



An  
Bord  
Pleanála

## Inspector's Report PL27.249081.

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<b>Development</b>	4 storey over basement hotel, 160 car parking spaces, vehicular entrance and noise barrier.
<b>Location</b>	St. Valery's, Dargle Valley, Fassaroe, Kilcronee, Bray, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	16/1271.
<b>Applicant</b>	RGRE J&R Valery's Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	RGRE J&R Valery's Limited
<b>Observer</b>	Eric and Cara Culliton.
<b>Date of Site Inspection</b>	18 <sup>th</sup> December 2017
<b>Inspector</b>	Mairead Kenny.

## 1.0 Site Location and Description

The site is positioned to the west of the N11 and in broad terms is located between the town of Bray to the north-east and the village of Enniskerry which is about 3.5km to the west. This site is in the general area known as Fassaroe and the nearest national road junction is Bray Central, which is about 750m north of the site. North of Bray Central the national road is a motorway (M11). A further 4km to the north approximately is the merge / diverge point of the M11 and the M50.

The site may be described as being at the entry point to the county of Wicklow from the north (Dublin). Its location at the junction of the Enniskerry Road (R117) identifies the site as a gateway to the village of Enniskerry, Powerscourt and the Wicklow Mountains.

The stated site area is 2.28 ha, which is about half of the overall landholding. The remainder of the holding is in two plots, one being the lands associated with St Valery's and the other being a small square plot of land, which contains the existing site entrance.

St Valery's is a protected structure. It is located at the western side of the River Dargle. The house is prominently sited at the upper level of the associated grounds, which are mainly steeply sloping lands to the front of the house. There are a number of outbuildings associated with the main house, which is in reasonable condition.

The house is an early, gothic-revival house dating to 1810, with a crenelated tower at the south end. The latter feature is highly visible from the wider landscape to the east, while much of the lower floors of the building are surrounded by trees. As such views to the house vary depending on the season. The main feature on the façade of the building is a large window at upper ground level. This window has pointed mullions and is a dominant feature.

I inspected part of the interior of the house. From the room which is lit by the large window views to the landscape include a view of the Little Sugar Loaf. The ground level of the site is visible from this room as well as a commercial garage and other buildings at the opposite side of the N11. The general alignment of the front of the house is to the south-east in the direction of the N11 footbridge and over the

southern half of the site. There are views of the Little Sugar Loaf to the right and the view to the left is across the northern part of the site.

The site is on the inside of a bend on the Dargle River, which separates it from the remainder of the land holding. The site adjoins the N11 road carriageway for a distance of over 200m plus. The site contains an additional long and narrow strip of land, which runs northwards alongside the national road, prior to crossing the national road. The southern site boundary of the land holding is marked by the R117, the Enniskerry Road. The site of the proposed development extends in a westerly direction along the regional road. There is a small house on the site at that location.

The site is generally very flat and free of development, having been used in recent times as a construction compound. The main open area is laid out as an equestrian arena and appears to have been used for that purpose up to very recently. The western and northern boundaries contain mature trees and there is another wooded area in the south-eastern corner adjoining a footbridge which is outside of the site. That is the location of an archaeological monument.

Photographs which were taken by me at the time of my inspection are attached.

## **2.0 Proposed Development**

The development may be described as consisting of the construction of a four storey over basement hotel to include 141 bedrooms, a restaurant/bar, meeting rooms, kitchen, reception, toilets, administration and other ancillary accommodation. The accommodation at basement level is to include car parking, storage, staff facilities, security, plant, toilets, services and laundry facilities. The stated gross floor area of the development is 14,960 square metres.

The development includes 160 surface and basement car parking spaces, coach parking space, 20 no. bicycle parking spaces. The site access will be by way of a new entrance off the R117. This will involve construction of a new bridge over the Dargle River. Provision is to be made for a new pedestrian access also.

Wastewater is to be pumped from the site by way of a new pumping station and new rising main to be constructed from the site boundary northwards to the public sewer at Upper Dargle Road.

Boundary treatments which are proposed as part of the development include acoustic barriers of between 4.2 m and 8.1 m in height to be positioned along the N11. On-site landscaping includes hard and soft landscaping.

The development includes all site development works, waste management and SUDS including underground attenuation tanks.

The application is accompanied by a number of separate technical reports and other submissions including:

- architectural drawings and photomontages
- engineering services report, traffic impact assessment, outline construction management plan and other reports
- flood risk assessment
- landscape plan
- environmental report - visual impact assessment
- tree survey
- noise impact report
- appropriate assessment screening report
- aquatic ecology report.
- report on significance of protected structure and impact thereon
- letter of consent from Wicklow County Council and Mr Herbert Gordon
- submissions from cyclists, including Sean Kelly.

Sean Kelly's submission is that the hotel will accommodate a cycling Centre of Excellence for Ireland's aspiring cyclists and the Sean Kelly team as well as a museum space. St Valery's is the only uncompromised option in terms of the site with access to an international airport and the diversity of local amenities in the area. A similar letter of support is presented by Philip Cassidy another Irish champion

cyclist, who also has expertise and a business in the tourist accommodation sector. The involvement of John Ronan property developer (including developer of hotels) is referenced in support of the proposal, including by reason of his being a local resident and a keen cyclist.

Unsolicited additional information received by the planning authority on 29<sup>th</sup> June 2017 responds to issues identified in the planner's report regarding:

- roads layout / setback
- archaeological impact
- visual impact
- entrance sightlines.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for two reasons which may be summarised as follows:

- site is within the study area for the future upgrade of the N 11 from a four lane carriageway to a six lane carriageway – premature pending determination by TII of the road layout, materially contravene objectives TR 17, TR 18, TR 19 and would not accord with the building setback requirements of the development plan
- by reason of scale and bulk, would be an intrusive feature and would impact on views from the N11 to St Valery's and would therefore be detrimental to the visual amenities of the area.

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

#### **3.2.1. Planning Reports**

##### **Planner's final report dated 18<sup>th</sup> of July 2017**

The M11/M11 Corridor Study of April 2017 identifies a need for an upgrade of junctions 6 and 7 and identifies solutions in three phases. The submitted documents

are noted and the potential for upgrades to be provided without disturbance of the proposed development but it is considered that the works would require detailed investigation and fully engineered proposals. It cannot be concluded that the indicative route submitted would be the final design. Grant of permission is premature and would undermine delivery of such works.

The impact of the proposed hotel must be balanced with the need to protect the views to St Valery's and the sylvan setting and character of the landscape at this point. In some months existing tree cover will result in intermittent views. In winter and spring St Valery's is more exposed. In the summer the upper part of St Valery's is visible through the trees. There is an argument to be made that the curve of the road would limit the visual impact of the new entrance and in addition in the main the trees to be removed are classified as 'U' or 'C'. On balance subject to the replacement of lost trees with some mature trees to retain the mature wooded effect, the impact would not be of such a scale to alter the sylvan setting of the R117 and could be considered if all other issues were acceptable. Reason number 3 is retained but altered in line with the above assessment. Recommendation now relates to scale and bulk proposal, which is of intrusive nature and which would impact on views from N11 to St Valery's.

Regarding previously recommended reason 4 it is considered that the roads standards relaxations relied upon would not be invalid.

Evident from the extensive testing that there is nothing of archaeological significance – a previous recommendation to refuse permission no longer applies.

