



An
Bord
Pleanála

Inspector's Report PL27.248754

Development	106 apartments, 5 commercial units, car parking, childcare facility, demolition of residential buildings to rear of site, landscaping, boundary treatments and services at Strand Road (beside Bray Head Hotel and Star Leisure), Bray, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/359
Applicant(s)	Lauro Enterprises Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Appellant(s)	Lauro Enterprises Ltd
Observer(s)	Aidan and Ellen O'Callaghan Mary Pugh Bray Head Residents Association Jonathan Tallon Steven Matthews Sheila Russell

Date of Site Inspection(s)

07th September 2017

Inspector

Lorraine Dockery

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 0.594 hectares and is roughly square, is located towards the southern end of Strand Road, Bray, Co. Wicklow. Bray Head Hotel, a Protected Structure, is located immediately to the south of the site. This hotel is presently closed, is dilapidated and in need of upgrade and refurbishment. To the east of the site is a significant amount of on-street public parking along the promenade. Star Leisure adjoins the northern site boundary while Coastguard Cottages, two-storey dwellings are located to the west, substantially elevated above the subject site. Access to these cottages is via a largely unsurfaced laneway off Putland Road. The Dublin-Wexford/DART railway line is also located to the south of the site.
- 1.2. The site is currently in use as a parking area with some amusements along the southern end. The promenade is attractive in nature, with a mix of developments of varying styles, heights and materials. This element of the promenade would benefit from some upgrading works and at the present time, the site is grossly underutilised.

2.0 Proposed Development

- 2.1. The proposed development, as described in the original submitted public notices, provides for
- Demolition of existing residential buildings to rear of site
 - Construction of 106 apartments
 - 5 no. commercial units
 - Childcare facility- 226 square metres with landscaped and play areas at first floor level
 - Commercial and residential car parking facilities
 - Landscaped open space areas

- Ancillary site works

2.2. The residential element comprises three main blocks:

Block A- 60 units (13 x one bed; 38 x two-bed; 8 x three bed and 1 x three-bed duplex)

Block B- 34 units (10 x one bed; 24 x two-bed)

Block C- 12 units (9 x two-bed; 3 x three bed)

The commercial element comprises 5 commercial units (one with mezzanine floor) (total stated floor area of 1894 square metres) and a crèche facility (226 square metres). The commercial units are primarily at ground floor level while the proposed crèche facility is at first floor level (accessed from street level from laneway off Putland Road).

Parking provision

Residential Element: 106 standard spaces; 8 disabled spaces and 254 cycle spaces

Commercial Element: 118 standard spaces; 5 disabled spaces and 100 cycle spaces

2.3. The application was accompanied, inter alia, by

- Planning Report
- Civil and Structural Engineering Report
- Traffic and Transportation Assessment
- Photomontages

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for three reasons. These reasons may be summarised as follows:

1. Having regard to height and scale of proposal, design, location and designation of site, it was considered that proposal would form a dominant and obtrusive feature within this seafront setting; would have unacceptable overshadowing, overlooking and overbearing impacts on a number of existing dwellings in close proximity; would detract from visual amenity of area; would compromise character and setting if historically important buildings; not considered to be a high quality urban design or architectural design solution within the area and would not accord with zoning objectives of the area as an Opportunity site within the Seafront
2. Proposal would be contrary to public health and safety and contrary to proper planning and development as insufficient information submitted to show that proposed development would not be unduly impact upon during coastal flooding events and the proposed works could be carried out without significant impacts to existing railway line and adjoining housing. This is due to location of site in an area in close proximity to an area prone to coastal flooding at times of severe weather events; basement parking area with an entrance level that does not meet required levels and significant excavation to allow for ramped car park.
3. Proposal would result in serious traffic hazard as crèche set down area is accessed from private lane which is unsuitable to cater for additional traffic and proposal would result in removal of existing on-street parking in an area of high parking demand.

3.2. **Planning Authority Reports**

The report of the area planner reflects the decision of the planning authority

3.3. **Other Technical Reports**

Engineer's Planning Department: Report dated 16/05/17-

- Removal in off-street public parking to facilitate loading and waste management- residential parking is inadequate-basement car park unattractive to users- proposal will contribute to parking and traffic congestion in the area
- No slope stability analysis or construction method for confirm safety of proposed construction of an excavation of c.11m beside an existing building and rail embankment. Also no consideration of potential impact on ground water movement has been provided- proposal represents serious risk to residential property and an important rail transport link
- Proposed ground level and car park entry level of 3.9m is less than current recommended coastal flood defence level of 4.0 metres- area is subject to coastal flooding during severe coastal flood events

Housing Development, Housing & Residential Services: Agreement in principle to comply with Part V requirements

Irish Water: No objections, subject to conditions

Iarnród Éireann Infrastructure: Object to proposed development due to lack of engagement in relation to proposed method of construction and balconies overlooking railway line- railway has capacity to operate 24hrs, 7 days a week. A number of observations were also made in relation to, inter alia, integrity of line,

access, no increased risk to railway, distances/clearances from line, planting, lighting and noise.

