



An  
Bord  
Pleanála

## Inspector's Report PL27.246496

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<b>Development</b>	Change of use of Block E from use as an Office permitted under 00/66 to use as Educational Facility.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	16/159
<b>Applicant</b>	DOT Opportunity Nominee 3 Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	GRANT
<b>Appellant</b>	Karl Coffey
<b>Observers</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> August 2016
<b>Inspector</b>	Siobhan Carroll

## **1.0 Site Location and Description**

- 1.1. The appeal site is located to the eastern side of Bray Main Street within the Civic Centre. Bray Civic Centre comprises five commercial blocks over a shared basement car park. The other blocks are occupied by Bray Town Council, Bray Courthouse, Bray Health Centre, the County Wicklow Arts Centre including the Mermaid theatre, Intreo and the Legal Aid Board.
- 1.2. There is pedestrian and vehicular access from the Main Street into the Civic Centre. The buildings have been designed around a central plaza and walkway. The development is served by a perimeter access road.
- 1.3. Wyvern Square a scheme of 17 no. townhouses developed around a central landscaped garden lies circa 12m to the east of the appeal site. The adjoining lands to the south are occupied by St. Patrick's National School and Bray Institute of Further Education is located to the east of the National School and Wyvern Square.
- 1.4. Block E the subject site comprises a four storey office building with a total floor area of 2,030sq m. It is located to the south-eastern corner of the Civic Centre. The front of the building addresses the central walkway. The access to the basement car park is located in the southern elevation of the building.

## **2.0 Proposed Development**

- Change of use of Block E from use as an Office permitted under 00/66 to use as Educational Facility.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission was granted subject to 2 no. conditions.

### **3.2. Planning Authority Reports**

The report of the Area Planner can be summarised as follows:

It was considered that the proposed change of use to educational facility would be appropriate to the town centre zoned lands. In relation to the matters of access and parking it is noted that parking for students would be provided at the Bray Institute for Further Education campus. The campus is 10 minutes walk from the site and there is no pedestrian linkage proposed. The Area Planner recommended that further information be requested to investigate the feasibility of providing a link and also that details of a mobility management plan be provided. The Senior Engineer concluded that while a pedestrian linkage to the Bray Institute for Further Education campus would be beneficial it would not be crucial to the operation of the facility and having regard to the town centre location of the site that a mobility management plan would not be necessary. Therefore it was recommended that permission be granted and the Director of Services agreed with the recommendation.

### **3.3. Other Technical Reports**

Bray District Engineer – Recommended further information in relation to the provision of a pedestrian link and a mobility management plan.

A/Senior Engineer Roads – Insufficient detail regarding traffic and pedestrian impacts. A TTA should be carried out.

Irish Water – no objections

### **3.4. Third Party Observation**

The Planning Authority received ten submissions in relation to the planning application. The main issues raised are similar to those set out in the appeal.

## 4.0 Planning History

**Reg. Ref. 05/161 & PL39.214535** - Permission was refused for a change of use and modifications to the previously approved Office Block (granted under Reg. Ref. 00/66 & PL39.120293) with offices at ground floor and 22 apartments in four levels above. This refers to the subject site Block E.

**Reg. Ref. 00/66 & PL39.120293** - Permission was granted for modifications to permission granted under Reg. Ref. 136/98 & PL39.110313, Civic Centre, hotel, Offices, 260 seat Art Centre, 19 dwellings, 280 car parking spaces.

**Reg. Ref. 136/98 & PL39.110313** – Permission was granted for the development of a Civic Centre incorporating Town Council Offices, Site for theatre & Arts Centre, Office buildings, underground car park and 19 no. dwellings.

## 5.0 Policy Context

## 6.0 Development Plan

Bray Town Development Plan 2011-2017

- Site is zoned 'TC' - Primarily Town Centre Uses. The Objective is 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.
- Education is a use which is not normally permitted but open for consideration.
- Section 6.4.12 refers to Education & Health Facilities
- The development of educational and health facilities will only be permitted at appropriate locations where:

- adequate provision has been made in terms of access, parking and servicing requirements;
- appropriate set-down facilities are provided; pedestrian and road safety is not compromised; and the existing road network can satisfactorily accommodate any additional traffic from the proposal;
- there is no significant damage to the amenity of the area in terms of noise, nuisance and general disturbance;
- the proposal is of a high quality design and layout, and appropriate landscaping/open space is provided.

