



Planning and Development Acts 2000 to 2019

Planning Authority: Wicklow County Council

Planning Register Reference Number: 19/872

Appeal by Barnaby Investments Limited care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin against the decision made on the 1st day of October, 2019 by Wicklow County Council to refuse permission for development comprising: (1) Removal of existing disused car parks and hard surfaced areas associated with the former Schering Plough site, (2) realignment /upgrading of existing access road to provide a new estate through road, with shared foot/cycle path, and connect Boghall Road and Southern Cross Road, (3) provision of a new signalised junction on Southern Cross Road and upgrading works, inclusive of a new signalised junction and new pedestrian crossing facilities, at the existing junction with Boghall Road, (4) construction of an enterprise and employment park consisting of the following elements: (i) one number three-storey contemporary landmark office building (Block K – 3,509 square metres), comprising three number individual office suites varying in size from 875 – 1,250 square metres and shared ground floor lobby (134 square metres), fronting onto Southern Cross Road to the south and the proposed estate through road to the east, (ii) one number single storey enterprise building (Block H – 2,684 square metres), consisting of 10 number enterprise/incubator units varying in size from 260 – 324.6 square metres, (iii) one number single storey logistics/distribution building (Block G – 4,373 square metres), consisting of five

number individual units varying in size from 544.1 – 1,042.7 square metres, with additional office space (58.3 square metres) at mezzanine level, (iv) one number single storey storage/logistics distribution building (Block F – 1,064 square metres) with ancillary office spaces (58.3 square metres) at ground floor and mezzanine level and (v) one number single storey service station (Block J – 467 square metres) inclusive of forecourt convenience shop (99.5 square metres retail area), car wash facility, two number café/restaurant concession areas, toilets and ancillary staff area. The employment park will be serviced by 295 number vehicular parking spaces and 100 number bicycle parking spaces and (5) associated site development works include: (a) construction of one number single storey Electricity Supply Board substation (25 square metres), (b) provision of signage posts including: six number wayfinding signposts (2.1 metres by 1.8 metres), to be located within the employment park, one number totem signpost at Boghall Road (2 metres by 7.5 metres) and two number totem sign posts at Southern Cross Road (one number 2 metres by 7.5 metres and one number 1.6 metres by 9 metres), (c) tree planting, hard/soft landscaping and all associated boundary works, (d) provision of street lighting, (e) Sustainable Urban Drainage Systems drainage infrastructure and (f) all ancillary works necessary to facilitate the development. All on lands at Boghall Road and Southern Cross Road, Bray, County Wicklow situated to the west of Bentley Road, Bentley Park, Bentley Avenue, Belmont and Oak Glen Park and to the east of the Mountainview Drive residential estate and undeveloped lands fronting onto Southern Cross Road in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for (1) Removal of existing disused car parks and hard surfaced areas associated with the former Schering Plough site, (2) realignment /upgrading of existing access road to provide a new estate through road, with shared foot/cycle path, and connect Boghall Road and Southern Cross Road, (3) provision of a new signalised junction on Southern Cross Road and upgrading works, inclusive of a new signalised junction and

new pedestrian crossing facilities, at the existing junction with Boghall Road, (4) construction of an enterprise and employment park consisting of the following elements: (i) one number three-storey contemporary landmark office building (Block K – 3,509 square metres), comprising three number individual office suites varying in size from 875 – 1,250 square metres and shared ground floor lobby (134 square metres), fronting onto Southern Cross Road to the south and the proposed estate through road to the east, (ii) one number single storey enterprise building (Block H – 2,684 square metres), consisting of 10 number enterprise/incubator units varying in size from 260 – 324.6 square metres, (iii) one number single storey logistics/distribution building (Block G – 4,373 square metres), consisting of five number individual units varying in size from 544.1 – 1,042.7 square metres, with additional office space (58.3 square metres) at mezzanine level, (iv) one number single storey storage/logistics distribution building (Block F – 1,064 square metres) with ancillary office spaces (58.3 square metres) at ground floor and mezzanine level. The employment park will be serviced by 295 number vehicular parking spaces and 100 number bicycle parking spaces and (5) associated site development works include: (a) construction of one number single storey Electricity Supply Board substation (25 square metres), (b) provision of signage posts including: six number wayfinding signposts (2.1 metres by 1.8 metres), to be located within the employment park, one number totem signpost at Boghall Road (2 metres by 7.5 metres) and one number totem sign post at Southern Cross Road, (c) tree planting, hard/soft landscaping and all associated boundary works, (d) provision of street lighting, (e) Sustainable Urban Drainage Systems drainage infrastructure and (f) all ancillary works necessary to facilitate the development in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for the construction of one number single storey service station (Block J – 467 square metres) inclusive of forecourt convenience shop (99.5 square metres retail area), car wash facility, two number café-restaurant concession areas, toilets and ancillary staff area, and one number totem signpost at Southern Cross Road (1.6

metres by 9 metres) based on the reasons and considerations marked (2) under.