### **The planner's report dated 16<sup>th</sup> of January 2017**

Recommends that permission be refused for 4 no. reasons (roads layout / setback, archaeology, visual impact and sightlines). Report includes the following comments:

- Provides a description of planning history, preplanning consultations and development plan policy as well as a summary of internal reports and reports of prescribed bodies and third-party submissions
- the development is described and the planning report submitted with the application noted

- would accord with existing regional planning guidelines for the GDA and with the hotel zoning objective of the Bray Environs 2009 – 2017 plan and provisions of objective TII which provides that hotels would be positively considered in all parts of the county with particular preference for locations in larger settlements
- the design has been amended from the previous application to take account of limiting factors namely flood zone, set back from river and set back from an 11 - the hotel structure occupies the full extent of lands that remain
- sedum roof/green roof not shown on drawing - needs to be clarified
- a table is set out showing the proposed development in comparison with the previous scheme - plot ratio is 0.63 compared to the previous 0.73
- quantum of development should be established by the existing limiting factors to the development of the site and by qualitative impacts
- the design itself from a purely architectural viewpoint is acceptable
- the more difficult element is visual impact in light of the refusal of the Board
- since this refusal a number of underlying fundamentals have been altered in particular the bulk of the site is no longer within an AONB but has been classified as part of the urban area
- it is still adjoining the AONB and some elements would be visible from within the AONB i.e. road access
- the site is dislocated from the main development area of Bray more particularly the very sylvan nature of the lands in the vicinity result in the developed area of Bray having a limited impact in this area
- the motorway, over bridges, pedestrian bridges would have an impact but this area is associated with the sylvan character and evident mountain landscape further to the south and as one travels south from Dublin what dominates is the lack of development, the changing terminating views of the Sugar loaf, the Little Sugar loaf and Rocky Valley
- in addition the relationship of the site to St Valery's is also key

- the land is therefore are clearly not visually linked to the urban area but it is a separate entity to the edge of the motorway thus the impact of the development at this point will be more pronounced in the provision of a hotel needs to be seen against all of these competing elements
- the development must be considered in terms of the site and surroundings and must respond to them in a positive way
- the reduction in overall height of the structure and the softening of the impact of the hotel by use of green walls and the greening of the noise barrier and roof will ensure that in the long term the development will not form a pronounced impact at this point - given the location of the development within an urban landscape and the design proposals it could be favourably considered
- however, it must also be adjudicated against the impact on views to St Valery's and the impact of the loss of boundary trees and opening of the entrance/construction of a road bridge from the R117
- St Valery's is visible only in intermittent views - but it is a landscape feature
- loss of trees together with opening of significant entrance will further erode character of area and contribute to visual encroachment into the green areas on the way to Enniskerry
- felling of mature trees contrary to the provisions of objective NH16
- given that the hotel does not provide for a function room parking numbers would be in accordance with the development plan standards
- the access to the site which is now proposed to be by way of a road bridge and new entrance off the R117 - involves a road which spans the river Dargle
- current investigations indicate that the M11 will be upgraded from 4 to 6 lanes – having regard to objectives of the development plan to support future improvements/reserve corridor the development of the site is premature
- the 30 m setback from the edge of the carriageway but must now be viewed in light of the need to retain setbacks from the M11 for future road improvements
- need to retain existing entrance to the R117 should be clarified



- the flood report identifies that the main body of the development is within Flood Zone C and the conclusion of this report and the design proposals are accepted – the structure is outside the risk area and therefore as the development is acceptable in this area and justification is not needed
- IFI request with respect to winter water table level - in order to avoid impacts during construction of the Dargle with respect to disposal of water during construction of the basement - matter requires clarification
- noise impact not significant – noise impact assessment report noted
- certification from expert required relating to lighting overspill
- development will not give rise to overlooking due to existing screening
- assessment of the recorded monument RMPW1007–060 required
- proposals required regarding removal/avoidance spread of invasive species
- it is accepted that there will not be a significant impact on biodiversity
- there is no requirement for Stage II Appropriate Assessment
- having regard to the issues identified with respect to the visual impact, roads and archaeology permission is not recommended
- a handwritten note of the Senior Engineer (Planning) indicates that it could accept the proposed sightlines subject to further analysis.

### 3.2.2. Other Technical Reports

The report of the **Senior Executive Engineer (Transportation and Roads)** dated 30<sup>th</sup> of March 2017 reiterated the recommendation to refuse permission and clarified an error in a previous report which incorrectly identified that the hotel is offset 60 m from the edge of the surfaced road. The offset in fact is 31.769 m.

The earlier report ( 9<sup>th</sup> of January 2017) indicates the TII supplied WCC with an Engineering Feasibility Assessment report for the M11 between Junction 4 (M11/M 50) and junction 14 (R772 Coyne's Cross) in December 2016. It is envisaged that the M11 will be upgraded to 6 lanes, that regional and local roads including the R117 will have direct access to a one-way road link running west of the upgraded M11 and that a new pedestrian footbridge will be required to the west of the existing. Land

acquisition will most likely be needed from the site subject of this application to facilitate these road works. The application is premature pending determination of the changed road layout for the M11, R117 and other roads close to the development. Inadequate building line which is below the requirements of the development plan. Permission should be refused for these reasons.

The report of the **Executive Engineer** dated 13<sup>th</sup> of January 2017 indicates that the development would negatively impact on future upgrades and widening of the M11, that the setback from the existing M11 is less than 30 m while there is a requirement of 100 m, that the sight-line to the east of the proposed entrance is inadequate, the future road widening/realignment would further reduce the already inadequate setback. No information has been provided relating to the roadway and parking area over the proposed surface water attenuation tanks.

The report of Tom Griffin **Senior Executive Chemist** following on from the report of Jonathan Sexton Executive Scientist recommends further information regarding drainage, foul sewerage storage tank, pumping station, proposals for alarms and interceptor and effectiveness of sound mitigation barrier. The report on which this recommendation is based recommended conditions to be attached in the event that permission is granted.

### 3.3. **Prescribed Bodies**

#### **Inland Fisheries Ireland**

The report of the **Senior Fisheries Environmental Officer** dated 5<sup>th</sup> of January 2017 makes recommendations regarding pumping station, petrol interceptors and refers to mitigation as set out in the aquatic ecology report. Design of the Dargle Bridge and surface water outfall together with methodology for construction to be agreed in advance with IFI. Section 50 approval required from OPW for the bridge. Hydrogeological information required to confirm maximum winter water table, which may be significant - references controlling, treating and disposing of groundwater encountered during construction and methodology to prevent discharge of cementitious material to ground / surface water during construction.

**TII**

In the report of 7<sup>th</sup> December 2016 TII identifies the requirement to abide by official policy in relation to development on or affecting national roads as set out in the 2012 guidelines. Notes that the development is within the study area for future national road scheme, that the Road Design Office should be consulted, that the authority will entertain no future claims in respect of impacts such as noise and visual on the proposed development if approved due to the presence of the existing road or any new road scheme and that the Council has regard to the provisions of chapter 3 of the Spatial Planning and National Roads Guidelines in the assessment and determination of the application. Correspondence on file includes a response to a request by the applicant to discuss the proposed development. In declining a request for a meeting TII indicated that the applicant should revert to the planning authority.

#### **Irish Water**

Irish water has no objection subject to conditions.

#### **DAHRRGA**

The heritage-related (archaeology) observations of the Department request that an archaeological impact assessment be submitted as further information.

### **3.4. Third Party Observations**

#### **3.4.1. Letters of support**

The Enniskerry traders have made a submission in support of the proposed hotel development which they believe would have an economic benefit and positive impact on all local traders in the area and the local economy. Both Enniskerry and the county of Wicklow will benefit from the tourism offer, which is presently absent but much needed. Ancillary benefits such as added jobs would also benefit the wider community. The amenities this project will bring to the community would be beneficial for all, creating a beautiful walking route and other amenities and attractions. The museum display alone will attract tourists to the area and the target market for the hotel is a great way to generate jobs and showcase the area.

#### **3.4.2. Other submissions**

The main considerations in the remaining third party observations to the planning authority are identified below under relevant headings.

### **Principle of development and scale**

Lack of need for the development, which is a prelude to an apartment scheme.

Unsuitable location and excessive development - height / 90% site coverage.

Massive basement close to large rivers and to the very narrow underground bridge – basement is obviously a recipe for disaster and a death-trap.

### **Impact on protected structure and on character of area**

Detrimental to the character of the neighbourhood including the protected structure.

Amenity of the area disturbed by the imposition of a commercial hotel premises of such mass and bulking.

Adversely impact on privacy of residential properties in the area by reason of the four-storey height, occupancy levels, river walkway, noise and disturbance. The visual impact report omitted consideration of any view from a northerly perspective.

