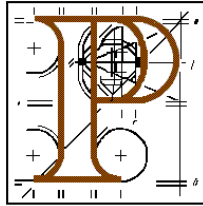


An Bord Pleanála



Inspector's Report

PL27.245283

DEVELOPMENT:- Demolition of clinic, Bray Old Folks Facility and disused nursing home, construction of a new primary health care centre with associated facilities and ancillary works at Killarney Road, Bray Co. Wicklow.

PLANNING APPLICATION

Planning Authority: Wicklow County Council
Planning Authority Reg. No: 15/358
Applicant: Bray Primary Care Limited
Application Type: Permission
Planning Authority Decision: Grant

APPEAL

Appellant: Joseph & Kathleen Finnegan
Type of Appeal: 3rd-v-Grant

DATE OF SITE INSPECTION: 22nd October 2015
Inspector: Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal site, which has stated area of 0.7727 hectares, is located to the south of Bray town centre and on the western side of Killarney Road. The appeal site is currently occupied by an existing residential retirement development that is currently vacant as well as health services structure and associated car parking. Adjoining uses are residential in nature with existing dormer style dwellings (Killarney Villas) located to the north east of the site. To the south east of the site is a two-storey detached period dwelling ('Ardcairn') that fronts onto Killarney Road, as well as a number of two-storey detached dwellings backing onto the site (part of a housing development called King Edward Lawn). To the north west of the site are three-storey apartments that back onto the north western boundary of the site. The south eastern boundary is the road frontage of the site along Killarney Road and consists of an existing stone wall. There is an existing stone wall boundary along the south western boundary where it adjoins the existing two-storey dwelling. There is also an existing stone wall along the north eastern boundary adjoining Killarney Villas.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for the demolition of buildings comprising existing two-storey over basement clinic (370sqm), single storey Bray Old Folks Facility (168sqm) and disused single storey nursing home (972 sqm). The total floor area of the buildings proposed to be removed is 1510sqm. It is proposed to replace these facilities with a new 2 and 3 storey Primary Care Centre comprising Health Services Executive facilities including office accommodation and specialist clinics at ground, first and second floors (3060 sqm), GP Clinic at ground floor (557 sqm), GP Clinic at first floor level (275sqm), new Bray Old Folks Facility at ground floor level (315sqm), ground floor Pharmacy Retail Unit (290sqm), two no. ground floor Retail Units (157 sqm), ground floor Retail/Cafe Unit (54sqm) and including rooftop plant room (43sqm) and screened external Plant Zone. This proposal also includes a separate single-storey Medical Centre (266sqm) which incorporates a new electrical sub-station. The total proposed development floor area is 5017sqm. Facility signage zones for branding and identification purposes are provided for the Medical and Retail Units. The development proposes a lower car park with reduced site levels and an upper parking podium at 750mm above finished floor level to the rear of the site which will provide 162 car parking spaces including provision for both the facility occupants and the general

public. To facilitate access and egress to and from this development it is proposed to modify the existing protected boundary wall to Killarney Road by relocating 1 no new 3m wide existing opening, narrowing an existing opening from 9m to 3m wide, and by providing a new 11m wide opening. Site development works include the retention of existing mature trees to the southern boundary, implementing a tree replacement and general landscaping strategy elsewhere on the site. Rebuilding an existing boundary wall to that part of the northern boundary bordering Killarney Villas and providing planted trellis screening along the northern and western site boundaries. The total area of this development proposed on site is 7727sqm.