Prescribed Bodies

An Taisce: No response received

Development Applications Unit: No response received

Heritage Council: No response received

Faite Ireland: No response received

An Comhairle Ealaion: No response received

4.0 **Planning History**

12/630002

Permission GRANTED for demolition of buildings and temporary permission for 5 years for surface car park and use as venue for occasional outdoor amusement, carnival and festival space

09/84

Permission REFUSED for demolition of existing buildings and construction of commercial/residential development (5 commercial units; 125 apartments). Reasons for refusal included material contravention of Bray Town Development Plan due to failure to provide 60% of GFA as commercial/tourist/recreational use and height exceeded 4 storey limitation

Adjacent site- Bray Head Hotel

05/630170 (PL39.216980)

Permission GRANTED for part demolition, façade retention, construction of hotel and 41 apartments

11/630024

Extension of duration of permission for PL39.216980

5.0 **Development Plan**

5.1. The Wicklow County Development Plan 2016-2022 is the operative County Development Plan for the area.

Appendix 1, Section 1- Mixed Use and Housing Developments in Urban Areas

5.2. The Bray Town Development Plan 2011-2017 applies

Zoning

The subject site is zoned 'Objective SF- Seafront Uses'- which seeks to 'to protect, and enhance the character of the seafront area and to provide for mixed-use development including appropriate tourism, leisure and residential uses. The seafront area shall be promoted as the primary tourist recreation and leisure centre of the town'.

Section 11 Bray Seafront Area

Vision: to create a vibrant and attractive seafront area, supervised by a plentiful number of permanent residences that function as the primary tourist, recreational and leisure centre of the town.

Section 11.4.1 The SF Seafront Zone

To protect and enhance the character of the seafront area and to provide for mixed-use development including appropriate tourism, leisure and residential uses. The Seafront area shall be promoted as the primary tourist, recreational and leisure centre of the town.

Section 4.4.13 Opportunity Site- Star Leisure/Dawson's Amusement SF (set out in Table 4.1)

Mixed-use development comprising commercial/tourist/recreational uses at the east of the site and residential uses at the west of the site. Commercial tourist/recreational uses shall comprise a minimum of 20% of the total gross building floor area of the development site area. This land use ratio shall be maintained at all phases of development. Any development proposal shall include the removal of the existing buildings.

Section 12.2.4.1 Building Height General Guidelines

Listed Prospect No. 6- Prospect of Bray Head and coast

There are a number of Protected Structures in the immediate vicinity of the site, including the Bray Head Hotel- structure and balustrade (RPS No. 99) and No.s 1-6 Fontenoy Terrace- structure (RPS No. 100).

The Draft Bray Municipal District Local Area Plan 2017 was most recently on display until September 15th 2017.

Section 28 Ministerial Guidelines

Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2008

These Guidelines include detailed advice on the role of urban design and planning for new sustainable neighbourhoods. In cities and larger towns, appropriate locations for increased densities are identified, including city/town centres, inner suburban/infill sites, brownfield sites and public transport corridors.

Sustainable Urban Housing: Design Standards for New Apartments, 2015

These Guidelines provide recommended minimum standards for floor areas for different types of apartments; storage spaces; sizes for apartment balconies / patios; and room dimensions for certain rooms.

Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007

These Guidelines are intended to assist with the implementation of initiatives to promote better homes, better neighbourhoods and better urban spaces. In terms of residential units, it is emphasized that the design approach for new dwellings should aim to create visually attractive structures which are suited to the needs of occupants within a reasonable level of cost. The Guidelines detail appropriate space requirements and room sizes for different dwelling types and are intended to satisfy requirements for normal living.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. The grounds of the first party appeal lodged can be summarised as follows:

- Density below that envisaged by the operative Town Plan
- Development objectives were altered and requirement that a scheme be only four storeys in 2002 Development Plan was omitted in 2011 Development Plan- planning authority treated the scheme as if height restriction still existed
- Sought to design landmark building which met Development Plan requirements
- In terms of height, Star Leisure building does not represent a building against which the proposed scheme height can be measured- likely this site will be redeveloped in due course- main parapet of proposed building is matched by ridge height of Bray Head Hotel
- Puts forward detailed argument for proposed height- 7th storey is only for limited length of the elevation is designed to provide elevational relief
- Aims to address concerns of planning authority in relation to overshadowing and loss of light to existing dwelling, proposed courtyard and coastguard cottages- proposal designed to minimise overshadowing insofar as possible- located in an urban environment where some overshadowing and consequent loss of light is inevitable- revised shadow study submitted- provides an option whereby two units are removed from 4th and 5th floor, and states that this

would have significant impact on light and overshadowing levels of the public courtyard