**Table 12.4: Minimum Car Parking Standards**

Secondary schools/third level or higher education 2 car spaces per class room

**Table 12.5: Minimum Cycle Parking Standards**

Schools/Higher education 10% of pupil registration numbers / minimum of 10 spaces

**7.0 Natural Heritage Designations**

None on site. Bray Head SAC (Site Code.000714) is c.1.35km to the south-east.

**8.0 The Appeal**

**8.1. Grounds of Appeal**

A third party appeal was submitted by Karl Coffey on the 27<sup>th</sup> of April 2016. The contents of the appeal can be summarised as follows:

- The proposed Educational facility is intended to cater for 400 students. It is noted that the area experiences high levels of congestion and there is illegal parking on double yellow lines on the access road within the Civic Centre.

- The access road is already congested and the proposed development will generate further traffic resulting from student drop-off and collection. A mobility management plan should be provided to address this.
- It is suggested that the access barrier to main complex should be reinstated to prevent vehicular access for student drop-off and collection.
- The lack of set-down facilities would result in a risk to pedestrian safety.
- The lack of open space serving the Educational facility would lead to significant nuisance and disturbance for residents and office staff. Students of the Educational facility can be expected to take breaks and gather outside the building. This would generate noise and also there would be smoking. No proposals have been provided for a smoking shelter.
- A designated smoking area should be provided on the western side of the Block. The area should be designed so as to ensure that anti-social behaviour, littering and loitering are discouraged.
- The subject building Block E directly overlooks the Wyvern estate including the rear gardens of properties on the southern side of the estate. There are no proposals to provide screening to protect existing residential amenity.
- The opening hours are stated as 9am-6pm daily, however it does not specify the days of months that the Education facility would be open.
- No details have been provided regarding the proposed fit out plan for the building.
- If the Board decides to grant permission the appellant requests that consideration should be given to the attachment of a number of conditions to address the following
  - Clarification on the permitted hours of operation and the prohibition of opening after 6pm and at weekends.

- A limit on the number of students to attend the Educational facility.
- A more specific description of the type of Educational use.
- Means to mitigate overlooking from Block E to Wyvern Estate.
- A zebra pedestrian crossing to be provided across the access road located between Block E and Block F.
- Improved signage to encourage safe use of the access road.

## 8.2. First Party Response

A response to the third party appeal has been submitted by David Mulcahy Planning Consultants Ltd on behalf of the applicant DOT Opportunity Nominee 3 Limited on the 24<sup>th</sup> of May 2016. The main issues raised concern the following;

- The applicant provided details of the proposed change of use and have stated that there has been a change of circumstance during the course of the application. Originally students were going to be relocated from the Bray Institute for Further Education (BIFE) which is located to the east of the Civic Centre. It is now proposed that students will be relocated from Bray Adult Education Centre in Putland Road, Bray which is located circa 800m to the south. The facility will be managed by the Kildare and Wicklow Education Training Board who will lease Block E from DOT Opportunity Nominee 3 Limited.
- In relation to the issue of traffic congestion, it is stated that students will not drive to Block E as no parking allocation has been made for students. Parking will only be provided for staff. All students will be advised when they are offered a place that there is no parking available.
- In the event that a student has specific parking requirements then arrangement will be made by Bray Institute of Further Education to use one of the 200 spaces within the main campus.

- Regarding traffic generated by drop-off/collection, having regard to the town centre location and public transport available it is expected that traffic associated with drop-off/collection will be very low.
- Based on the fact that no students will be driving to the facility and that drop-off/collection will be very low it is not accepted that the proposed development will have a material impact in terms of traffic congestion.
- Regarding the issue of traffic safety raised in the appeal reference is made to illegal parking and cars temporarily pulled in on double yellow lines. The applicant only has control over Block E and therefore cannot be held responsible for the permitted access arrangements for the overall Civic Centre. The access road has clear signage warning of clamping for illegal parking.
- The appellant raises the issue of pedestrian safety particularly in relation to the Wyvern estate and states that there is no zebra crossing. As the applicant only has control over Block E they cannot deliver a pedestrian crossing. The issue of emergency service access is also raised, again the applicant has no control over the road and the traffic control system in place.
- Regarding the issue of overlooking to the Wyvern estate it is stated that Block E is an approved building and the proposed change of use from office to educational facility is material in relation to the matter of overlooking.
- In relation to the appellant's comments about students loitering this is not relevant as office staff would also congregate outside the building.
- The appellant refers to the hours of use. The opening hours are 8.30am to 6pm. There will be no weekend or evening use. The facility is open from September to June for 33 weeks and is closed at Easter and Christmas. The applicant is happy to accept a condition regarding the opening hours.
- Regarding the appellant's request that a Traffic Transport Assessment be carried out, this was recommended by the Senior Roads Engineer. The Planning



Authority did not support this recommendation. Having regard to the permitted use of the building as offices, the location of the site in the town centre, the high quality public transport available in the area and the proximity of the main campus it is considered that a TTA is not required.

