposed development is sub-threshold in relation to this requirement.

7.6.7. In my opinion, the final landscaping strategy, including planting, maintenance and access to the roof garden and green roofs, should be agreed with the Planning Authority prior to the commencement of development. These matters can be addressed by planning condition. I note that the proposed development does not include any public open space, and as such, I consider it would be appropriate to require a development contribution in lieu of same as recommended by Parks and Landscape Services and as provided for under the development plan. This matter can also be addressed by planning condition.

- Access, Car and Bicycle parking

7.6.8. Vehicular **access** to the basement level is proposed via a ramped access from George's Street, adjacent to No. 5 Bentley Villas. A separate ramped access for bicycles is also proposed at this location. The basement will accommodate 25 no. car parking spaces (21 no. standard, 1 no. accessible and 3 no. electric) and 36 no. cycle parking spaces.

7.6.9. The Transportation Planning Department noted that no access for refuse maintenance and deliveries has been demonstrated in the planning application and advised that a loading bay / set-down area be provided at ground floor level within the site. The Traffic / Transport Assessment which accompanies the application notes that double yellow lines are in place to the front of the site, where active

loading and unloading is allowable under Traffic Regulations. It is submitted that the proposed development will have very limited servicing requirements, primarily related to refuse collection, which will be facilitated using traditional refuse lorries, with bins wheeled to a point of collection at ground floor level.

7.6.10. While I have considered the Transportation Planning Department's recommendation that an on-site loading bay / set-down area be provided, in my opinion, this would be an onerous requirement in the context of the redevelopment of a small, brownfield site in an urban area. As such, I am satisfied that appropriate servicing of the site can be undertaken at street level having regard to the scale and nature of the development proposed.

7.6.11. The Transportation Planning Department raised no objections to the proposed quantum of **car parking** spaces. Given the urban location of the site and its proximity to good public transportation links, I agree that the proposed quantum of car parking would be acceptable. This Department had recommended that Further Information be requested in relation to a number of items including pedestrian priority across the proposed vehicular entrance on George's Place, a taking-in-charge drawing that covers the access junction, the future provision of electric charging points for electric vehicles, the completion of a Quality Audit and the provision of scaled swept path analysis drawings of the proposed access arrangements to the basement car parking. I consider that these matters can be addressed by way of condition. While this Department also recommended that a Framework Mobility Management Plan (Travel Plan) be provided, I note that a Preliminary Travel Plan accompanied the application as prepared by NRB Consulting Engineers. As such, I am satisfied that this matter has already been addressed by the applicant.

7.6.12. The Planning Authority's **cycle parking** standards result in a requirement for 30 no. spaces to facilitate the proposed development, comprising 25 no. resident spaces and 5 no. visitor spaces. The cycle parking standards of the 2020 Apartment Design Guidelines result in a higher requirement of 63 no. spaces (50 no. resident spaces and 13 no. visitor spaces). The Transportation Planning Department recommends that 50 resident bicycle parking spaces be provided at basement level and 13 no. visitor spaces be provided at ground floor level in accordance with these higher standards. The provision of Sheffield cycle stands at a minimum of 1m centres is also recommended.

- 7.6.13. I note that a shortfall of 27 no. cycle parking spaces arises based on the standards of the 2020 Apartment Design Guidelines. I also note that a deviation from the required standards can be made at the discretion of the Planning Authority. In my opinion, there is limited ability to increase the quantum of cycle parking at basement level given the extent of its footprint and the requirement to accommodate car parking, circulation routes, lift/stair cores and bin storage at this level. I also note that the building footprint at ground floor level does not facilitate the provision of visitor cycle parking.
- 7.6.14. In my opinion, the proposed quantum and location of the cycle parking would be generally acceptable having regard to the scale of the proposed development, which will deliver 25 no. residential units on an urban site with good accessibility by public transport modes, and that any shortfall arising would not be sufficient to justify a reduction in the scale of the proposed development or the refusing of planning permission in this instance.