- Submitted that the proposal does not have significant/negative impacts on nearby dwellings by way of overlooking
- Site designated as an 'Opportunity Site' within the Development Plan, which is considered suitable for a landmark building
- Established pattern for larger scale streetscape- site is bound on each side by two other large scale sites- Star Leisure has no architectural merit and should not be reasonably used to define the streetscape at this location- submitted that proposal does not disrupt the existing streetscape in a manner which is significant and negative
- Considered that proposal would not unduly impact on the adjoining Protected Structure- submits that proposal does not detract from any structures or spaces of architectural or historic importance or building having special visual identity in a manner which is significant and negative
- Submits that proposal would not cause visual obtrusion from significant vantage points or on the skyline, which is significant and negative; would not impact visually on open spaces and has been designed in a manner which provides for adequate visual transition with adjoining sites
- In terms of refusal Reason No. 1(ii) responds to planning assertion that the design of building is not considered to be high quality innovative architectural design, by outlining the architectural and urban design rationale for proposal and credentials of the architectural design firm
- In terms of reason for refusal 1(iii), the appellants reiterate points made in relation the design approach and refers to conservation assessment attached to appeal submission

- Refutes reason for refusal No. 1(iv) in relation to opinion of planning authority that proposal would not accord with zoning objectives for the site- considers to be in compliance Section 4.4.13 of the Development Plan in relation to opportunity sites
- Refutes opinion of planning authority in relation to issues of overbearing- considers proposal to be in line with precedent set by An Bord Pleanála in respect of Bray Head Hotel redevelopment scheme (PL39.216980)
- In respect of reason for refusal No. 2(i) and (ii) appellants state that detailed flood risk assessment was carried out as part of the planning submission- generally located within Zone C flood zone; development is designed to consider residual risk- outlines rationale for proposed levels and concludes that it would be possible to raise the ramp by 100mm to achieve the strategic OD 4.0 level- submits that the proposed development would, if permitted, address all appropriate public health and safety requirements
- In respect of Reason for Refusal No. 2(iii) and concerns of planning authority in relation to lack of detail relating to proposed excavation works, appellants submit that proposed development will not impact on stability of railway line and refer to report of Downes Associates- acknowledge that methodologies used will require adherence to all requirements of Iarnród Éireann, engagement with Iarnród Éireann has already commenced and an updated proposal is currently under review by them.
- Submits that the principle of building along railway lines is well established- these are construction, not planning issues which could be dealt with by condition- basement excavations for Bray Head Hotel (permitted under PL39.216980) are closer to the railway tracks than this proposed- in this instance, the line of excavation has been pulled back 13m from railway line in order to address Irish Rail's concerns, which is considerably further than many existing developments along the DART line

- In respect of Reason for Refusal No. 3(a) and concerns of planning authority in relation to the creation of a traffic hazard due to location of crèche set down area, the appellants state that it is reasonable to expect a significant portion of crèche spaces to be availed of by the local community who would walk to the proposed facility
- Planning gain to access crèche from Putland Road and Coastguard Terrace as it allows for improvement of the road by its surfacing and for the provision of a turning circle, neither of which exist presently- Atkins Engineering refers to DMURS which identifies a carriageway width of between 5 and 5.5 metres for local streets, which operate as a shared surface. This street has a minimum width of 5.5m- in addition, up to 4 cars could be parked in the set-down area at any one time- staff parking would be accommodated within the main car park of the development- If ABP does not agree with this option, appellant is prepared to provide a scenario whereby parents park either within or outside of the scheme and walk to the crèche via Strand Road- references crèche in Milltown which has a limited access area with no turning area, where traffic problems do not arise- suggests possibility of allowing temporary permission for proposed crèche to allow the monitoring of the subject facility for a period of time
- In respect of Reason for Refusal No. 3(b) and concerns of planning authority in relation to the creation of a traffic hazard due to the removal of on-street parking spaces in an area of high parking demand, appellants state that the removal of 7 spaces out of a total of approximately 140 spaces along the seafront is insignificant in the context of the existing provision- removal of these spaces, to facilitate an on-street loading bay, could not be considered material to contributing to a traffic hazard
- Appellants are willing to retain the on-street parking if required and will allow planning authority decide appropriate designation of the public parking area in front of the site

- In terms of other issues raised by the planning authority, refers to Section 28 guidelines ‘Sustainable Urban Housing: Design Standards for New Apartments’ as justification for quantum of one bed units within the proposed scheme
- In terms of units facing railway line, appellants note that there are many examples of such- potential occupiers will have choice to be located in an apartment facing railway line or not
- In relation to issues of noise, appellants state that they will adhere to all building regulations and attached conditions in relation to construction noise
- In terms of railway noise, market naturally regulates the issue- if ABP agrees with Irish Rail in this instance, appellants have offered revisions to the proposed scheme to move/remove proposed balconies such that they less directly face the railway- all windows facing railway will have triple glazing and if required, a noise impact assessment can be undertaken and implemented during construction phase
- Some revisions undertaken to parking as a result of issues raised by the planning authority- remain compliant with Development Plan requirements
- The submission includes, inter alia, a ‘Preliminary Basement Construction Methodology’, prepared by Downes Associates and an ‘Architectural Heritage Assessment Report’ prepared by coda architects