- 2.2 It is notable that in response to further information the proposal was revised to omit the separate single-storey medical centre with such incorporated into the ground floor level of the main structure in lieu of the three retail units originally identified with just a separate single-storey substation building provided adjacent the north eastern boundary of the site.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

- (a) Roads Section (16/04/15): Proposed access to be designed as per national Cycle Manual, detail is required regarding operation of the car park.
- (b) Irish Water (14/04/15): No objection.
- (c) Executive Engineer, Municipal District of Bray (26/05/15): A number of conditions recommended including the provision of a variable message sign to give parking capacity details, revised layout of entrance walls splays and revised drawings showing relocation of existing bus stop.
- (d) Planning Report (27/05/15): Further information required including details of an assessment of visual impact upon existing protected structures (Killarney Villas) adjoining the site, details regarding car parking including lighting and facilitating traffic movement between levels, details of sufficient control to allow for the proposed removal of the stone wall between the site and Killarney Villas as well as clarification of boundary treatments along the south western and western boundaries.
- (e) Bray Engineer (21/07/15): No objection subject to conditions.
- (f) Planning Report (23/07/15): It was considered that the issues raised in the further information request were dealt with in a satisfactory manner. It was considered that the proposal was consistent with Development Plan policy, would be acceptable in the context of the visual amenities of the area and the amenity of adjoining properties, and would be acceptable in regards to traffic safety and convenience. A grant of permission was recommended subject to the following conditions.

4. DECISION OF THE PLANNING AUTHORITY

4.1

1. Permission granted subject to 25 conditions, the conditions are standards in nature.

5. PLANNING HISTORY

5.1 02/30: Permission granted for a temporary single-storey health centre and associated parking on the grounds of the existing health centre.

6. PLANNING POLICY

6.1 The relevant plan is the Bray Town Development Plan 2011-2017. The site is zoned TC, Town Centre with a stated objective 'to provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' (LOTS) Residential Accommodation'.

6.2 Section 4.4.13 Opportunity Sites

The site is identified under Table 4.1 as Site No. 2 with acceptable use identified as...

'Mixed-use development incorporating among other uses a significant public community healthcare facility and a minimum 200 space car park. Other suitable uses include commercial/community and cultural developments. Where proposed, office/residential uses should be located on upper floors'.

7. GROUNDS OF APPEAL

7.1 A third party appeal has been lodged by Joseph & Kathleen Finnegan, Ardara, Killarney Road, Bray, Co. Wicklow. The grounds of appeal are as follows...

- The appellants question the validity of the application in that the notices fail to adequately describe the development in terms of its extent, level of excavation, level of alteration of a protected structure
- The plans and documents submitted do not comply with Article 23 of the Planning and Development Regulations with deficiencies identified including failure to show contiguous structures in the elevations.

- The proposal is a material contravention of the Development Plan with the proposed use being a hospital and such is inappropriate in the Town Centre Zoning. It is noted that the Council may not materially contravene the Development Plan.
- The appellants emphasise the difference between the proposal which is a small hospital and a health care centre with it considered that the proposal would have a significant adverse impact at this location.
- It is considered that the design and scale of the proposal is excessive and is inappropriate at this central location and would have an adverse impact on the visual amenities of the area and would be more appropriately located in a suburban location. The appellants also raise concerns regarding the provision of parking on site and traffic impact in the area.
- The site is located in an area with a number of protected structures on adjacent sites. The design and scale of the proposal is unsympathetic to the character and setting of the existing protected structures and of the general area, and would be contrary objectives of the Bray Town Development Plan in this regard. It is also noted the level of existing trees being removed further exacerbates concerns regarding visual impact in the area.
- The applicant has failed to obtain the necessary consent from adjoining landowners to carry out the development in particular where the proposal entails alterations of existing boundaries.
- The appellants raise the issue of tree protection noting that proposal entails loss of a significant level of trees on site as well as concerns that the extent of development and excavation will put the trees to be retained at risk of loss also. The extent of the proposal and excavation has the potential to impact upon existing trees on adjoining sites and within the curtilage of protected structures. The appellants highlight the adverse impact loss of existing trees would have on the character of the area.
- The development comes under section 10(b)(iv) in regards to Environmental Impact Assessment (urban development that would involve an area greater than 2 hectares). This is based on an aggregate of the site and the floor space proposed. It is noted that even if such does not apply the development is likely to have an impact that would require a sub-threshold Environmental Impact Statement.
- The proposal should be subject to a screening assessment for the purpose of the Habitats Directive.
- The appellants questions the environmental impact of the proposal in regards to nature of the use and chemicals and waste products produced as well appropriateness of the location of such.
- There is an existing use on site as a drug treatment centre which is unauthorised and the intention is to intensify such use. It is noted that there is no mention of such use in the notices and that there is a failure to apply for retention of such unauthorised use.