Matters Considered

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

Reasons and Considerations (1)

Having regard to the nature, design and scale of the proposed development, the location of the site within the development boundary of Bray town on lands zoned 'E1: Employment' and identified as a key development area by SLO 6: 'Employment Lands Between Boghall Road – Bray SCR' of the Bray Municipal District Local Area Plan 2018-2024, to the pattern of existing and permitted development in the surrounding area, and to the provisions of the Wicklow County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of traffic and pedestrian safety, and would constitute an appropriate form of development at this location. 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.

Reason: In the interest of clarity.

2. The proposed service station shall be omitted.

Reason: In the interest of clarity.

3. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority revised drawings showing the provision of dedicated and separated cycleways and footpaths along both sides of the new link road between Boghall Road and Southern Cross Road. This shall be accompanied by detailed specifications, including marking, signage and layouts, of the junction designs with the public road, existing cycleways and footpath arrangements, and the planned green route and cycleway improvements alongside Southern Cross Road. These works shall be completed at the developer's expense and to the written satisfaction of the planning authority prior to the making available by the developer for occupation of any part of the development.

Reason: In the interests of traffic management and pedestrian and vehicular safety and convenience.

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

Reason: In the interest of the visual amenities of the area.

5. 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.

Reason: In the interest of public health.

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

Reason: In the interest of public health.

7. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual amenity.

8. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

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

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

10. A minimum of 10% of all car parking spaces shall be provided with functioning electrical vehicle charging stations/points and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to occupation of the proposed development.

Reason: In the interest of sustainable transport.

11. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the buildings (or within the curtilage of the site) in such a manner as to be visible from outside the buildings, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

12. Public lighting shall be provided in accordance with a scheme, which shall include lighting along the new link road between Boghall Road and Southern Cross Road, and pedestrian routes, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Public lighting within the proposed development shall be directed and cowled such as to reduce as far as possible the light scatter to adjacent properties and the public road.

Reason: In the interests of amenity and public safety.

13. A comprehensive boundary treatment scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

14. The landscaping scheme detailed in the plans and particulars lodged with the planning application shall be carried out within the first planting seasons following substantial completion of external construction works. Tree protection measures including fencing shall be erected before construction works commence and shall be maintained in place until completion of external construction works, or as otherwise agreed in writing with the planning authority. 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 interest of visual amenity.

15. All goods, including raw materials, manufactured goods, packaging and crates shall be stored or displayed only within the enclosed buildings.

Reason: In the interest of visual amenity.

16. No additional floorspace shall be formed by means of internal horizontal division within the buildings hereby permitted unless authorised by a prior grant of permission.

Reason: In order to control the intensity of development in the interest of residential amenity and to ensure that adequate car parking and service facilities will be provided within the development.

17. 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 amenities of property in the vicinity and the visual amenities of the area.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network and noise management measures.

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

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

Reason: In the interest of sustainable waste management.

20. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

21. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

22. 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 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.

23. 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 the 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.

24. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended in respect of the green route as required by the development objectives set out for these SLO lands. 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 the 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Reasons and Considerations (2)

Having regard to:

- (a) the location of the site within SLO6: Employment Lands Between Boghall Road - Bray Southern Cross Road,
- (b) the proximity of the proposed development to SLO9: Bray Southern Cross Neighbourhood Centre, and
- (c) the nature and scale of the proposed service station which would represent a large commercial building,

it is considered that the proposed development would have strong potential to become a significant destination in its own right and, thereby, directly divert trade away from designated neighbourhood centres within the settlement. The pattern of this development would compromise the vitality and viability of the future plan led facilities on lands zoned for neighbourhood centre development within the Bray Municipal District Local Area Plan 2018-2024 leading to disorderly unplanned retail and service development. The proposed development would, therefore, be contrary to the Wicklow County Development Plan Policy Objectives RT4 which seek to promote and facilitate the development of retail developments in a sustainable manner and which requires retail related development to be located on suitably zoned land within settlement boundaries, and RT26 which seeks to protect, provide for, and improve the mix of neighbourhood centre services and facilities. The proposed development would, therefore, be contrary to proper planning and sustainable development of the area.

Stephen Bohan

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020.