Site is within an AONB and if developed requires sensitive treatment. Scale of the proposal means that it will dominate the site and that part of the Dargle Valley and will be prominent when seen from surrounding roads.

Due to extreme height and density completely unsuitable for this area west of the M11, which is within the foreground of a scenic view. Land should be greenbelt.

### **Ecology, trees and related**

Removal of trees contrary to policy HL17 and to section 10.11 of the development plan, which states that trees on both sides of the R117 are protected. Loss of amenity and wildlife habitat. Adverse initial and ongoing negative effects including noise, light pollution and destruction of scenic views.

Importance of the site and area for red squirrel - NPWS all Ireland species action plan refers. All mature trees on site should be preserved for this reason.

Reintroduced red kites currently nest on the site. Site is home to increasingly rare barn owls, kestrels and long eared owls – adverse impacts include removal of food sources, light pollution, noise and traffic.

Due to proximity to the Dargle and Cookstown rivers risk of pollution and fish kills - to very rare migrating and spawning salmon and other fish species.

## **Roads and traffic**

Sightlines from proposed bridge are inadequate – unsuitable location for bridge – should be relocated and also provide access for local residents.

Set back from N11 inadequate. Impossible to incorporate required road improvements and to leave a setback of 100 m as required by the planning authority.

Lack of public transport in the area – will result in increased traffic. Poses significant risk and danger to local residents and hikers and give rise to tailback on the M11.

The River Road between Enniskerry Village and the M11 is seriously inadequate due to the number of bends and it is a very real danger to pedestrians, cyclists, cars and trucks. Extraordinary number of accidents on this road and a high volume of traffic.

Will exacerbate existing tendencies whereby visitors unfamiliar with the area take the incorrect (exit 6) southbound junction on the M11 to access Enniskerry. Proposal does not consider way finding or traffic circulation issues in the immediate area.

160 parking spaces is inadequate in view of statements made by Mr Ronan about the number of jobs that would be created at this location. Our observations in relation to the Powerscourt hotel indicate that the staff and deliveries create most of the traffic flows at peak hours and the requirement for parking.

### **3.4.3. Impact on St Valery's house and other residential property**

The proposal is considered not to differ significantly from that previously refused permission in 2009. St Valery's is a very significant architectural and historical importance is a local landmark. Bulk of buildings and choice of finishes inappropriate in a rural area close to an area of great natural beauty and to St Valery's.

Enclosed photographs demonstrate how the bulk and height of the hotel will obliterate the view of the house from surrounding roads.

Houses in the area including on the western / northern side of the Cookstown River will have a definite view of the proposed hotel, no longer looking down into the site but directly across towards the hotel the upper floors of which will be visible. Adverse impact on views from houses on Dargle Lane also and on houses to south of R117.

Clearance of trees will expose new entrance and bridge - height of the hotel will ensure that it is seen to a greater or lesser degree depending on the time of year.

Concept of concealing development by intervening trees is a fallacy.

#### 3.4.4. **Other issues**

Concerns relating to flooding and lack of buffer to the Dargle River.

Construction phase impacts. Concern regarding monitoring of commitments given by applicant in relation to minimising noise and disturbance and prevention of pollution.

The noise and activity generated by a hotel of this scale will directly impact on residential amenities of the area, through reduction of privacy, overlooking and negative impact on value of residential homes.

Concerns relating to use of outdoor areas for functions in the operational phase.

Concerned that external hotel lighting will merge with other light sources.

Issues related to site notices.

## 4.0 **Planning History**

### **Site and Land Holding**

Under **PL 27.234961** the Board upheld the decision of the planning authority under Reg. Ref. 09/807 to refuse permission for a hotel at this site for 4 no. reasons, which relate to visual amenities, flooding, access and traffic and to contravention of the zoning objective. The reasons for refusal set out in the decision of the planning authority referred to the AONB, hazardous access arrangement and shortfall of parking and other matters including the width of riparian strip and wastewater treatment and disposal. The proposed development was of stated gross floor area of 16,724m<sup>2</sup> and overall height of 16.7m (four storey plus setback penthouse level).

In reply to a request for a **pre-planning consultation meeting** the Senior Engineer (Planning) recommended examination of all relevant documentation from the previous application and that in the event of an application all of the matters raised should be addressed. The outline revised design and relocation for the whole building would not be likely to overcome reason 1 of the Board's decision. Regarding access arrangements submitted an email sent highlighted some technical issues and raised also a new planning issue, namely the investigation by TII of various design solutions to address capacity and safety issues relating to the M11 and its

associated junctions in this area. Pending determination of design solutions, the proposed development may be considered premature. The upgrades are supported by policies of the 2010 development plan.

Under **reg. ref 08/1975** permission was granted for development at St Valerie's house and under reg. ref 14/1557 permission was granted for an extension of duration for five years **up to and including 4th October 2019**. Proposed development involved refurbishment of the main house, demolition works associated with the out buildings, internal alterations and external modifications.

### **Nearby**

Under **PL27.248705 (application by Cosgrave Developments)** the Board overturned the decision of the planning authority to grant permission for development of the site to the north of the current site. The development proposed comprised a mixed use development consisting of 658 residential units, a neighbourhood centre, 3 no. three-storey office blocks, a district park and other development including a new road and road realignment. The decision of the Board to refuse permission may be summarised as follows:

- Site is remote from existing high-capacity public transport services and necessary community, social and education facilities - lack of integration between land-use and sustainable forms of transport - high-capacity public transport services currently not planned - notwithstanding the zoning the proposed development is an unsustainable form of development.
- Scale and car-based nature of the development due to absence of a high capacity transport service – use of N11/M11 route and congested nature of this route and trend of increasing traffic volumes and anticipated timescales within which such capacity issues will be resolved - proposed development would have a significant adverse impact on carrying capacity and strategic function of road and would be premature.
- Potentially negative impact on retail centres, including Bray town centre.
- Historic landfills on subject site need authorisations from the EPA - uncertainty with regard to resolution of the issue.

The results of a Judicial Review case are pending.

## **5.0 Policy Context**

### **5.1. National Planning Framework**

High level objectives include promotion of compact development and development based on sustainable modes of transport.

### **5.2. National Development Plan 2018-2027**

This sets out the expansion of LUAS to Bray with delivery post 2027. Road schemes which will be progressed through pre-appraisal and early planning during 2018 include the M11 from J4 to Kilmacanogue.

### **5.3. Regional Planning Guidelines for the Greater Dublin Area 2010-2022**

Bray is identified as being within the Metropolitan Area. It is designated as a Metropolitan Consolidation Town, which is second only in the hierarchy to Gateways. Bray / Cherrywood / Greystone is a Core Economic Area, including the Fassaroe area.

### **5.4. Transport Strategy for GDA 2016-2035**

References the N/M11 congestion between Fassaroe and Kilmacanogue and the need to balance high value function and local use. Identified and appraised a number of requirements including (between the M50 merge and the Ashford junction) a capacity enhancement and reconfiguration scheme to include ancillary and associated road schemes to provide additional lanes and upgraded junctions.

Extension of LUAS to Bray (station) subsequent to upgrade of the LUAS green to Metro.



### **5.5. M/N11 Corridor Study – Needs Assessment Report – April 2017**

This identifies the nature of the N/M11 capacity problems. The relevant section of road dates to 1991 largely. The identified need is to upgrade road width, enhance the junction at Bray Central and address the direct access from Herbert Road to the N11. The recommended strategy is summarised in Table 5.7 which includes widening to three lanes between Junction 4 (M50/M11) and Junction 8 (Kilmacanogue), increased capacity (roundabouts and merges/diverges) at junction 6 and at Junction 6a west closure of direct access between Enniskerry Road and N11 with access maintained by a one-way northbound service road with similar measure at eastern side of J6a at Herbert Road.

Section 6 deals with implementation, including phasing and land acquisition. An alternative is that all land acquisition would be on the western side of the road. The upgrade of the N11 to 3 lanes between J6 and J8 is in Phase 3.

### **5.6. Bray and Environs Local Transport Study**

This forthcoming document will provide for a more detailed focus for Bray than the Transport Strategy for the GDA. The Municipal District Bray and Environs Plan notes this document and indicates that the plan will be adopted as necessary.