- The proposal will generate significant additional traffic and parking in an area with existing problems in terms of congestion and parking provision. The increased traffic will exacerbate the existing situation and impact adversely on existing town centre businesses.

8. RESPONSES

8.1 Response by Kiaran O'Malley & Co Ltd on behalf of the applicants, Bray Primary Care Limited.

- It is noted that the application was deemed to be valid by Wicklow County Council. It is noted that primary care centre is proposed and not a hospital with the applicant noting the services to be provided. The description of the development is acceptable in regards to car parking. The trees on site are not subject to a TPO and the drawings submitted show the boundary wall along Killarney Road is to be retained with a small amount of remedial works proposed.
- Wicklow County Council checked the application to show compliance with the Planning and Development Regulations.
- The proposed development is not a material contravention of the Bray Development Plan with the proposed use consistent with Development Plan policy.
- The proposal provides for a satisfactory design that strikes a balance between an appropriate intensification of development and regard had to the adjoining development. The proposed development would be acceptable in the context of visual amenity.
- The proposal has adequate regard to the status of existing protected structures on adjoining sites including amendments by way of further information. The proposed development would have no adverse impact upon the setting or character of any protected structures.
- The application includes a letter of consent from the landowner with it noted that site is wholly owned by the applicants. The applicants are unclear regarding what other landowners from which consent would be needed.
- An Environmental Impact Assessment is not required.
- An Appropriate Assessment Screening report was prepared and submitted and there is no justification for seeking a sub-threshold EIA.
- The applicant's notes the operating hours are 8am to 8pm with some after-hours use (Bray Old Folks Association).
- The applicants are not aware of any unauthorised use on the appeal site.
- To deal with traffic generation an excess of parking is provided to address car parking shortfalls in the area. It is noted that off-street car parking is provided in accordance with Development Plan standards.

9. ASSESSMENT

- 9.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/development plan policy

Design/scale/visual impact

Traffic/car parking

Amenity of adjoining properties

Environmental Impact Assessment/Appropriate Assessment

Other issues

9.2 Principle of the proposed development/development plan policy:

- 9.2.1 The relevant plan is the Bray Town Development Plan 2011-2017. The site is zoned TC, Town Centre with a stated objective 'to provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' (LOTS) Residential Accommodation'. Under Section 13.2.3 Health Centre is noted as being a use 'permitted in principle'.

- 9.2.2 In addition to the zoning of the site as Town Centre, the site is also identified as an opportunity site. Under Table 4.1, Site No. 2 the acceptable use on this site is noted as being...

'Mixed-use development incorporating among other uses a significant public community healthcare facility and a minimum 200 space car park. Other suitable uses include commercial/community and cultural developments. Where proposed, office/residential uses should be located on upper floors'.

- 9.2.3 The proposal is for a primary care centre and would be both a permitted use under the Town Centre zoning objective and an acceptable use as identified under Table 4.1 regarding opportunity sites. In this regard the proposal is compliant with land use policy set down under the Bray Town Development Plan 2011-2017. The appellants are of the view that the proposal is a material contravention of the Development Plan. I would note that having regard to the nature of the proposed development and based on the permitted and acceptable uses within the zoning and opportunity site identified at this location, the proposed development would not constitute a material contravention of the Development Plan. I would therefore consider that the principle of the proposed development is acceptable subject to the proposal being satisfactory in the context of design/visual amenity, impact upon the

amenities of adjoining properties and a satisfactory impact in relation to traffic safety and convenience.