7.0 **Planning Authority Response**

7.1 None received to date

8.0 **Other Party Responses**

8.1 None received to date

9.0 **Observations**

9.1 A number of observations were received which, inter alia may be summarised as follows:

- Concerns regarding height, design, density and scale of proposal
- Visually obtrusive on landscape, out of character with existing developments and inappropriate form of development
- Impacts on residential amenity including concerns regarding proximity, overlooking, overbearing, loss of light and impacts on privacy
- Increased traffic
- Protection of seafront as an important resource, preservation of its character
- Concerns regarding architectural heritage of the seafront- impacts on nearby Protected Structures and other buildings along roadway
- Timeliness of correspondence from planning authority

10.0 **Assessment**

11.0 I have examined all the documentation before me, including the reports of the Planning Authority, the appeal submissions and responses and have visited the site and its environs. I am assessing this appeal de novo. A partially revised proposal was submitted with the appeal submission and it is this submission which I am assessing. In my mind, the main issues relating to this appeal are:

- Principle of proposed development
- Design and layout of proposed development
- Impacts on amenity of area including Protected Structures in vicinity
- Proximity to railway line
- Traffic Issues
- Flooding Issues
- Appropriate Assessment

11.1 **Principle of Proposed Development**

11.1.1 The subject site is zoned 'Objective SF- Seafront Uses' within the operative Bray Town Development Plan which seeks to 'to protect, and enhance the character of the seafront area and to provide for mixed-use development including appropriate tourism, leisure and residential uses. The seafront area shall be promoted as the primary tourist recreation and leisure centre of the town'.

11.1.2 The site is also designated as an 'Opportunity Site- Star Leisure/Dawson's Amusement SF' as set out in Table 4.1 of the operative Plan. The Plan further

expands that mixed-use development comprising commercial/tourist/recreational uses at the east of the site and residential uses at the west of the site Commercial tourist/recreational uses shall comprise a minimum of 20% of the total gross building floor area of the development site area. This land use ratio shall be maintained at all phases of development. Any development proposal shall include the removal of the existing buildings.

11.1.3 I note the various policies within the operative Development Plan relating to the seafront area and I also acknowledge that the Draft Bray Municipal District Local Area Plan 2017 was most recently on display until September 15th 2017. I have examined both the current and draft plans pertaining to the site.

11.1.4 Having regard to all of the information before me, I am satisfied that the proposal is substantially in compliance with the Development Plan policies and objectives for the site. The proposal provides for a mixed use development, providing active retail uses onto the street with residential accommodation above. The site is currently underutilised and considering its prime, prominent location, I consider that a more appropriate form of development, than what currently exists would be appropriate. I note the policies of the operative Plan in relation to height and consider that the proposal before me to be in compliance with such policies as I consider this to be a landmark site, designated as an opportunity site within the Plan where the context of the site would allow a height in excess of four storeys, in principle, subject to all else being equal. I will deal further with the issue of height below. The proposed development also appears to accord with Development Plan standards in terms of plot ratio, site coverage and density.

11.1.5 Having regard to all of the above, I consider the development as proposed to be acceptable in principle and generally in compliance with the zoning objectives and policies for the area.

11.2 Design and Layout of Proposed Development

11.2.1 As has been stated above, the proposal provides for the demolition of existing structures on site and the construction of a mixed use development comprising retail/commercial, a crèche facility, together with 106 apartments above. The proposed layout comprises 3 blocks, maximum seven storeys in height. The commercial units primarily front onto Strand Road, although access to the proposed crèche facility is via a laneway from Putland Road. A total of 226 car parking spaces, primarily at basement level, together with a small number surface car parking spaces is proposed. I acknowledge the site constraints which include for a number of Protected Structures in the general vicinity, including the immediately adjoining Bray Head Hotel, located to the south; the established two-storey Coastguard Cottages and the railway line to the west of the site. I also note the level differences between the subject site and the surroundings lands. This is a relatively large, underutilised site at a town centre location, that is zoned for appropriate development.

11.2.2 The location of the commercial units fronting onto Strand Road are considered acceptable and will provide an active street frontage of quality development, which is currently lacking at this location. The proposed commercial units (total stated gross floor area of 1894 square metres), together with their outdoor seating area will bring a vibrancy to the section of the seafront and would be a welcome addition. The provision of the crèche within Block C (stated floor area of 226 square metres), accessed from a laneway off Putland Road is also considered acceptable, close to the centre of the town yet removed from the busy Strand Road. It is anticipated that this crèche would cater for both the existing and proposed population. Due to the site levels it is accessed directly from this laneway. Four parking spaces are required and provided to service this element of the proposal, together with a drop-off area outside. It is stated in the documentation that the proposed facility could cater for approximately 34 children. I note the Childcare Facilities, Guidelines for Planning Authorities, 2001 and Circular Letter PL3/2016 in this regard. The existing requirement is for 1 childcare facility catering for up to 20 children for every 75 units.