### **5.7. Wicklow County Development Plan 2016-2022**

The role of Bray as the primary settlement in the county will be reinforced. The majority of population growth for Bray is allocated for Fassaroe. The plan references proposed extension of the Luas to Bray. The development of Fassaroe is largely dependent on the delivery of infrastructure including upgrades to the national roads and delivery of high quality public transport.

Priorities for strategic road improvements include the upgrade of the M11 from the Dublin border as far as Ashford, in particular improvements to the M50/M11 merge and all interchanges serving Bray.

TR17 – in line with TII policies seek to bring national primary and secondary roads up to the appropriate standards.

TR18 – support major road improvements by reserving the corridors as and when these are identified, of any such proposed routes free of development, which would interfere with the provision of such proposals.

TR19 – co-operate with TII in the upgrade of existing interchanges on the national routes and where appropriate restrict development adjacent to interchanges to provide for their future enlargement.

TR 24 refers to continued improvement of regional roads to appropriate standards.

T11 - positively consider the development of new hotels in all parts of the county with a particular preference for locations in larger settlements. In other, more rural locations (villages/rural areas) criteria to be met include high visitor numbers associated with an existing attraction, need for additional accommodation and distance from the attraction to a significant settlement.

St Valery's is on the Record of Protected Structures.

Map 10.08A indicates an objective in relation to existing tree preservation orders, which appears to be to the south of the site. Map 10.08C clarifies that the icon does not refer to the subject site – there are no tree protection objectives related to the site or to the St Valery's lands.

## 5.8. **Bray Municipal District Local Area Plan 2018-2024**

This plan has been in force since 10<sup>th</sup> June 2018. The site zoning is amended to 'Tourism'. Tourism is defined as:

- To provide for the sustainable development of tourism related structures, uses and infrastructure. To provide for the development of tourism facilities including accommodation of an excellent sustainable design and aesthetic quality. Tourism related office, civic and cultural and commercial development will be facilitated.

Uses generally appropriate for tourism zones are tourism accommodation and tourism/recreational uses such as bed-and-breakfast, cultural uses, holiday homes, hotels, with recreational facilities.

The plan sets out objectives relating to phasing of development which shall generally be phased in accordance with the sequential approach, focusing on first developing

town centre sites and locations close to public transport routes if available and avoiding 'leapfrogging' to peripheral areas.

Fassaroe to the north / north-west of the site is described under Action Plan Area 1. The Masterplan is now moot. The plan sets out a concept plan for the lands.

#### **5.9. Fassaroe Master Plan 2010**

As noted above this plan is described as moot – I provide some detail as background. The plan was adopted by Manager's Order on the 8<sup>th</sup> of October 2010 subject to conditions. It refers to the Fassaroe master plan document prepared on behalf of Cosgrave Property Developments. A copy is attached to the history file travelling with this case (PL27.248705). It is not statutory in the sense that there was no formal public consultation although it does follow on from a statutory plan.

The text describes the Cookstown River as defining the southern boundary. The maps included in the master plan document exclude the subject site. The maps presented also exclude areas which are to the north of the Cookstown river such as St Valery's house (e.g. map on page 10). The phasing shown on the relevant maps is to phase construction from the national road junction to the east before moving to the west.

#### **5.10. Natural Heritage Designations**

The nearest European Site are the Ballyman SAC to the north-west and the Knocksink Wood SAC to the west.

#### **5.11. Other designations**

There is no entry for St Valery's under the Buildings or Gardens Surveys of the National Inventory of Architectural Heritage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main points of the first party appeal are:

- Regarding **Reason 1** we refer to the report and accompanying drawings by Cronin Sutton consultants submitted as part of the unsolicited further information response and a drawing by Henry J Lyons as an illustration of how the proposed upgrade works can be facilitated – no changes are required to the siting of the building and it maintains the required buffers to facilitate the upgrade works – it is recognised that alterations to boundary treatment landscaping on the N11 side of the noise barrier may result, which would be a matter for the relevant road scheme as is standard practice.
- TII did not make a direct objection and all elements of road improvements as proposed by TII can be accommodated, therefore the development meets the national road objectives under TR17, TR 18 and TR 19 and the setback is in accordance with the provisions of table 7.3.
- Planning authority acknowledged that the submitted unsolicited further information had demonstrated that the road widening and upgrades could be accommodated without any significant alteration to the proposed scheme.
- The enclosed letter from Cronin Sutton also refers.
- The study published by TII in April 2017 was assessed by Cronin Sutton consulting engineers and it was determined that the proposal could proceed without any significant changes whilst allowing for a worst-case scenario.
- Regarding **reason for refusal no. 2** this is addressed under the headings of design, visual assessment, context, conservation and reference is made to the reports of Brady Shipman Martin in conjunction with images presented by Visual Lab, the Conservation Assessment of Slattery conservation architects and it is demonstrated throughout the application documentation, unsolicited further information response and the additional images presented in this appeal that the proposed development is respectful of its setting and has

been designed to fit and respond to its surroundings – the scheme should be assessed in context of current zoning is which may provide for significant development in the area and the proposal is further supported by the draft LAP which further expands development in the area and continues to consider a hotel and appropriate use for the subject lands.

- The detailed architectural report which accompanies the application shows that the proposed development has been designed to the highest standard and to accord with the existing landscape setting.
- Features of the site have been incorporated and tree felling is minimised.
- Noise barrier along the N11 will be planted to minimise visual impact.
- The design of the scheme is respectful of its setting and cognizance has been had to the zoning, which will provide for significant future development under the current plan – the scheme should be assessed in such a context.
- The site identifies a number of designated footpaths which run along the north, south and western boundary of the site and it is an objective to provide walking and cycling routes along rivers and through all green spaces to ensure permeability within both Fassaroe and Kilruddery.
- Supported by Section 7.3 of the development plan – objective to identify strategic sites capable of accommodating new tourism ventures while preserving the natural landscape.
- The majority of the development is on the south-eastern portion of the site which is classified as **flood zone C** which has a low probability of flooding and no element of the hotel building is located within the one in 100 or one and 1000 year flood zone - planner considered that the proposal was acceptable.
- Regarding **archaeological impact and the recommended reason 2 in the planner's report** which refers to monument W1007 – 060 an assessment involving excavation of nine test trenches across the site revealed that it has been subject to extensive disturbance, having previously been stripped and disturbed by the importation of fill material.
- Regarding the **recommended reason 3** which relates to removal of trees, scale and bulk and negative visual encroachment into the approach to

Enniskerry, the report of Brady Shipman Martin address this in the unsolicited further information and notes that the extent of intervening tree cover means that the house is not easily seen in views from the N 11 and that local existing topographic features prevent full views of the house.

- Regarding **reason 4 recommended** in the planner's report the subsequent report of 18 July 2017 omitted that reason, which related to sightlines.
- We respond in this appeal also to matters raised as potential concerns in submissions and in the planners' reports and these relate to similarity to previously refused scheme, hotel facilities and the cycling team theme, felling of trees and, winter water levels, pumping station, potential for flooding of basement, ecological impacts, overlooking, noise, parking, lighting, apartments, procedural concerns.
- In summary the area is undergoing rapid change and lands at Fassaroe are planned as a major employment centre and represent a significant opportunity for intensification of development.
- the proposal has been demonstrated to be able to facilitate the N 11 upgrades and to be well designed and suitably screened from the N11 not to reduce the overall character and quality of the landscape.
- The other issues raised by the planning authority are also all resolved.

## 6.2. **Planning Authority Response**

None.

## 6.3. **Observations**

The observer Eric and Cara Culliton comment as follows:

- There was widespread local and public support for the decision to deny this gross overdevelopment which covers 90% of site and which is entirely inappropriate due to the presence of a Neolithic burial mound on the site, prevention of future widening of the N11, interference with public view of an attractive building of architectural significance and historical importance.