9.3 Design/Scale/Visual Impact:

9.3.1 The proposal entails the provision of two separate structures on site. The main primary care centre is a three-storey building over a basement level car park and is concentrated along the south eastern (Killarney Road) and south western boundary with a separate single-storey substation located along the north eastern boundary. A surface car parking area is located to north west of the site with vehicular access to the surface and basement car parks located between the two structures on site. The main structure on site is configured in such a way that it is three-storeys in the central part of the site and reduces in height to two-storeys along the south western boundary as well as providing for only a single-storey medical centre along the north eastern boundary. Levels on the site increase moving from the north eastern boundary to the south western boundary. The ridge height of the main structure proposed although three-storeys along the road frontage decreases moving south west. The structure has a flat roof profile with external finishes of consisting of render walls and aluminum windows and paneling. The site when viewed from the public road is of significant size and width with the adjoining structures consisting of dormer style dwelling to the north east (Killarney Villas) and a two-storey detached dwelling to the south west ('Ardcairn').

9.3.2 The appeal submission raises concerns regarding the overall scale and visual impact of the proposed structures as well the impact on the setting of adjoining protected structures. Killarney Villas consists of 7, dormer style terraced dwellings that face onto Killarney Road and a side road that runs along the north eastern boundary of the site. These structures are on the Record of Protected Structures (Bray Town Development Plan) structures as is the two-storey dwelling to the south west of the site ('Ardcairn'). In regards to overall visual impact when viewed from the surrounding area, I would note that the design of proposal provides for a transition in scale and intensity of development on site with regard had to the scale of adjoining development. Where the site adjoins Killarney Villas, which are modest in scale, the intensity of development on the end of the site that adjoin such is low in density, and modest in height and scale with a single-storey substation located adjacent the north eastern boundary (original proposal for a single-storey medical centre). There is a significant degree of separation between the existing dwellings and the bulk of the three-storey structures. In addition as you move in a south westerly direction the ridge height of the main structure on site decreases (ground levels increase) with the scale of structure proposed being two-storeys where it adjoins the south western boundary, with existing structures on adjoining sites two-storey in nature. I would consider that the overall design, bulk and scale of the proposal is well managed to

provide for a development that would be acceptable in the context of the visual amenity of the area. I would consider the overall positioning/layout of development on site, the changes in height, contemporary style and external finishes proposed all contribute to a development that would have an acceptable visual impact at this location with adequate regard to the transition in scale between development on adjoining sites and the structures proposed on the appeal site.

- 9.3.3 In regards to impact on the setting of adjoining protected structures, I would consider that the acceptable design and scale taken in conjunction with a reasonable degree of separation between the main structure proposed on site, is such that the overall setting and character of the existing protected structures would be unaffected by the proposal. In response to further information the applicant omitted the medical centre and has proposed to retain trees along the north eastern boundary where it adjoins Killarney Villas. It is noted that there are no plans to make any alterations to the existing stone wall along the north eastern boundary.
- 9.3.4 The record of protected structures includes reference to stone boundary walls at King Edward Road, Killarney Road, Vevay Road and Church Road (Item no. 41). The front boundary stone wall along Killarney Road is a protected structure. The proposal does entail alterations to this boundary due to relocation of the vehicular entrance. The alterations proposed include closing up an existing pedestrian entrance using salvaged stone to match the existing all and widening of the existing entrance to provide a 8.35m wide opening that provides for pedestrian and cyclist access as well as a new opening further north east 8.4m wide facilitating vehicular access to the car parking on site. I would consider that the alterations proposed to the existing block wall are acceptable and necessary to facilitate the development potential of a town centre site that is also identified as an opportunity site. I would also note that the majority of the stone wall is being retained and in this regard I would consider that the alterations proposed area acceptable in the context of the character and status of the existing protected structure.
- 9.3.5 The appellants raise concerns regarding loss of trees on site and adjoining sites and the impact of such on the character of the area. The application included an Arboricultural Implication Assessment (AIA) and a landscaping scheme. The AIA provides a survey and assessment of the existing trees on site and identified trees to be retained as well tree protection measure to be implemented during construction. The proposal entails the removal of most trees on site and identifies that a significant number of these are in poor conditions. The trees to be retained are all located along the south western boundary of the site. It is also notable that in response to further information the applicant revised the plans to omit the medical centre to the north east of