In this instance, the requirement would be for approximately 28 spaces. Considering the quantum of one bed units within the proposed development and the fact that there are differing floor area requirements depending on the age of the child, I consider that the crèche size is acceptable in this instance. Its location close to the railway station may facilitate commuting parents. The location of the open spaces, surrounded by the proposed units and overlooked by them is considered acceptable, with the proposed open space being easily accessible. Issues relating to waste storage, hours of operation, signage and delivery hours require further clarification but could be dealt with by condition if the Bord was disposed towards a grant of permission.

11.2.3 In terms of height, scale and elevational treatment, I acknowledge that this is a sensitive site with a number of constraints- it is a prominent site and any development thereon will define the streetscape at this location and will inevitably act as a benchmark for other developments along the seafront. The site is zoned as an opportunity site within the operative Plan and this designation by its nature implies that the site has capacity to accommodate a relatively substantial form development at this location. Notwithstanding this designation, the protection of the character and setting of Protected Structures in the vicinity and other buildings of historical/architectural merit is paramount. This is an underutilised site, currently a surface car park and amusement area and its redevelopment would bring much needed rejuvenation to the general area. The Bray Head Hotel is currently shut, in a dilapidated state and would benefit from some substantial refurbishment. At the present, time it detracts significantly from the visual amenity of the immediate area. Having examined all of the information before me, I consider that the design of the proposal is acceptable, would add to the streetscape at this location and provides a quality elevational treatment. I do have concerns regarding the proposed painted render finish in terms of weathering (in particular due to its location by the sea) and maintenance and if not properly maintained could become an eyesore at this prominent location. The proposed render comes down to footpath level, with no stone plinth/kickboard proposed. I acknowledge the render finish on the Bray Head Hotel immediately adjoining, however I consider that some self-finish rendering is having a tendency to weather badly over time and having regard to this, I consider that a natural brick/stone finish would be more appropriate at this location. There are

examples of stone/brick finishes in the vicinity. This matter could be dealt with by means of condition if the Bord is disposed towards a grant of permission.

11.2.4 In terms of height and scale, I acknowledge the concerns raised by the planning authority and the observers. I also note Policy 11.4.1 of the operative Plan which states that in the seafront zone, generally a maximum height of 4 storeys above ground level is appropriate. However, the Council may permit heights above this, where the specific context of the site and the design of the building allow it. In this instance, a height above four storeys is considered appropriate in my opinion. I consider that that the raising of the height as one travels north away from the Bray Head Hotel (Protected Structure) is appropriate. I do consider that notwithstanding the designation of the site as an opportunity site, it would be more appropriate to reduce the height of Block A and Block B by one storey. This is due primarily to the overall extent of Block A along the streetscape. The height of Block B popping above Block A is considered somewhat excessive and in their entirety these two blocks are considered somewhat excessive and could read as being too dominant on the streetscape at this location. The height of Block C is considered acceptable. In this regard, considering the layout of the floor plans with some duplex units, I consider that Floor 3 should be omitted from Blocks A and B. This would reduce the height and scale of the proposal, while maintaining a landmark building at this location, which would be considered more appropriate. The matter could be dealt with by condition, if the Bord were disposed towards a grant of permission. The removal of the 3rd floor would result in the loss of 19 residential units (4 x 1 bed; 14 x 2 bed and 1 x 3 bed). Having regard to all of the above, I consider that the proposed development, if permitted as recommended, would not adversely affect the character or setting of any Protected Structures within the vicinity of the site. In fact, the redevelopment of this subject site may in time act as a stimulus for the appropriate upgrade of the adjoining Protected Structure.

11.2.5 In terms of the residential mix, I note that approximately 22% of the proposed units comprise one-bed units; 67% are two-bed units with the remaining 11% being three bed units. This proposed mix accords with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (2015) and is considered

acceptable. Proposed floor areas are considered acceptable, just above the minimum standards in most instances. I note that some units do not meet minimum requirements in terms of storage areas and it would appear that the area of the hotpress is included within the storage area calculations. I consider that additional secure storage should be provided to the residential units, with the most appropriate location being at basement level. The reduction in the 3rd floor as detailed above (loss of 19 units), would result in a reduction in need for a number of residential parking spaces, so this area, previously required to meet car parking standards, could be utilised as storage areas. The planning gain got from increased storage areas would be welcomed by future occupiers and would make this scheme a more attractive place in which to reside. Elements like additional storage at basement level for bulky goods, not required on a day-to-day basis, vastly increases the amenities for any future occupiers of the proposed scheme. This matter could be dealt with by means of condition, if the Bord were disposed towards a grant of permission.