- The appellant also states that a Mobility Management Plan should be provided as per the recommendation of the Bray Engineer and Executive Planner. The Senior Engineer and Director of Services were both of the opinion that a MMP was not required.
- The appellant requests that the barriers at the front of the Civic Centre be reinstated and that the public car park should allow access and egress. These areas are not under the control of the applicant.
- Regarding the issue of set down facilities. There is a dedicated set down near the entrance and there is a public car park within the complex where collections and drop-offs can be facilitated.
- In relation to the suggestion for a physical barrier to prevent pedestrian movement between Block E and the access road it is noted that the permitted office block did not involve the provision of a physical barrier. Regarding the appellant's request that a smoking area be provided, there is no smoking area permitted for Block E.
- Regarding the fit out of the building, access to the building is via two entrances at ground floor. As the building is complete apart from some minor works to the interior it is not considered that there will be any necessity for significant construction traffic.
- The appellant has requested the attachment of a number of conditions. The applicant has no objection to a condition regarding the hours of operation or limiting the nature of the facility for adult education only. The limiting of students to be accommodated is not feasible. The other matters raised are outside the applicant's control.

### 8.3. Planning Authority Response

None received

### 8.4. Further Responses

The appellant Karl Coffey submitted a further response on the 24<sup>th</sup> of June 2016 –

The main points of the response may be summarised as follows:

- The appeal represents the combined interest and views of all the Wyvern residents who submitted objections to the original application.
- The traffic congestion on the access road is an on-going issue which is caused by members of the public and staff accessing the courts and Department of Social Protection Offices. The appellant is concerned that the situation would be worsen with the introduction of the Educational Facility.
- Regarding the issue of road safety it is stated that the existing deterrents to illegal parking have no effect and that a TTA should have been originally provided as it would have addressed Emergency Service Access and congestion.
- It is contented that the congestion problems would be worse for an Educational Facility than an office block.
- The set down area has 'Parking Permits Only' notices and therefore cannot be used for public set down. The use of the public car park for set down does not currently occur.
- The appellant would welcome the requirement for a Mobility Management Plan, limitation on the opening hours and a cap on student numbers to be conditioned.

### 9.0 Assessment

9.0.1 Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Policy
- Impact on residential amenity
- Access and traffic
- Appropriate Assessment

9.1. **Policy:**

9.1.1 The appeal site is on lands zoned 'TC' 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.' Originally the building was intended to be used to serve the Bray Institute for Further Education. The applicant confirms in the appeal response that it is proposed to relocate students from Bray Adult Education Centre to the subject building Block E. Bray Adult Education Centre is located at in Putland Road, Bray and is circa 800m to the south of the Civic Centre. The facility will be managed by the Kildare and Wicklow Education Training Board who will lease Block E from DOT Opportunity Nominee 3 Limited.

9.1.2 The proposal is for a change of use from office to Educational Facility. Under the provisions of town centre zoning Educational use is not normally permitted but open for consideration. The existing uses within Bray Civic Centre are centred around the provision of community and public services. In my opinion, given the town centre location of the Civic Centre and the existing surrounding uses that the proposed Educational use is appropriate for this location and is therefore acceptable within the town centre zone.

9.2. **Impact on residential amenity:**

9.2.1 A concern expressed in the third party grounds of appeal is the impact of the proposed change of use on the residential amenity of the residential properties located in the Wyvern Square to the east. Reference is made to the issue of overlooking from Block E towards the rear gardens of properties located along the southern boundary of the Wyvern Square. The subject building Block E is located 12m from the side of the closest property in Wyvern Square. At the south-eastern corner of the building it is inset marginally and this provides a separation distance of over 15m to the rear garden of the closest dwelling within Wyvern Square. Furthermore, Block E is an existing building where the permitted use is offices, therefore I do not consider that the proposed change of use would result in any new overlooking.

9.2.2 The appellant has also referred to the lack of clarity in relation to the use of the facility and the proposed opening hours. The applicant has confirmed that the Educational Facility will be used by the Bray Adult Education Centre and the opening hours are from 8.30am to 6pm and that there will be no weekend or evening use. I note that the opening hours are in line with those of office use. It is stated in the appeal response that the Educational Facility operates from September to June for 33 weeks and is closed at Easter and Christmas. The applicant has stated that they are willing to accept a condition regarding the opening hours and also restricting the use to adult education only. In relation to this I would recommend that should the Board decide to grant permission, I would recommend the attachment of a condition limiting the opening hours to those proposed by the applicant, in the interest of residential amenity.