the site and retain existing trees along this boundary despite not being originally earmarked for retention. I am satisfied with the scope of the Arboricultural and assessment would consider that taken in conjunction with proposals for additional landscaping that the level of existing trees to be removed is acceptable and that adequate proposals are in place to ensure protection of the existing trees to be retained on site. I would also consider that the proposal does not pose a risk to trees located on adjoining sites to the south west with tree protection measures being implemented for trees much closer to the development on the appeal site on this side of the site. Having regard to such I would consider that subject to appropriate conditions regarding landscaping and tree protection, that the loss of trees proposed would not have a significant or adverse impact on the visual amenities and character of the area.

9.3.6 In addition I would note that the proposal is consistent with development control standards set down under the Bray Town Development Plan in relation to plot ratio and site coverage.

9.4 Traffic/car parking:

9.4.1 The proposal entails provision of a relocated entrance to a site further north on the Killarney Road frontage. The proposal entails the provision of a 8.4m wide (7m wide carriageway with footpaths) entrance and internal access road. The proposal entails provision of a down ramp with access to a basement level car park as well as ramp access to a podium level external car parking area located adjacent the north western end of the site. It is proposed to provide 162 car parking spaces on site. The required car parking standards are provided under Table 12.4 of the Bray Town Development Plan. The original proposal has a requirement of 143 car parking spaces based on the standards set down under Table 12.4. It is notable that that in excess of the required number is facilitated and that as a result of revisions including incorporating the single-storey medical centre into the main building in lieu of retail space, the required amount of parking is lower than 143. In addition it is proposed to provide parking for 45 bicycles on site. I would consider that the proposal is satisfactory in regards to car parking provision. I would consider it appropriate to include a condition as per condition no. 12 requiring a Variable Message Sign (VMS) to be installed to display information on the availability of car parking on site.

9.4.2 The proposal entails vehicular access from Killarney Road. The proposal entails a relocated vehicular entrance further north east of the existing entrance with the existing entrance retained as a pedestrian/cyclist entrance. In terms of road alignment and entrance layout, the proposed vehicular entrance is at a point where sightlines in both directions are unobstructed apart from the location of an existing bus stop to the north east of the existing

entrance. It was a condition (condition no. 13) of the grant of permission that revised drawing showing the relocation of the bus stop be submitted and agreed. I am satisfied subject to a similar condition being attached in the event of a grant of permission, that the design and layout of the proposed vehicular access is acceptable in the context of traffic safety and convenience.

9.4.3 In regards to overall traffic impact, I would note that the site is located within the existing town centre and is zoned for such purposes. As noted above the proposal provides for more than sufficient levels of off-street car parking than required and should not generate additional parking outside the bounds of the site. The design and layout of the vehicular access is acceptable in relation to sightlines available and in facilitating traffic movements. In addition the nature of the proposal is such that the proposal will generate traffic throughout the hours of operation and not solely during peak hours. In addition the site is served by public transport and is accessible by a significant residential population by foot or cycling. I am satisfied that the proposed development would be acceptable in the context of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

9.5 Amenity of adjoining property:

9.5.1 In relations to the amenities of adjoining properties, the proposal as noted earlier is adjoined by residential development on all sides apart from the south eastern boundary defined by the road frontage along Killarney Road. The configuration and scale of development on site was discussed in the section earlier regarding visual amenity and how it relates to adjoining development. As noted earlier the level of development adjacent the north eastern boundary is modest in scale where the site adjoins Killarney Villas. In addition to Killarney Villas the north eastern boundary of the site is adjoined by some two-storey structures off Kilmartin Place, which appear to be residential in nature and a veterinary clinic. The podium level car park is located adjacent the boundary where it adjoins the existing two-storey structures. The overall scale of the structures on site is modest relative to the adjoining property and is not tight to the boundary with a degree of separation in the form of a landscaped area along the north eastern boundary. I am satisfied that bulk and scale of development relative to the northern eastern boundary is acceptable and would not impinge on the amenities of adjoining properties.