11.2.6 In terms of open space provision, it is noted the private open space is primarily in the form of balconies/terraces, all of which are in excess of minimum standards. Many of these balconies have either sea views or are south facing and this is considered acceptable. The issue of balconies overlooking the railway line was raised at application stage. I do not have major issue with this and concur with the opinion of the appellant that the market would deal with this issue- those who do not want to live overlooking the railway line would not choose to live in one of these units. However, the appellant has offered to relocate the affected balconies in Block B from the western elevation to the southern elevation. This is considered a superior option in terms of access to sunlight and removes the issue of direct overlooking of the railway line. This option is preferred and should be dealt with by condition if the Bord is disposed towards a grant of permission. In terms of public open space, this is provided by means of a central landscaped courtyard area. Concerns have been raised with regard the level of daylight/sunlight to this area considering the levels involved. I accept that there may be some diminution in daylight/sunlight considering this, but note the location of the site on the seafront with direct access to this natural amenity. I note that due to level differences, there will be significant terracing of the landscaped area. The design of this area should be cognisant of access for all, be it

the infirm, the disabled or those with buggies and appropriately ramped access should be provided to all such areas. This matter should be dealt with by condition of the Bord is disposed towards a grant of permission. In conclusion, proposal for open space provision are generally considered acceptable.

11.2.7 Having regard to all of the above, I consider that generally the design of is a high architectural quality, the reduced height and scale would be appropriate, as recommended; the proposal would provide an adequate standard of amenity for future occupiers (subject to recommended amendments) and the proposals would be an attractive addition to the promenade at this location.

11.3 Impacts on amenity of area

11.3.1 I note the concerns raised by the planning authority and observers in relation to impacts on the amenity of the area, in particular inter alia in relation to overshadowing, overlooking, overbearing impacts and impacts on privacy levels. I acknowledge that there will be change on outlook for many of the local residents, in particular occupiers of Coastguard Cottages. However, this is currently an undeveloped, underutilised site which adds little to the area at the current time. While these cottages may currently have sea views, these views are not protected and in any event, one is not entitled to such a view. The dwellings proposed for demolition don't add significantly to the streetscape at this location. The appropriate redevelopment of the site will improve the visual amenity of the promenade at this location, will add to the services and facilities being provided within the area, will help create better linkages and will make better use of this undeveloped site.

11.3.2 I note the level differences between the subject site and the adjoining properties. Having examined all of the information, I am of the opinion that the proposed development if permitted would not detract from the visual or residential amenity of the area to such an extent as to warrant a refusal of permission. This is taking on board the recommended reduction in height of Blocks A and B by one storey. The separation distances are generally considered acceptable and I consider that issues of overlooking, overbearing or loss of privacy will not be excessive. The orientation of the site and separation distances are such that I do not anticipate issues of overshadowing or loss of light to be excessive, over and above what currently exists.

I note the proposal to omit an apartment at both 4th and 5th levels of Block B, which would increase the separation distances between the proposed development and the gable wall of the Coastguard Cottages. This increased setback is to be welcomed from an amenity perspective, but also from the perspective of reducing the bulk of the proposed development, when viewed from the promenade and also allowing more light into the courtyard area. I have no information before me to believe that there will be devaluation of property values as a result of the proposed development.

11.3.3 To conclude, I consider that impacts on existing and residential amenity will not be so great as to warrant a refusal of permission.

11.4 Traffic Issues

11.4.1 The third reason for refusal related to traffic concerns, in particular the creation of a traffic hazard for two reasons, namely the location of the crèche access/set down area and secondly the removal of 7 on-street parking spaces on Strand Road. As is stated above, the proposal includes for a total of 226 car parking spaces (106 for residential uses and 121 for commercial/retail units), of which 164 spaces are located at basement level. In addition to this, the proposal provides for 254 bicycle parking spaces. A Traffic and Transportation Assessment was submitted with the application, which used the TRICS software modelling database, which concluded that the impact of the proposed development will be acceptable at key junctions in the vicinity of the site in terms of queueing, delay and overall capacity for 'without' and 'with development' scenarios for both the opening and design years.

11.4.2 The site is currently well served by public transport, with both the DART and Dublin bus stops in close proximity. I note the quite significant quantum of public on-street parking facilities in the immediate vicinity of the site. I also note the report of the Engineer's Planning Division of the planning authority which highlights the removal of off-street public parking to facilitate loading and waste management. It also considers that the residential parking provision is inadequate; that the basement car park unattractive to users and that the proposal will contribute to parking and traffic congestion in the area.

11.5.2 I have examined the documentation before me and having undertaken a visit of the site and its environs, I am satisfied with the information before me in this regard. There will inevitably be an increase in traffic in the immediate vicinity as a result of the proposed development. I have no information before me to believe that the road network does not have capacity to accommodate the proposed development. Parking provision is in line with Development Plan policy and I do not have issue with the provision of parking at basement level, provided it is secure, easily accessible and well lit. I have no information to believe that this is not the case in this instance. It is reasonable to expect that there would be additional traffic generation during construction works, with its associated noise and disturbance, however this is considered to be short-lived in nature. In terms of location of the crèche set down area, I consider that it is reasonable to expect that many users of the crèche facility would be local users, travelling on foot. In any event, the crèche is relatively limited in numbers and the width of the subject laneway appears to be approximately 5.5m, which is adequate to cater for two-way traffic. The nature of the facility is such that parents will park momentarily in the drop-off area and leave within a short period of time. Different hours for children will mean that not all children will be arriving/leaving at the facility at the same time. In any event, if parking becomes an issue, parents will inevitably park in the basement car park or in the public parking on the promenade and walk across to the proposed crèche facility. I therefore have no reason to believe that the location of the crèche set down area will lead to the creation of a traffic hazard and consider this element of the proposal to be consistent with the proper planning and sustainable development of the area.