- Excessive heights and enormous scale is not in keeping with existing buildings and landscape.
- Site is in the landscape of outstanding natural beauty and the area west of the N 11 is within the foreground of the scenic view which should be preserved and not grossly overdeveloped – the nature of the development, the extreme height and density make it unsuitable.
- Neighbours would experience negative effects including noise, impacts on privacy and views, smells and other nuisance and devaluation of property.
- Dangerously engineered involving a massive basement just metres from the meeting point of two large rivers - basement is likely to become deluged.
- Proximity to rivers will dramatically increase risk of pollution and fish kills including risks to rare migrating and spawning salmon and other fish.
- Lighting would negatively affect residents and wildlife.
- Site access is not appropriate for development of this size and there would be an increase in traffic congestion, noise, air pollution and in heavy goods vehicles and cars including an intolerable strain on the Enniskerry interchange with likely increase in fatalities and peak time congestion.
- Contrary to a range of national and international policy guidance and to the proper planning and development of the area.

#### 6.4. **Further Responses**

None.

### 7.0 **Assessment**

#### 7.1. **Issues**

I consider that the main issues arising in this case relate to:

- Reason 1 of the decision of the planning authority.
- Policy.

- Impact on architectural heritage, landscape and visual amenities.
- Traffic.
- Water quality and ecology.
- Archaeology.
- Noise.
- Other issues.
- Appropriate assessment.

## 7.2. Reason 1 of the decision of the planning authority

The decision of the planning authority to refuse permission identifies an issue which was not considered by the Board in relation to the previous appeal. That is the matter of the identified need by TII to widen the N11 and the potential that the proposed development would be premature pending a finalisation of a layout. In addition the development is stated to materially contravene objectives TR 17, TR 18, TR 19 and not to accord with the building setback requirements. The wording of reason 1 contains elements related to the principle and to policy considerations.

### 7.2.1. Principle

I note from consideration of the study prepared for the widening of the national road that the need to acquire lands from the western side of the route between junctions 6 and 8 (which would include part of the subject site) may arise. From the study it appears that outbound widening can be catered for within the existing carriageway as there is a wide median.

I have examined the relevant websites and can find no indication of any progress in the planning of the scheme. I consider that whether or not the Board upholds reason 1 is largely a matter of principle. In the circumstances where the local authority opposes the development on the basis of prematurity and given the level of importance of the site as potentially part of the road scheme, I support the reason for refusal and consider it should be re-stated. It is not appropriate in my opinion for the applicant or the Board for that matter to over-ride the function of the local authority in relation to the likely future requirements of a road scheme in planning and to make



judgements that certain provisions will be adequate. Planning legislation has long established the principle that a refusal of permission for reason of prematurity is not open to compensation. In principle I support Reason 1.

In support of the above conclusion I note that the works which may be involved at this junction are uncertain at present and I agree with the planning authority that pending a more detailed design stage a grant of permission should be withheld. The works will involve not only widening of the carriageway but also amendments to the Enniskerry Road junction where there is a footbridge. The land requirements are not clear pending further details and a grant of permission would be premature.

The development includes provision of a rising main running along the N11 and within the area which may be affected by future road expansion. The Council as landowners have consented to the making of the application. The rising main is stated to be at sufficient depth to ensure that it does not obstruct any possible future road expansion. The possible scenario of the future road widening being progressed prior to construction of the development (including the rising main) warrants the undertaking of a precautionary approach. The Board may wish to consider that the development is premature for this reason also.

I note in addition that the Cronin Sutton report appended to the appeal refers to the availability of lands between the car park and the possible increase in the 5.2m wide embankment and service road and indeed states that the parking arrangement could be revised on site. I agree that the layout does incorporate flexibility but I retain my opinion that a grant of permission would not be appropriate pending agreement on detailed design.

#### *7.2.2. Policy considerations*

The decision of the planning authority refers to the 30m building line from the edge of the carriageway. I concur that this breach of the adopted development plan policy should be referenced in the event that permission is refused.

The proposed development is stated to materially contravene a number of development plan objectives.

Objective TR 17 - in line with TII policies to seek to bring national primary and secondary roads up to the appropriate standards.

Objective TR 18 - to support major road improvements by reserving the corridors as and when these are identified, of any such proposed routes free of development, which would interfere with the provision of such proposals.

Objective TR 19 - to co-operate with TII in the upgrade of existing interchanges on the national routes and where appropriate restrict development adjacent to interchanges to provide for their future enlargement.

I consider that of the three policies identified the planning authority's reference to material contravention is relevant to policies TR18 and TR 19 in particular. If the Board agrees with my conclusion then I consider that it would be precluded from granting permission in the circumstance where the planning authority has refused permission unless one of the criteria in 37(2)(b) apply.

My comment in this regard are:

- The development would not be considered to be of strategic or national importance
- There are no conflicting objectives or objectives which are not clearly stated – the Tourism zoning objective is not directly in conflict
- The development is not necessary to meet regional planning objectives or other obligations
- The pattern of development in the area is unaltered and no significant permissions granted – a favourable outcome to the legal challenge relating to the Cosgrove Fassaroe scheme could be relevant.

I recommend that the Board uphold reason 1 of the decision of the planning authority.

### 7.3. Policy

In terms of the principle of the development I consider that assessment of this matter requires consideration of the policy and site context. The appellant considers that the Board has previously determined that a hotel is acceptable in principal at this site. In view of the lapse of time and adoption of new planning policies I consider it relevant to re-visit this matter, which is addressed in first and third party submissions.

### 7.3.1. *General policy and zoning*

The WCDP including policy T11 outlines an objective to positively consider the development of new hotels in all parts of the county with particular preference for locations in larger settlements. There is a more specific policy for villages and rural areas wherein it must be demonstrated that the area to be served has high visitor numbers associated with an existing attraction or facility and that there is an identified need for a new or additional hotel accommodation, having regard to the profile of the visitor and the existing hotel offer. There is a further requirement that the distance of the attraction from a significant settlement is such that visitors are unlikely to avail of existing hotel facilities.

As to whether or not it may be determined that the development of a hotel at this site would comply with the WCDP policy relating to location in a larger settlement, I consider that such a conclusion may reasonably be drawn. Notwithstanding the existing undeveloped nature of the Fassaroe area and the relatively poor connectivity between the site and the town centre of Bray, the fact is that the site identified is within the boundary of the planned extension to Bray and Bray itself is described as the primary settlement in the county. The development of this site for a hotel would comply with policy T11. The Tourism objective under the Bray MDLAP would allow also for a hotel.

### 7.3.2. *Site context and phasing*

There is an uncertainty about the timescale of delivery of the public infrastructure (Luas and roads) which are stated to underpin the development of the Fassaroe area as envisaged in the LAP. It was in the context of the extension of the LUAS that the zoning for the area (formerly employment-related) was amended to provide mainly for residential development and for high-density mixed-use employment at Fassaroe.

In relation to the emerging pattern of development in this area the applicant's submission refers to the planning policy context at the Fassaroe Interchange and in particular to the fact that the lands further to the west, north-west and north are zoned for a very extensive settlement providing for large-scale housing and employment and therefore the setting of the site is due to change significantly in the coming years according to the adopted plan.

The appellant refers also to the Bray Municipal Local Area Plan, which shows that the entire application site is zoned for tourism development with a hotel acceptable the application site and the entire St Valery's landholding located within the settlement boundary of Bray. The first party states that it is even more explicit in the LAP that Bray will expand to a very significant extent and will incorporate large-scale housing and employment in the area west of the N11 and the hotel will then be seen against the backdrop of a substantial new housing and employment development.

I consider that while a hotel is acceptable in principle, the clear phasing policy in the LAP is not met. This is an isolated site. While it is on the edge of the national road where there is a bus route in operation the site would not comply with the phasing requirements and in particular the requirement to avoid 'leapfrogging'.

Further the scale of the development in the context of the existing landscape warrants careful consideration. The decision of the Board to refuse permission for the Cosgrave scheme, the associated legal challenge together with the Local Area Plan and National Development Plan combined present a level of uncertainty regarding the timescale within which this area will undergo substantial transformation. The Municipal Plan framework relating to phasing requires a sequential approach.