9.5.2 As noted earlier the north western boundary adjoins some three-storey apartment blocks that back to the site boundary. The podium level parking structure is built up to this boundary of the site. The height and bulk of the car parking structure is modest in height in relation to ground level on the appeal site and adjoining site (approximately 3.8m). I would be satisfied that the scale

and proximity of the proposed development to the north western boundary is acceptable in the context of the residential amenity of the existing properties along this boundary of the site. The further information illustrates the extent of development relative to the existing residential development to the north west with the parking area serving the apartments immediately adjacent the boundary of the site.

9.5.3 A portion of the primary health centre structure runs parallel to the south western boundary where it adjoins an existing two-storey dwelling fronting Killarney Road ('Ardcairn') and a two-storey dwelling within King Edward Lawn. This portion of the development has a ridge height above ground level of 7.8m and is setback 5.7m from the boundary. In addition to separation the ground levels from the site increase in a south westerly direction. I am satisfied that the scale of development and its degree of separation from the existing dwellings to the south west is sufficient so as not have an overbearing/adverse impact. It is proposed to have a number of windows at first floor level on the south westerly elevation serving consultant rooms at first floor level. According to the plans submitted these windows are to have obscured glazing panels on the lower section with clear glass panels to be provided at a high level to prevent overlooking. I am satisfied that subject to a suitable condition confirming such measures that the location and orientation of the windows proposed is satisfactory in the context of protecting existing residential amenities. The remainder of the development proposed relative to the south western boundary is the podium level parking structure and such is located to the rear of the existing dwellings at King Edward Lawn. In the case of the existing dwellings, the parking structure is set back a significant distance from the boundary with a landscaped area provided and having regard to its modest scale would have no significant or adverse impact in regards to the residential amenities of adjoining properties. I am satisfied the design, scale, bulk and layout of the structure on site has adequate regard to the amenities of adjoining properties. The plans submitted by way of further information confirm that the proposal entails no alterations to the existing stone wall boundary along a portion of the south western boundary as well as a proposal for a 2.4m high paladin fence along the remainder of the boundary adjacent the existing boundary to the rear of dwellings at King Edward Lawn.

9.5.4 As noted earlier the nature of the use proposed is compliant with land use zoning policy. The proposal is for a primary health care centre and very much a use and activity that is compatible at the location proposed and adjacent residential development. The nature of the activity is such that I do not foresee the use having any significant or adverse impact on the amenities of adjoining properties through the intensity of use proposed and general nature of operations on site, which are confined within the structure itself. The appellants point to possible adverse impact of certain procedures in terms of

use of chemicals, x-rays and potential for generating hazardous waste. I am satisfied that there would be a significant degree of health and safety procedures and obligations associated with such facilities and that such is not a planning matter with the activity on site very much an internal rather than external activity. In regards to waste generation there is a strict waste licensing regime in place that can deal with such aspects of the operation of the facility. I would consider that having regard to nature of use on site, its town centre zoning and the likely hours of operation that the proposal would be satisfactory in the context of the amenities of adjoining properties.

9.6 Environmental Impact Assessment/Appropriate Assessment:

9.6.1 The appellants make the assertion that the development falls under Schedule 5, Development for the purposes of Part 10 under the Planning and Development Regulations and specifically under Section 10(b)(iv) Infrastructure projects which relates to....

'Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built up area and 20 hectares elsewhere'.