11.5.3 In relation to the removal of seven on-street parking spaces on Strand Road to facilitate the provision of a loading area for the proposed commercial area, I do not have issue. There is currently a large quantum of on-street spaces in the immediate vicinity of the site, most of which were vacant at the time of my site visit on a Thursday mid-morning. It is stated in the appeal documentation that there are 140 on-street, public spaces in the vicinity. I do not have figures relating to the accuracy

but this figure does not seem unreasonable. I accept that this area has very busy periods during the summer months. The issue of haphazard parking was raised in the third reason or refusal from the planning authority. Much work has been done on traffic calming, parking, one-way systems, road markings and signage in this area and I query the extent of haphazard parking in the general area. I do however consider that the planning gain in providing a loading bay at this location would outweigh any loss of spaces in the facilitation of deliveries to the proposed commercial units. Parking policy at this location could dictate that the spaces be used as a loading bay during specified hours and revert to parking spaces outside of these times. This is a common traffic management tool in urban areas and I have no information before me to believe that it could not be utilised in this instance. The first party appellants have offered to reinstate the existing parking spaces and omit the proposal for a loading bay at this location. I consider that given the quantum of parking spaces, both existing and proposed, in the vicinity that a loading bay at this location would be more desirable. Having regard to all of the information before me, I have no reason to believe that the proposed development, if permitted would lead to the creation of a traffic hazard or obstruction of road users in the vicinity.

11.6 **Flooding Issues**

11.6.1 I note the second reason or refusal which issued from the planning authority which stated that the proposal would be contrary to public health and safety and contrary to proper planning and development as insufficient information was submitted to show that the proposed development would not be unduly impacted upon during coastal flooding events and the proposed works could be carried out without significant impacts to existing railway line and adjoining housing. This is due to location of site in an area in close proximity to an area prone to coastal flooding at times of severe weather events; basement parking area with an entrance level that does not meet required levels and significant excavation to allow for ramped car park. A flood risk assessment was carried out at application stage and I note that the bulk of the site lies within Flood Zone C, which is considered appropriate for development, in

accordance with the Flood Risk Management Guidelines. A portion of the site is located within Flood Zone B. However, this is the commercial element and therefore considered to be a less vulnerable form of development. I note the response to same by the first party to this issue. I also note the design of the proposed scheme which provides for a raised podium to the commercial units. I concur that basement car parking is not usually considered strategic development and of 3.4m could be considered appropriate, as per Section 3.6.2.4 of the Greater Dublin Strategic Drainage Study. The appellants state that the proposed ramp level of 3.9m OS datum would appear to provide the requisite flood protection for a basement car park for the extreme flood event. However, if required, it is possible to raise the ramp locally by 100mm to achieve that 4.0m OS Datum level as required by the planning authority. I have examined the opw website www.floodmaps.ie and it appears that there have been no incidents of flooding in the immediate vicinity of the site in the recent past. This is a serviced, appropriately zoned site at an urban location and I consider that having regard to all of the information before me, including the guidance contained within the relevant Section 28 guidelines on flood risk management, that this matter can be adequately dealt with by means of condition.

11.6.2 The second element of this reason for refusal which issued from the planning authority raised concerns in relation to significant excavation works required to construct the ramped car park and whether the works be carried out without significant impacts to existing railway line and adjoining housing. I note the response of the first party in this regard, which includes for the pulling back of the proposed basement car park by approximately 13 metres from the railway line. I also note that 'Preliminary Basement Construction Methodology', contained in the appeal submission, which provides for possible construction sequence for the basement construction. It is acknowledged in the appeal submission that further detailed design and methodologies will be required at construction stage and this is considered reasonable. It is stated that these methodologies will adhere to all requirements of Irish Rail. I do not have undue concerns in this matter. I consider

that agreement must be reached with Iarnród Éireann with regards the protection of the railway line and that no works can be undertaken until such time as this agreement is reached. Obviously, the onus is on the developer to ensure that full compliance is undertaken in this regard. I would concur with the appellant that the principle of building developments along railway lines is not new and that building close to these lines is a well-established practice in urban areas. Therefore, I consider that this matter could be adequately dealt with by means of condition.

11.8 Appropriate Assessment

11.8.1 The subject site is located in an established brownfield site within the town boundary of Bray. I note the designated sites within 15km of the application site including Bray Head cSAC, which is located immediately south of the application site. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest European site, 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.