## **7.7. Housing Mix**

- 7.7.1. The third-party appeal which has been lodged by Reid Associates on behalf of Ann Mulcrone & others is primarily concerned with the potential future use of the proposed development as social housing. The appellants' agent submits that the proposed allocation of the entire 25 residential units for social housing would have a disproportionate impact on the social housing mix and tenure in the centre of Dún Laoghaire and would not contribute to a sustainable balanced residential community. It is further submitted that the proposed leasing of the residential units as social housing would materially contravene the development plan housing strategy (section 2.1.2 and policy RES7) and should be refused planning permission on that basis.
- 7.7.2. In response to the foregoing, the applicant's agent submits that the appellants have provided no evidence to support their claims. The applicant's agent confirms that 2 units will be provided for social housing, with the remaining being available for sale. It is further submitted that the proposed unit mix is set out on the planning drawings and the Part V proposals are set out in a transparent fashion, and as such, the planning notices are not inaccurate or misleading.
- 7.7.3. Should the Board decide to grant planning permission in this instance, I note that the proposed development will be subject to the provisions of Section 96 of the Planning



and Development Act, 2000 (as amended) concerning the provision of social and affordable housing. This matter will be addressed by planning condition. In my opinion, the assertions made by the third-party appellants concerning the leasing of the entire scheme for the purposes of social housing are not relevant to the adjudication of this case and can be disregarded by the Board.

## 7.8. Surface Water Drainage

- 7.8.1. The Drainage Planning Department recommended that Further Information be requested in relation to this application as summarised in section 3.2.5 of this report. In my opinion, these matters can be resolved by way of condition should the Board grant planning permission for the proposed development.

## 7.9. Appropriate Assessment (AA)

- 7.9.1. I have reviewed the AA screening reports of the applicant and Planning Authority, both of which conclude that an AA of the proposed development is not required. The subject site is not located within or directly adjacent to any European site, and as such, there is no potential for **direct impacts** to occur. The closest European sites to the appeal site include:
- South Dublin Bay and River Tolka Estuary SPA (site code: 004024) located approx. 320 m to the north-west.
  - South Dublin Bay SAC located approx. 765 m to the west.
  - Rockabill to Dalkey Island SAC (site code: 003000) located approx. 3.4 km to the east.
  - Dalkey Islands SPA (site code: 004172) located approx. 3.6 km to the south-east.
- 7.9.2. In considering the potential for **indirect impacts** to occur, I note that there is no hydrological connection between the subject site and the identified European sites and that it does not support any of the habitats or species which are qualifying interest for these European sites (see Appendix 1 of this report for details). Thus, there is no potential for indirect impacts to occur, and as such, any potential **in-combination** impacts can be excluded.

- 7.9.3. In applying the source-pathway-receptor concept, and having regard to the nature and scale of the development, comprising an infill residential scheme of 25 no. units on a brownfield site, the availability of public water and wastewater services to facilitate the development, and the separation distances arising to the nearest Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

## 8.0 Recommendation

- 8.1. I recommend that planning permission be granted for the proposed development.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the location of the subject site on serviced urban land, the pattern of residential development adjoining the site, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>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.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
3.	<p>Prior to the commencement of development, the developer shall enter into an agreement with the planning authority to provide for the payment of a financial contribution in lieu of public open space within the site in accordance with Section 12.8.8 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the Dún Laoghaire-Rathdown Development Contribution Scheme 2016-2020 made under Section 48 of the Planning and Development Act, 2000 (as amended). The amount of the contribution 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 for determination. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p>

	<p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
4.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
5.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
6.	<p>The height of the proposed development adjacent to No. 5 Bentley Villas shall be reduced by the omission of the proposed 2<sup>nd</sup> floor level (apartment unit no. 17). Revised drawings showing compliance with this requirement</p>

	<p>shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interests of residential amenity.</p>
7.	<p>The proposed development shall be modified as follows:</p> <p>(a) Opaque glazing shall be provided to the balconies serving the ground floor apartment units facing onto George's Place and Clarence Street.</p> <p>(b) The balcony spaces serving apartment no. 4 at ground floor level and apartment no. 10 at 1<sup>st</sup> floor level shall be accessible from the living spaces within each unit.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
8.	<p>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.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
9.	<p>The construction of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including the hours of working, traffic management arrangements, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
10.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of this development.</p>