The appellants note that although the site is not 2 hectares in area the aggregate floor area of the building taken in conjunction with the site would amount to over 2 hectares. The appellants note that even if determined that the development is not subject to Environmental Impact Assessment (EIA) under Schedule 5, a sub-threshold EIA should be carried out due to the nature and impact of the proposal.

9.6.2 I would first note that the site has an area of 0.7727 hectares and is well below the threshold level identified under Section 10(b)(iv) under Schedule 5. In this regard there is no requirement for the carrying out of an Environmental Impact Assessment in regards to the proposed development. Secondly I would note that having regard to the nature and scale of the proposal and the information submitted with the application, I am satisfied that environmental impact of the proposed development can be assessed and determined without recourse to a sub-threshold Environmental Impact Assessment.

9.6.3 In relation to Appropriate Assessment the applicants submitted a Screening Report. This report identified al Natura 200 Site within 15km of the site...

Bray Head SAC, Site Code 00074
Ballyman Glen SAC, Site Code 000713
Knocksink Wood SAC, Site Code 000725
Rockabill to Dalkey Island SAC, Site Code 003000
Glen of the Down SAC, Site Code 000719

Wicklow Mountain SAC, Site Code 002122
Carriggower Bog SAC, Site Code 000716
The Murrough Wetland SAC, Site Code 002249
South Dublin SAC, Site Code 000210
Wicklow Mountains SPA, Site Code 004040
Dalkey islands SPA, Site Code 04127
The Murrough SPA, Site Code 004186

The screening report sets out the reason for the designation and the relevant source-pathway-receptor links between the proposed development and the designated sites. It is concluded that the proposed development will have no significant effects on any of the designated either on its own or in combination with other plans or projects.

- 9.6.4 The EU Habitats Directive (92/43/EEC) Article 6 (3) requires that “any plan or project not directly connected with or necessary to the management of the (European) Site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and, subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public”. The Board as a competent authority "shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned". In this regard it is appropriate to carry out a stage 1 screening assessment and then if necessary a stage 2 appropriate assessment.
- 9.6.5 The Natura 2000 sites within 15km of the appeal site are listed above. In terms of screening all of the designated sites are remote from the appeal site with the proposal entailing no direct habitat loss. A number of sites are designated due to being Annex 1 habitats that host a number Annex II species. A number of the designated areas are water based habitats dependent on maintaining good water quality. As the proposed development has no direct impact on the designated sites the only potential impact are indirect impacts. The proposed development is an urban based project is connected to the existing public services and therefore entails no polluting discharges. I would also consider that subject to appropriate conditions regarding site drainage and construction management that the proposed development would have no significant effects or impact on the integrity of any of the designated Natura 2000 sites whether on its own or in combination

with other plans and projects. Having regard to such I would consider that a Stage 2 Appropriate Assessment is not required in this case.

9.7 Other Issues:

9.7.1 The appellants raise concerns regarding the validation of the application and compliance with Planning and Development Regulations in relation to public notices and the plans submitted. In this regard I would note that procedural matters concerning the Local Authority are not a relevant planning consideration for the Board.

9.7.2 The appellants note that there is an existing unauthorised use on site and that such is to be continued and intensified as part of the proposed development. In relation to this issue I would note that issue of unauthorised development are not matters of concern for the Board and are not relevant planning considerations in assessing this appeal. The Planning Authority is the appropriate body to deal with such issue having jurisdiction over such matters. In regards to how it impacts on the proposed development, I would consider that it has no bearing. The current proposal seeks demolition of all structures on the appeal site and the proposal before the Board is been given consideration in the first instance and is not a continuation, extension or intensification of existing uses on site. The proposal is being considered on its merits and whether the existing uses on site are unauthorised or not is not a relevant consideration in assessing the appeal.

9.7.3 The appellants note that the applicants do not have sufficient consent from the relevant landowners to carry out the proposed development. The information provided on file indicates that the applicants are the owners of the site and have sufficient control to make the application. If there is a dispute regarding landownership this is not a relevant consideration for the Board with the onus on the applicant to ensure they have sufficient control to carry out works to implement the development in the event of a grant of permission.