9.2.3 Concern is raised by the appellant regarding the lack of open space serving the Educational facility and that noise and anti-social behaviour could occur. Reference is also made to students gathering outside the building to take smoke breaks. The appellant notes that there are no proposals to provide a smoking shelter. In response to these issues the applicant states that they have no control over the area

outside the building within the Civic Centre and that the office building was granted permission without a smoking shelter and that it would be unreasonable to require a smoking area for an educational facility. The proposed change of use to educational facility would result in some congregation of students at certain times of the day before and after classes, however as this would be confined to opening hours between 8.30am to 6pm on weekdays, I am satisfied that it would not unduly impact upon the residential amenities of the neighbouring properties to the east.

### 9.3. Access and Traffic:

9.3.1 The main issue of concern as set out in the appeal refers to access and parking. The subject Block E is located within Bray Civic Centre to the east of Bray Main Street. Bray Civic Centre is served by a surface car park to the west of the site and also a basement car park. Block E is located 135m from Bray Main Street which is served by the following Dublin bus routes 45A, 84/A, 145 & 185 along with private bus services. Bray Dart Station is circa 1.2km from the site. Therefore, having regard to the town centre location the site it is well served by high quality public transport.

9.3.2 The appellant requested that a Transport and Traffic Assessment be submitted along with a Mobility Management Plan. The provision of a Mobility Management Plan was recommended by the Bray District Engineer and Executive Planner. However, the Senior Engineer and Director of Services concluded that a Mobility Management Plan and TTA was not necessary having regard to the town centre location of the site and the proximity of public transport. They also noted that public car parking is provided in town centre locations close to the site.

9.3.3 The applicant has confirmed that a total of 200 no. students would attend the facility and that no car parking will be available within the Civic Centre for students. They proposed that parking will only be provided for staff within the basement car park of Bray Civic Centre and that all students will be advised when they are offered a place

that there is no parking available. Given that the overall Civic Centre scheme was designed to provide for car parking to serve Block E, I am satisfied that there is adequate car parking available in the basement car park to serve the staff employed at the Educational Facility. There is provision for 25 no. bicycle parking spaces in the underground car park to serve the Educational Facility this will provide for 12.5% of the students which is in excess of the 10% provision as required under Table 12.5 of the Development Plan which refers to Minimum Cycle Parking Standards.

9.3.4 The appellant has raised issues regarding the existing traffic and parking conditions which occur within the Civic Centre including illegal parking on the access road. They have requested that a zebra pedestrian crossing be provided on the access road between the Civic Centre and Wyvern Square and that the barrier to main complex should be reinstated to prevent vehicular access for student drop-off and collection. The applicant has stated that they only have control over Block E and therefore they cannot effect access arrangements for the overall Civic Centre or provide a pedestrian crossing. They also state that there is clear signage on the access road which advises motorists that there is clamping in operation for illegal parked vehicles.

9.3.5 In relation to the issue of drop-off /collection, I note that the section of the access road in the vicinity of Block E has double yellow lines on both side of the roadway and therefore there is no provision for drop-off /collection. To the front of the Civic Centre there is provision on the access road for three cars to set down and vehicular access is also provided into the public surface car park to the north-western side of the Civic Centre. Therefore, drop-off/collection can be accommodated within the Civic Centre complex. Having regard to the details submitted with the application and appeal and having inspected the site, I consider that the proposed development is acceptable from a traffic and transport perspective.

#### 9.4. **Appropriate Assessment:**

9.4.1 Having regard to the nature and scale of the proposed development, comprising change of use from office to an Educational Facility on a site located within the existing built up area of Bray, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 10.0 Recommendation

10.1. I recommend that planning permission should be **GRANTED**, subject to conditions, for the reasons and considerations as set out below.

## 11.0 Reasons and Considerations/ Reasons

Having regard to the 'TC' zoning of the site to provide for the development and improvement of appropriate town centre uses under the provisions of the Bray Town Development Plan 2011-2017, to the site's location adjacent to an existing high quality public transport and proximity to the town centre, it is considered that the proposed change of use is consistent with the proper planning and sustainable development of the area, subject to the conditions below.

## 12.0 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. Details of all signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

3. The proposed educational facility shall not operate outside the period of 0830 to 1800 hours Monday to Friday inclusive, and shall not operate on Saturdays, Sundays or public holidays.

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

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**Siobhan Carroll,**

**Inspectorate**

**26<sup>th</sup> of August 2016**