While the appeal statements rely heavily on the likely emerging character of this area, I consider that the existing landscape character and pattern of development is also highly relevant to the assessment of this case. Noteworthy features include the location of the site at the southern edge of the Fassaroe area, adjacent an open space zone to the west and in an area of low density development, the designation of St Valery's as a protected structure and the position of the site within a wooded corridor and at the point of entry to the county of Wicklow, which was referenced in the Board's previous decision. The location at the edge of Fassaroe Urban Area as defined on Map 1.1 of the County Development Plan is another important, if not over-riding objective.

Before departing from the matter of principle of the development, I refer to the appellant's statements relating to the nature of the development as a specialised hotel, which will attract cyclists. This is described in detail in the applicant's submission. I consider that the applicant describes a legitimate niche market. The

proposed development has the backing of cyclists who have a demonstrated track record at international level. The extent to which any of this is relevant may be considered by the Board. My opinion is that it should not be given undue regard. Further, I consider that notwithstanding the case made in relation to supporting tourism and introducing a new market, these matters are of marginal relevance to the planning considerations of the proposed development in this case. The site is zoned for Tourism and it would satisfy a range of demands from different customers not only cyclists.

Finally, I refer the Board to third-party submissions, which indicate that the use of the development as a specialised facility targeting the sports market may not be viable and to the general concern outlined in some other submissions that the proposal may constitute a Trojan horse for an apartment scheme. In this regard there is reference to the layout which is described as constituting an apartment style facility. I note that there is limited provision within the development for functions. I do not consider that it is reasonable to describe the development as anything other than a hotel and in this regard I refer to the development plan definition which specifically includes apart-hotel schemes.

7.3.3. *Conclusion* I consider that a hotel is acceptable in principle under the planning policy. However the development also has to be considered in the context of the phasing policies and the emerging pattern of development in this area which is unclear at present. The requirement under the MDLAP for a sequential approach is not met.

#### 7.4. **Design, impact on architectural heritage and landscape and visual amenities**

##### 7.4.1. *Design and scale of hotel*

Regarding the design of the proposed development, it is the position of the first party that the current proposal comprises a significantly modified scheme in terms of its overall scale, massing and height. Furthermore, the detailed consideration given to landscaping including the green wall, sedum roof and the mature tree planting along the N11 is stated to further soften visual impact and mitigate adverse impacts. I refer the Board to the statements made in support of the proposed development which reference it in the context of the emerging area.

Regarding the intrinsic merits of the design, I consider that it is of good quality design and finish. The prominent position of the site at the entry to the county was noted in the Board's Direction, which referenced also the location of the site in the foreground of the protected structure. I consider that these are of relevant to the current appeal. In this regard the issues of concern may be identified as being related to the protection of the sylvan character of the area and the setting of St Valery's, which can be assessed in terms of height and scale, elevation treatment, site coverage and tree retention and the visibility of the building from key points. I do not have the full drawings of the previous scheme at the time of writing but the photomontages, which I consider to be the relevant necessary particulars from that case are on file. It is the merits of the current proposal which fall to be assessed by the Board in any event.

The proposed development at just over 14 m above ground level and with a roof level of 32.8 mOD would not in itself be described as excessive. Nevertheless, the proposed development does comprise a substantial development, which in my opinion does not constitute a radical departure from the previous scheme. The application drawings show that the main parapet level (excluding plant) is not dissimilar to that of the upper levels of the footbridge across the dual carriageway. It would be below the level of the previous proposal and of marginally reduced floor area.

I consider that the proposed development would read as a large single structure, notwithstanding that the bulk of the hotel is broken into two modules. The proposed development does not in its design or layout reflect the rural area and along the national road corridor as it exists it would constitute an isolated and urban style feature in contrast to the relatively low density, low rise and undeveloped or wooded lands. Notwithstanding the location of the site within the defined urban area, I have serious reservations regarding the character of the proposed development due to its scale and form, which have to be considered in the context of the existing pattern of development. The site is removed from the location of the Cosgrove proposal and would remain separated, including in visual terms from that development. I consider that its scale and its site coverage would be out of character with the existing area to a significant extent.

I also consider that even on realisation of the Masterplan, the development would be out of keeping with its location, with the low density development and the sylvan

character which exists to the north and south and which would largely be maintained under the plan. From inspection I formed the opinion that the zone of visual influence of the site does not overlap with the planned development at the interchange to the north. As such I consider based on the available evidence that the applicant's reference to the emerging pattern of development at Fassaroe, while not without some relevance is not at the same time a factor which supports and justifies a development of this scale.

The observer references the screening of the site by trees as a poor basis for approaching the site planning and design. I note that the acoustic screen together with the eastern façade incorporate measures to integrate the development into the landscape through screen planting. These measures are well considered in general but the 4m high structure along the full length of the eastern boundary would be dominant pending planting maturing and taking into account the proposed widening.

I conclude that the development, by reason of its height and scale including the high site coverage would be out of character with the area. I consider that the proposed development for this reason should be refused permission.

#### *7.4.2. Impact on views to St Valery's*

The submission of Brady Shipman Martin is that intervening tree cover is such that the house is not easily seen in views from the N11 as a local topographic feature. I agree with this assessment. There are views of the house just north of the pedestrian bridge, which comprise a minor glimpsed view of the house partly hidden by trees. Travelling further north this view quickly disappears. I agree with the conclusion of BSM that the house is not visually significant from the N11. Any existing view is momentary and the loss of this view is not therefore significant in terms of landscape and visual amenities. Motorists would not be described as sensitive receptors in any case.

There are a number of residential properties in this area from which there would be views to St Valery's. While the proposed development is likely to result in impacts on and possibly loss of direct views to St Valery's, I consider that due to the limited number of receptors this is not a significant issue in terms of the decision on this case.

Regarding the impact of the development on views to St Valery's, this is not a matter on which I will place significance in terms of the diminution of the quality of the landscape as viewed by motorists and the low number of local residents. I do consider that the existing landscape context contributes greatly to the setting of the building and that it is appropriate that any proposed development be designed to respect the setting of the protected structure. However, in terms of landscape and amenity impacts my overall conclusion is that house is not dominant in views and to the extent that the development would impede views to St Valery's from the public realm, this is not highly significant, does not warrant a refusal of permission in itself but is a contributing adverse factor in terms of landscape and visual impacts.

#### *7.4.3. Impact on architectural heritage*

I now refer to the impact on the architectural heritage of the protected structure St Valery's. I address mainly the impact of the development on views from the house.

The conservation assessment report prepared by Slattery Conservation Architects concludes that there will be no impact on the historic fabric of the structure, which is valid. It acknowledges that the subject site is within the demesne and curtilage of St Valery's. In terms of the views from the house to the proposed development the conservation assessment refers to the position of the development between the Dargle River and the N 11 dual carriageway, stating that the development takes account of the natural sloping topography and its wooded areas to gain a good measure of concealment from the main house.

The report goes on to say that the proposed noise barriers and tree planting along the eastern boundary will provide additional screening from the N11 and the presence of the proposed buildings may serve to reduce airborne traffic sound from the N11. The current views and vistas from the main house will be unaffected by the development, it is stated and on that basis the proposal can be recommended. It will not entail any significant alteration the immediate setting of the structure or to the main sightlines to and from the protected structure and character and setting will not therefore be impacted upon. Some section drawings are presented which show the relationship in terms of the height of the structures.

I agree that the development does not significantly alter the setting of the protected structure. I consider that it is less evident that the main sightlines to or from the



building and its character and setting will not be impacted. In the landscape section of this report, I did not conclude that the extent to which the proposed development would impede views to the protected structure would be a significant adverse impact. My conclusion in the absence of a more detailed assessment by the conservation architect is that the view from the house to the Little Sugar Loaf is the key characteristic defining the layout of the demesne and connecting the house with its landscape setting.

Regarding the impact of the proposed development on the setting of St Valery's, I consider it relevant to note that the house is orientated so that the view to the Little Sugar Loaf is to the right hand side. I consider that the conservation assessment report presented by the applicant fails to assess the importance of the building, of its role in the landscape but particularly the importance of the view from the primary room in the building to the surrounding landscape and how that is affected by the proposed development.