RECOMMENDATION

I recommend a grant of permission subject to the following conditions:

REASONS AND CONSIDERATIONS

Having regard the land use zoning objectives for this site as set out in the Bray Town Development Plan 2011-2017, the site's town centre location, the pattern of development in the area, the scale, setting and appropriate design 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 amenities of the area or of property in the vicinity, would integrate with existing development in the area in a satisfactory manner, would be acceptable in terms of traffic safety and convenience, and would be consistent with the provisions of the said Development

Plan. 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, as amended by the further plans and particulars submitted on the 06th day of July, 2015, 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The following requirements shall be complied with.

(a) A Variable Message Sign (VMS) shall be installed adjacent to the roadside boundary such that it is visible to approaching traffic. The sign should display information on the availability of car parking spaces within the site.

(b) Provision should be made for the relocation of the existing bus stop to the north east of the existing entrance.

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

Reason: In the interest of orderly development.

4. The development shall comply with the following requirements:

(a) Any alterations to the public roadway including the provision of indented car parking shall be agreed in writing with the planning authority. All agreed works shall be at the developer's expense.

(b) The developer shall undertake to implement the measures included in the mobility management plan. A mobility manager shall be employed to

oversee the implementation of the mobility management plan and shall liaise regularly with the Mobility Management Section of the planning authority. The Mobility Manager shall proactively engage with the planning authority regarding the implementation and review of the Mobility Management Plan, the preparation of reports as detailed under (c) and (d) below and the setting of specific targets for reduction of private car use and staff parking.

(c) No later than six months post occupancy, a car parking review shall be undertaken and the results submitted to the Mobility Management Section of the planning authority. This review shall monitor the allocation and use of car parking spaces by staff and visitors both on and off site. This review shall inform discussions with the planning authority regarding reducing the overall level of staff car parking available on site over time in the interest of reducing commuting by private car.

Reason: In the interest of traffic management, sustainable travel and sustainable development.

5. 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.

6. No additional signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless other than that authorised by this permission unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. Site development and building works shall be carried out only between 0800 hours and 1900 hours, Monday to Friday inclusive, between 0800 hours and 1400 hours on Saturday and not at all on Sundays, Bank or Public Holidays. Deviation from these times shall only be allowed in exceptional circumstances where the prior written agreement of the planning authority has been received.
Reason: To protect the residential amenities of the area.
8. 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.
9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.
Reason: In the interest of public safety and residential amenity.
10. Prior to commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority for agreement 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. This shall include details of wastes 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 provisions of the Waste Management Plan covering the Dublin Region.
Reason: In the interest of orderly development and sustainable waste management.
11. Prior to commencement of development, the developer shall submit, and obtain the written agreement of the planning authority to, 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.

Reason: To provide for the appropriate management of waste and, in particular, recyclable materials, in the interest of protecting the environment.

12. 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 and to ensure a proper standard of development.

13. All access and parking arrangements, including any alterations to the public road, shall comply with the detailed requirements of the planning authority for such works and services, and details in regard to the proposed relocation of the existing pedestrian crossing shall be agreed in writing with the planning authority prior to the commencement of development. Costs associated with all such works shall be borne by the developer.

Reason: In the interest of traffic safety and to ensure a proper standard of development.

14. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

15. The site shall be landscaped in accordance with the landscaping scheme submitted including implementation of all tree protection measures to ensure preservation of the trees identified for retention. Landscaping proposals are to be completed before the building is first made available for occupation

Reason: In the interest of visual amenity.

16. The lower panels of the windows at first level on the south western elevation shall be fitted with obscure glazing as specified on the plans submitted and such shall be permanently retained.

Reason: In the interests of residential amenity and orderly development.

17. 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.

Colin McBride
07th November 2015