12.0 Recommendation

12.1. To conclude, I consider that the proposed development makes an appropriate use of an underutilised, serviced site within a town centre location. The mix of uses is considered acceptable and in compliance with the zoning objectives for the site. The site is located proximate to existing public transport facilities. I have raised concerns regarding the height/scale of the proposed development, together with the proposed finishes. These matters could be adequately dealt with by conditions, if the Bord was disposed towards a grant of permission. The remainder of the proposed works are generally considered acceptable and consistent with the proper planning and sustainable development of the area, subject to conditions.

12.2. I recommend that planning permission be granted, for the reasons set out below.

13.0 Reasons and Considerations

Having regard to the provisions of the Bray Town Development Plan 2011-2017, to the nature and scale of the proposed development and to the brownfield nature of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the operative Development Plan, would not adversely affect the amenities of the area, would be appropriate within the area and would provide an acceptable standard of amenity for future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 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. 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.

3. Prior to the commencement of any works on site, the applicants shall submit the following for the written agreement of the planning authority
 - i. Revised plans, sections and elevations at an appropriate scale for Blocks A and B omitting the entire third floor level. The footprint, positioning on site and separation distances of both Blocks shall remain as per the drawings submitted in response to the appeal, received by An Bord Pleanála on the 22nd day of June 2017. This will result in the loss of 19 no. apartments within these blocks
 - ii. Revised plans showing the omission of a two-bed apartment on each of the 4th and 5th floors, as outlined in the drawings received with the appeal submission on the 22nd day of June 2017.
 - iii. Revised plans and elevation at an appropriate scale showing the provision of secure, usable basement storage areas for each of the proposed residential units. These storage areas may be partially located in the residential spaces no longer required as a result of the loss 21 apartments from the scheme
 - iv. In the interests of clarity, the total number of apartments being permitted is 85 no.

Reason: In order to protect the amenities of the existing streetscape and nearby residential properties and to provide a higher standard of residential amenity to any future occupiers

4. Prior to the commencement of development, all matters relating to the location, design and construction of foundations and retaining walls shall be agreed in writing with the planning authority in consultation with Iarnród Éireann and shall be based on a site specific geotechnical analysis of the underlying strata to be carried out by the developer. In default of agreement, the matter shall be referred to the Board for determination.

Reason: To protect the integrity of the railway line.

5. (i) All residential units shall be used as single residential units

(ii) At least one car parking space shall be permanently assigned to each residential unit and shall be solely reserved for this purpose

Reason: In the interests of clarity

6. (i) Delivery of goods to the proposed commercial units within Block A and C shall not take place outside normal business hours of 0800am -1800pm Monday to Saturday and 0900am-1800pm on Sundays and bank holidays, without a prior grant of permission

Reason: To ensure a satisfactory standard of development and in the interest of protecting the residential amenities of the area

7. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles

Reason: In the interests of proper planning and sustainable development

8. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

9. 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.

Reason: In the interest of orderly development and sustainable waste management.

10. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing by the Planning Authority. A panel of the proposed finishes to be placed on site to enable the planning authority adjudicate on the proposals. In this regard, the proposed elevational finish shall comprise a natural stone/brick finish. No render finish is permitted. No polished stone is permitted. Construction materials and detailing shall adhere to the principles of sustainability and energy efficiency and high maintenance detailing shall be avoided.

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

11. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development

12. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

13. 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

14. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

15. 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.

16. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter (other than a matter to which section 97(7) applies) may be referred by the

planning authority or any other prospective party to the agreement to the Board for determination.

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

17. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

18. The applicant shall comply with all requirements of the planning authority in relation to landscaping, planting and boundary treatments. The subject landscaping scheme shall be carried within the first planting season following substantial completion of each phase of the external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

19. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be landscaped and maintained in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the units are made available for occupation.

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

20. Prior to commencement of development, a phasing programme for the development shall be submitted to the planning authority for agreement. In this regard, the proposed open space area incorporating the playground shall be constructed in Phase 1 of any development works

Reason: To provide for the orderly development of the site.

21. The applicants shall ascertain and comply with all requirements of Iarnrod Eireann in relation to the proposed development

Reason: To ensure a satisfactory standard of development

22. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

23. Noise monitoring locations for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to the commencement of any development on site.

Reason: To protect the [residential] amenities of property in the vicinity.

24. No advertisement or advertisement structure shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

25. Details of all mechanical ventilation, extraction, heating or cooling systems shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To protect the amenity of the area

26. No further structures, plant or antennae shall be erected on the roof of the proposed buildings without a prior grant of planning permission.

Reason: In the interest of visual amenity.

27. No awnings, canopies, roller shutters or additional external lighting shall be erected or displayed on the premises or within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of visual amenity.

28. Prior to the commencement of any works on site, the applicants shall ascertain and comply with all requirements of the Environmental Health Officers Department

Reason: In the interests of public health

29. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

Reason: To ensure the satisfactory completion of the development.

30. 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Lorraine Dockery
Senior Planning Inspector

18th October 2017