The report by Slattery Conservation Architects does include an assessment of views from the terrace. This image is annotated to show the outline of the proposed development. On inspection of the site I noted that from the interior and the steps of the house I was able to see part of the ground level of the site. I formed the impression that a significant proportion of the southern half of the development at this location will be visible in its entirety. To the extent that this landscape change would detract from the architectural heritage requires more detailed conservation assessment.

In conclusion, I am not convinced by the statements in the conservation assessment that the main sightlines to and from the protected structure are unaffected by the proposed development. I consider that this matter requires further assessment based on my inspection of the site and of the interior of the building.

This matter was clearly identified as being of significance in the Board's previous decision and while there is a reduction in the height of the proposal, the assessment of the impact of the development of the protected structure is incomplete in my opinion.

#### *7.4.4. Tree removal*

Regarding the trees along the R117 those being removed are clustered as a group at the site entrance and removal of these trees will not alter the sylvan character. The curvature of the site road will minimise the visual loss of trees as viewed from the R117. The wooded character will largely be retained. In addition new planting is proposed. Photomontage view number 5 refers. The trees to be removed include 3 no. trees, which are recommended for removal due to their condition and 8 no. which are deemed to be unsuitable for retention due to their condition.

I do not consider that the extent of tree removal warrants a refusal of permission.

#### 7.4.5. *Conclusion*

My conclusion is that the Board's previous refusal for reason of scale and bulk and the incongruous and obtrusive nature of the development remains equally valid to the proposed development. Secondly, I am not convinced that the development would not significant detract from the architectural heritage of protected structure.

### 7.5. **Traffic**

#### 7.5.1. *Sightlines*

In terms of the operational traffic aspects of the development the Traffic Impact Assessment refers to the previous refusal of permission for a reason related to endangerment of public safety and states that these problems are overcome in the current appeal by the relocation of the site entrance further to the west.

The applicant's submission is that unobstructed sightlines of 70 m are available from the proposed access and as such that the requirements in the TII technical document *Geometric design of major/minor priority junctions* are met. I accept the submission of the applicant that due to the relocation of the site entrance further to the west there are adequate sightlines to enable egressing vehicles to turn right in the direction of Enniskerry.

#### 7.5.2. *Parking and trip generation*

In relation to the proposed parking provision, the TIA refers to the provision of 1.13 parking spaces for each of the hotels 141 bedrooms, noting that this is a significant increase over the 1.01 space bedroom provided in the previous development proposal. The nature of the development is such that major spaces such as function

rooms are of quite limited floor area, as might be considered appropriate in this rural area. Having regard to the provisions of the development plan, the location of the site and the nature of the proposed development I consider that the provision to be made for parking is acceptable.

In terms of trips which will be generated from the proposed development this is addressed section 5 of the TIA and the operational assessment is that the proposed development will have a minimal impact on the local road network. Insofar as this relates to the impact of traffic generated by the development and use of the existing road, I accept that statement.

Regarding modal choice a preliminary mobility management framework plan is presented in section 9. The site is stated to be accessible to high quality public transport including by bus and by DART from Bray which is 3km away along Herbert Road. The development would incorporate facilities and financial measures to promote staff cycling and a number of measures are listed to encourage use of public transport by staff and guests. The Board may wish to require by condition that the mobility management plan be finalised.

#### 7.5.3. *Conclusion*

In terms of the operational phase traffic and transport aspects of the development I consider that it is acceptable.

### 7.6. **Water quality, ecology and related matters**

I consider that the potential for adverse ecological impacts arising from the proposed development relate primarily to possible impacts on surface water and groundwater quality and flow and to tree removal. A specific Aquatic Ecology Report has been submitted. This identifies the Dargle as a designated salmonid river which supports Brown trout and has a nationally significant population of Sea trout and a significant and biologically valuable population of Atlantic salmon. Lampreys have been recorded as well as European eel. Based on river habitat assessment undertaken for the report the potentially affected sections of the Dargle and the Cookstown/Glencullen rivers are deemed likely to constitute significant spawning and nursery areas for sea trout and salmon and a significant habitat for adult and

juvenile Brown Trout. The river corridor is used by species which are dependent on fish and a high quality environment including otter and kingfisher.

#### 7.6.1. *Construction phase*

The development involves construction of a bridge across the Dargle, construction of a large basement and working close to the river. The potential adverse impacts on fisheries and water quality in the construction phase could derive from pollution and / or effects on base flow.

Potential water quality impacts in the construction period are presented in overview in section 4.1 of the Aquatic Ecology Report. In the absence of mitigation the construction including the basement and the crossing of the river by the bridge has the potential to cause negative impacts on the aquatic environment. These would include pollution of watercourses with sediment, nutrients and substances including concrete and fuels. Loss of riverbank habitat and potential spread of invasive species onto the site and the river channel are also relevant. The significant potential aquatic habitat loss and obstruction of fish movement are mitigated by avoidance of works in the channel.

Regarding the mitigation of potential construction phase impacts the report lists a range of measures which will minimise potential pollution by suspended solids including avoidance of works within 10m of the river, limit of 25mg/l of suspended solids runoff, retention of vegetation and regeneration, retention of an area of land to accommodate sediment control measures and timing of works. Similarly, relatively standard protective measures are identified to reduce and prevent other construction generated pollution including concrete and nutrients. Supervision by an Ecological Clerk of Works is recommended and responsibilities outlined in detail.

In terms of the potential impacts arising from basement construction and the effect on base flow in the Dargle, this is addressed in the appeal documentation of Cronin Sutton. The basement involves installation of a sealed secant box structure. Once interlocking secant piles are installed dewatering of the groundwater will commence and there will be no hydraulic linkage between the groundwater in the basement area, the external groundwater or the river. I consider that subject to prior agreement with the planning authority on detailed methodology significant dewatering and effects on baseflow are unlikely.

I consider that the measures outlined in various application submissions are suitable and adequate to prevent significant water quality impacts and consequently to protect the environment. The comments of IFI refer to requirements which will arise in relation to the construction of the bridge. I consider that neither the nature of the development or the site characteristics raise any particular reasons for concern in terms of water quality and related fisheries impacts. The nature of the recommendations of IFI are relatively standard and can be addressed by condition. I draw the Board's attention only to one of these matters which is that the maximum winter water table be clarified and which references controlling, treating and disposing of groundwater encountered during construction. Having regard to the extent of lands in the control of the applicant, the flat topography and geology I consider that there is no reasonable likelihood that this will be a significant issue in this case. In my opinion the attachment of a condition requiring agreement with the planning authority of a finalised CEMP is sufficient response.

#### 7.6.2. *Operational phase*

In the operational phase the control of surface water outfall to the river and measures to ensure an effective and robust treatment system for wastewater as well as standard measures relating to groundwater protection will be required. I consider that all of these matters could be addressed by condition in the event of a grant of permission. I refer the Board in this regard to the reports of IFI and the Senior EN, which together with the applicant's submissions provide a comprehensive basis to address potential adverse water quality effects. As such I am satisfied that the proposed development is acceptable in terms of effects on water and aquatic ecology.

In the event of a grant of permission I refer the Board also to the conditions of the Executive Scientist, which includes measures related to the construction phase and the protection of fisheries. The report also recommends that that all recommendations from the AA Screening report and EclA be employed and incorporated into an Environmental Operating Plan to be suitably overseen and implementation of measures to be documented. I support the recommended conditions and consider that these provide the basis for ensuring protection of water quality in the construction and operation phases.

Subject to the above I consider that the development would be acceptable in terms of its impact on water quality and therefore on ecology, which is primarily connected with the river environment.

#### 7.6.3. *Tree removal*

Regarding potential adverse ecological impacts arising due to tree removal this is addressed in the EclA. Many of the trees on and in the vicinity of the site offer high roosting potential for bats and five species were detected in survey. No roosts were confirmed and the report in section 6.8 sets out a range of measures relating to tree felling, lighting and bat boxes which are protective of bats. I consider that this matter is adequately considered in the application submissions. In addition I note that in terms of wider ecology the number of trees to be removed is minimised and the proposed replacement planting can be addressed by detailed planning conditions.