11.	<p>Prior to the commencement of development, the developer shall agree the following details with the Transportation Planning Department of the Planning Authority:</p> <p>(a) Proposals to ensure pedestrian priority along the footpath across the proposed vehicular entrance onto George's Place and a taking-in-charge drawing of the access junction.</p> <p>(b) The submission at A1 scale of the planning drawings contained in Appendix A of the Traffic / Transport Assessment.</p> <p>(c) A detailed Quality Audit which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit demonstrating that the proposed development has been designed in accordance with the Design Manual for Urban Roads and Streets (DMURS). An independent team shall be approved by the Transportation Planning Department of the Planning Authority and all measures recommended by the auditor shall be undertaken unless the Planning Authority approves any departure in writing. A feedback report should be submitted responding to each of the items, together with detailed layout drawings showing the accepted design changes incorporated into the layout.</p> <p><b>Reason:</b> In the interests of traffic and pedestrian safety.</p>
12.	<p>All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>
13.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the</p>

	<p>developer has obtained the planning authority's written agreement to the proposed name.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
14.	<p>Prior to the commencement of development, the developer shall submit a plan for the written agreement of the Planning Authority containing details of the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and the ongoing operation of these facilities.</p> <p><b>Reason:</b> To provide for the appropriate management of waste in the interests of protecting the environment.</p>
15.	<p>(a) The landscaping scheme shown on landscape design drawing nos. 1 and 2 as submitted to the planning authority on 8<sup>th</sup> June 2021, shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>(b) No development shall take place until final details of all proposed tree planting and soft and hard landscaping treatments have been submitted to, and agreed in writing with, the planning authority.</p> <p>(c) A schedule of landscape access and maintenance, including to the green roofs and roof garden, shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. This schedule shall cover a period of at least 3 years and shall include details of the arrangements for its implementation.</p> <p>(d) Any plants which die, are removed or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
16.	<p>No additional development shall take place above the roof parapet level of the apartments, including lift motor enclosures, air handling equipment,</p>

	<p>storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
17.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
18.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
19.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

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Louise Treacy  
Planning Inspector  
28<sup>th</sup> July 2022



## Appendix 1: Natura 200 Sites – Qualifying Interests & Conservation Objectives

South Dublin Bay and River Tolka Estuary SPA (site code: 004024)	
<b>Qualifying Interests</b>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
<b>Conservation Objective(s)</b>	<p>To maintain the favourable conservation condition of Light-bellied Brent Goose [A046]</p> <p>To maintain the favourable conservation condition of Oystercatcher [A130]</p> <p>To maintain the favourable conservation condition of Ringed Plover [A137]</p> <p>To maintain the favourable conservation condition of Knot [A143]</p> <p>To maintain the favourable conservation condition of Sanderling [A144]</p>

	<p>To maintain the favourable conservation condition of Dunlin [A149]</p> <p>To maintain the favourable conservation condition of Bar-tailed Godwit [A157]</p> <p>To maintain the favourable conservation condition of Redshank [A162]</p> <p>To maintain the favourable conservation condition of Black-headed Gull [A179]</p> <p>To maintain the favourable conservation condition of Roseate Tern [A192]</p> <p>To maintain the favourable conservation condition of Common Tern [A193]</p> <p>To maintain the favourable conservation condition of Arctic Tern [A194]</p> <p>To maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it [A999]</p>
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<b>South Dublin Bay SAC (site code: 000210)</b>	
<b>Qualifying Interests</b>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
<b>Conservation Objective(s)</b>	<p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide [1140]</p>

<b>Rockabill to Dalkey Island SAC (site code: 003000)</b>	
<b>Qualifying Interests</b>	Reefs [1170]  Phocoena phocoena (Harbour Porpoise) [1351]
<b>Conservation Objective(s)</b>	- To maintain the favourable conservation condition of Reefs [1170]  - To maintain the favourable conservation condition of Harbour porpoise [1351]

<b>Dalkey Islands SPA (site code: 004172)</b>	
<b>Qualifying Interests</b>	Roseate Tern (Sterna dougallii) [A192]  Common Tern (Sterna hirundo) [A193]  Arctic Tern (Sterna paradisaea) [A194]
<b>Conservation Objective(s)</b>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.