

An  
Bord  
Pleanála

## **Board Direction BD-010262-22 ABP-312020-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/03/2022.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

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

- (a) the location of the site in the urban settlement area of Bray on a site zoned for residential (under Objective R-HD New Residential – High Density: To protect, provide and improve residential amenities in a high-density format in the Bray Municipal District Local Area Plan 2018 – 2024);
- (b) the policies and objectives of the Wicklow County Development Plan 2016-2022 and the Bray Municipal District Local Area Plan 2018 – 2024;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All – A New Housing Plan for Ireland;
- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) The Architectural Heritage Guidelines for Planning Authorities and Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999;
- (i) The nature, scale and design of the proposed development and the availability in the area of infrastructure;
- (j) The pattern of existing development in the area;
- (k) The planning history of the site;
- (l) The submissions and observations received;
- (m) The Chief Executive Report from the Planning Authority; and
- (n) The report of the inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would enhance the protected structure on the site, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the



applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to: -

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.

(b) the location of the site on lands zoned Objective R-HD New Residential – High Density: To protect, provide and improve residential amenities in a high-density format in the Bray Municipal District Local Area Plan 2018 – 2024 (Bray MDLAP) where residential with ancillary childcare facility is in conformity with the land uses.

(c) The pattern of development in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(f) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).



(g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, Conservation Report, Outline Construction Management Plan, Construction and Environmental Management Plan, Construction and Demolition Waste Management Plan, Engineering Report, Landscape Report and the Site Specific Flood Risk Assessment.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development would, not therefore, be required.

### **Conclusions on Proper Planning and Sustainable Development**

Having regard to the zoning objective for the site as set out in the Bray Municipal District Local Area Plan 2018-2024, the pattern of existing development in the immediate vicinity of the site, the AA Screening Report submitted with the application and subsequent Appropriate Assessment Screening in the Inspectors Report, the location in an existing urban area and a reasonable walking distance to the town centre and DART station, it is considered that the proposed development would enhance the protected structure on the site, and would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, mix and quantum of development, and in terms of pedestrian and traffic safety. It was also concluded that the development would not subject future occupiers to flood risk or increase the risk of flood elsewhere. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) Proposed apartment units labelled B2.09, B2.14 and B2.19 on the submitted plans shall be amended to incorporate a high level south facing window reflecting the design of unit B2.04.
  - (b) The high level south facing window to all units referenced in part (a) of this condition shall be obscure glazed.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of residential amenity.

3. The development shall be carried out on a phased basis, in accordance with a phasing scheme submitted with the planning application, unless otherwise agreed in writing with the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed residential units.

4. The mitigation measures contained in the Ecological Impact Assessment which was submitted with the application shall be implemented in full including in relation to invasive species, phasing, construction, demolition timing and landscaping and vegetation clearance timing.

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area and to ensure ecological best practice.

5. Prior to the commencement of the development a Habitat Management Plan shall be submitted, and agreed by the planning authority, for the south of the site, specifically in relation to the woodland open space,

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area and to ensure ecological best practice.

6. Prior to the commencement of the development detailed specifications of the sedum roof areas to be submitted to and agreed by the planning authority.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure ecological best practice.

7. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation including hydrological and geotechnical investigations relating to the proposed development, and
- (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.



The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements including, if necessary, archaeological excavation prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 8. All works to the protected structure, shall be carried out in accordance with the submitted Conservation Report and under the supervision and in accordance with the requirements of a qualified professional with specialised conservation expertise (Royal Institute of Architects Ireland Grade 2 or higher).

**Reason:** To secure the authentic preservation of the protected structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

- 9. 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.

**Reason:** To ensure the satisfactory completion and maintenance of this



development.

10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. The Stage 2 Quality Audit Reports shall be submitted for the written agreement of the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

11. The pedestrian and bicycle link to Newcourt Road shall be kept open at all times for the use of members of the public. The link shall not be used for vehicular use, with the exception of use by emergency vehicles. Prior to the commencement of the development, details of the treatment, surface finish, boundary appearance, lighting and bollards or other mechanism to prevent vehicular access, shall be submitted to, and approved by the planning authority.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

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

**Reason:** In the interest of visual amenity.



13. Details of signage for the creche unit shall be as submitted to An Bord Pleanála with this application unless otherwise submitted to, and agreed in writing with, the planning authority prior to occupation of the commercial/retail units.

**Reason:** In the interests of the amenities of the area and visual amenity.

14. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes and through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house. Such lighting shall be designed in accordance with guidance contained in the Institution of Lighting Professionals (ILP) (2018) Guidance Note 08/18 Bats and artificial lighting in the UK. The approved lighting shall be provided prior to the making available for occupation of any residential unit.

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

15. Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water. All works are to be carried out in accordance with Irish Water Standards codes and practices, including in relation to separation distances and restrictions on the building up over assets.

**Reason:** In the interest of public health.

16. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the



Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health and surface water management.

17. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

18. Proposals for an estate name and numbering scheme with associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or other alternatives acceptable to the planning authority. No advertisements or marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interests of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

19. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other



external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

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

**Reason:** To provide for and future proof the development such as would facilitate the use of electric vehicle.

21. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a parking management plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually



managed.

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

22. Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** In the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.

23. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

24. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development with measures to reflect mitigation described in the submitted Ecological Impact Assessment for the application, in addition to the following:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of access points to the site for any construction related activity,



- which shall be from Putland Road only;
- (c) Location of areas for construction site offices and staff facilities;
  - (d) Details of site security fencing and hoardings;
  - (e) Details of on-site car parking facilities for site workers during the course of construction;
  - (f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
  - (g) Measures to obviate queuing of construction traffic on the adjoining road network;
  - (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
  - (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
  - (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
  - (k) Containment of all construction related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
  - (l) Off-site disposal of construction and demolition waste and details of how it is proposed to manage excavated soil;
  - (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
  - (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interests of amenities, public health and safety.

25. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

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

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

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

27. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing



shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.

- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.
- (c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected, and all branches are retained.
- (d) No trench, embankment or pipe run shall be located within three metres of any trees, shrubs and hedging which are to be retained on the site.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

- 28. The landscaping and earthworks scheme shown on the landscape masterplan drawing, as submitted to An Bord Pleanála as part of this application shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the

completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of residential and visual amenity.

29. The public open space areas shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the revised landscape scheme to be agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

31. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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.

**Reason:** To secure the protection of the trees on the site.

31. 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.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

32. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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.

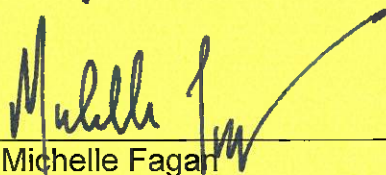
**Reason:** To ensure the satisfactory completion of the development.

33. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on

behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Board Member

  
Michelle Fagan

Date: 15/03/2022