7.6.4. *Conclusion* I conclude that the development after mitigation and subject to conditions is acceptable in terms of its ecological impacts.

#### 7.7. **Archaeological impact**

In the south eastern corner of the site adjacent the footbridge is an archaeological features, which is described by the observer as a Neolithic burial mound. The available report of DARRGHA refers to a need for excavation of test trenches and possible establishment of a buffer area between the monument and the proposed development works to ensure the continued preservation of the recorded monument. The report highlights that a refusal might still be recommended or further monitoring or excavation required. By way of unsolicited additional information presented to the planning authority an Archaeological Assessment report is available – that supersedes the report of the prescribed body.

The report records the results of extensive site testing which took place at the site. This comprised a series of test trenches (9 no. – between 7m and 118m in length) across the site. Nothing of archaeological significance was identified in the course of archaeological testing. That result is in keeping with previous test excavations undertaken in the vicinity of the foot bridge. I accept the conclusion that no further archaeological mitigation is deemed necessary in association with the development. I consider that the items raised in the report of DARRGHA are adequately resolved

and there is no indication based on the available information that the proposed development would adversely affect archaeological heritage. As a precautionary measure and in the context of the recommendation of DARRGHA and the timing of receipt of the archaeological assessment, I recommend that the Board attach a condition relating to monitoring in the event that permission is granted.

## 7.8. Noise

Ambient daytime noise levels are in excess of 60dB in the general area and in excess of 50dB at night based on noise mapping for the purpose of the Environmental Noise Directive. Measured noise levels at the site are attenuated by an existing concrete block wall and an embankment but remain high. I consider below the construction phase and operational phase noise impacts.

### 7.8.1. Construction phase noise

During the construction phase the evidence from the NIR is that notwithstanding the nature of the ambient noise environment certain phases of the works programme would result in potential noise levels in excess of the measured ambient noise. The particular sources of noise which would be of concern are use of power-tools, vibration of cement foundations or piling works. An effect on the nearest noise sensitive receptors including houses 105m from the site and on ecology could be anticipated according to the NIR.

The NIR identifies in section 4.4 a list of mitigation measures which relate to construction methods, timing of activities and noise monitoring along the river. I consider that the conclusion that subject to mitigation there would be minimal noise nuisance in the construction phase is not clearly demonstrated. I note that the NIR does not set out any best practice measures relating to the type of piling for example. There is no detailed consideration of the likely sound pressure levels from specific equipment or the reductions to be achieved by the listed mitigation measures. I note however, that the area is very sparsely populated and that there are standard best practice approaches to limiting noise in the construction phase.

Regarding the potential for adverse effects on local wildlife the presence of kingfisher, otter and other species is noted. I accept the NIR comments that species present would be acclimatised to high noise levels. I note that the EclA which was

prepared by an ecologist following survey and desktop research does not in fact identify noise as a potential concern but does note the use of river by otter and kingfisher. Any relevant mitigation required would relate to the construction phase and in particular to working alongside the river and the high noise generating activities could be addressed by condition in my opinion.

#### 7.8.2. *Operational noise*

In the context of the high levels of noise in the area, the potential for operational phase noise is largely limited to fixed plant noise and delivery vehicles specifically refrigerated transporters. I consider that the location of fixed plant either internally or at the eastern side and the distance from the loading bay to the nearest houses largely overcome the potential for adverse effects. My only reservation on this matter relates to the potential for deliveries outside of the daytime hours (in the context of the location of the delivery dock) but this could be addressed by condition.

The proposed development in response to the background noise levels includes a timber barrier of height of 4m above the road, which would mainly benefit the east of the site. It is considered that the western side of the site would benefit in acoustic terms by the screening afforded by the proposed hotel. I am satisfied that the future short-term occupants of the hotel would consider the acoustic environment acceptable.

I conclude that the development is acceptable in terms of noise impacts. I consider that subject to a standard construction phase noise control condition and a more specific condition relating to working near rivers in the bird breeding season, the development would be acceptable in terms of the construction phase noise impacts. Regarding the protection of birds it may be appropriate to restrict particularly noise generating activities to outside the breeding season, where possible.

#### 7.9. **Other issues**

I consider that the development is acceptable in terms of flood risk on the basis that the buildings are located in Flood Zone C.

I note the concerns raised in the observation and in the third party submissions to the planning authority which include reference to impact of light pollution and loss of privacy. The proposed development would change the landscape character and give



rise to a level of usage which has not been experienced on the site previously. However, the site is within the development plan boundary. Having considered the nature of the development and the design and context, I do not consider that the proposed hotel, which is over 100m from the nearest dwellinghouse would adversely impact on residential amenities to a degree which would warrant a refusal of permission or significant revisions to the proposal.

I note the third party references to bird of prey and to red squirrel. I consider that the EclA which has been undertaken by an experienced and local ecologist is acceptable.

I consider that the validity of the application in terms of the publication of notices including the site notice is a matter for the planning authority.

## **8.0 Appropriate Assessment**

The application is accompanied by a Screening for Appropriate Assessment which is included as a separate report dated 11<sup>th</sup> November 2016.

The location of the relevant Natura 2000 sites is indicated in Figure 3.1 of the report. This screening assessment concludes that having regard to there being no Natura 2000 sites located either within or directly adjacent to the site at St Valery's and the lack of hydrological connection between the site and the thirteen identified Natura 2000 site within a 15km radius and the nature of the project and subject to standard construction measures in relation to protection of water quality, there will be no negative impacts on the qualifying interests or species.

I have considered the contents of the AA Screening Report. It highlights in Table 3.1 the relevant sites and the Conservation Objectives. I note that it is not strictly correct to report that there is no hydrological connection between the proposed development site and the Natura 2000 sites, as there are connections to a range of coastal sites in the vicinity.

Nevertheless I agree with the conclusion of the AA Screening report having regard to the proposals for the construction phase and for foul and surface water collection and disposal. I also refer to the conservation interest, which are not to be found in the immediate vicinity of the site and which are not highly sensitive to the water

quality changes which may result. In this regard I am taking into account the effect of dilution.

In conclusion, having regard to the nature and scale of the proposed development and to the separation of the application site from European sites, to the nature of the qualifying interests and conservation objectives of the European sites and to the available information as presented, it is my opinion that the proposed development alone or in combination with other permitted plans and projects, is not likely to have significant effects on any European site having regard to the conservation objectives of the relevant sites.

## **9.0 Recommendation**

I recommend that the decision of the planning authority be upheld and that permission be refused for the reasons and considerations below.

## **10.0 Reasons and Considerations**

1. Under TR18 and TR19 of the Wicklow County Development Plan 2016-2022 it is an objective to support major road improvements by reserving corridors free of development and to co-operate in the upgrade of existing interchanges on the national routes and where appropriate to restrict development adjacent to interchanges to provide for their future enlargement. The site is within the corridor of the M11/N11, which has been identified as requiring upgrade including in relation to road width and junction upgrades. It is considered that development of the kind proposed would be premature pending the determination of a road layout for the area or any part thereof and would materially contravene policies T18 and T19 of the development plan.
2. Notwithstanding the Tourism zoning of the site, the Board considered that the proposed hotel building in view of its scale and character, would be contrary to the provisions of the Bray Municipal District Local Area Plan 2018-2024, having regard to the pattern of development in the area. In this regard the Board noted the policies of the plan, which require that the phasing of development shall generally be in accordance with a sequential approach and avoid prior development of more peripheral sites. The Board considered that

a development of this nature would constitute an incongruous feature in the landscape.

3. Having regard to the scale and layout of the proposed hotel development, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the proposed development would ensure the protection of St Valery's, a protected structure. In particular the Board considered that the impact on the setting of the structure and on views from the house to the surrounding landscape might be adversely impacted, which would significantly affect the character of the protected structure.

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Mairead Kenny  
Senior Planning Inspector  
24<sup>th</sup> July 2018