



Development

The construction of a first phase of development consisting of the following:

- A four storey nursing home building, accommodating 205 No. bedrooms, ancillary resident and staff facilities, and a plant area at roof level, with a total GFA of 10,440 sq.m., over a single level basement with a GFA of 2,228 sq.m., which includes plant, storage and car and cycle spaces. The proposal includes internal courtyards and terrace areas, and adjacent landscaped amenity space.
- A four storey office building, including a ground floor café (GFA of 175 sq.m.) and plant area at roof level, with a total GFA of 2,857 sq.m.
- Internal access roads, and parking comprising 107 No. surface car parking spaces, 38

No. basement car parking spaces, 5 No. motorcycle spaces and 141 No. cycle spaces. Vehicular access will be via the existing entrance from Vevay Road.

- An ESB substation, all associated site and infrastructural works, including removal of existing hard surfacing, public lighting, landscaping and boundary treatments, foul and surface water drainage, including attenuation tanks, all on a site area of c. 1.66 ha.

Location	Vevay Road & Boghall Road, (the former Dell site), Bray, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	18/1181
Applicant(s)	Avonvard Limited
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	First Party v. Conditions Third Party v. Decision
Appellant(s)	Avonvard Limited Paul & Anne Costello

Observer(s)

None.

Date of Site Inspection

6th September, 2019

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site takes in part of the former 'Dell' manufacturing plant on the south-eastern outskirts of the built-up area of Bray, Co. Wicklow, approximately 2.0km south of the town centre, and is located to the south of Boghall Road and to the west of Vevay Road (the R761 Regional Road). It is bounded by the Wilton Hotel and the 'Woodlands' office scheme to the south with the lands to the immediate west within Beechwood Close comprising an IDA Business Park used for a variety of industrial / commercial purposes, including a building suppliers, assorted wholesalers, manufacturing, and offices. Further north, beyond the confines of the wider Dell lands and on the opposite side of Boghall Road, the prevailing pattern of development is characterised by conventional housing whilst the lands across from the site, and to the east of Vevay Road, are similarly primarily residential in nature (i.e. the Briar Wood housing scheme). In a wider context, the site is situated to the northwest of Bray Golf Club and to the north of the Kilruddery Estate with the lands further east rising towards Bray Head
- 1.2. Access to the wider site is presently available via Boghall Road and Vevay Road. Boghall Road follows an east-west alignment to connect with Vevay Road to the east by way of a signalised junction and includes dedicated footpaths and cycleways on both sides of the carriageway in addition to assorted traffic calming measures such as speed ramps and road narrowing. However, whilst the wider Dell lands are accessible via an existing entrance arrangement from Boghall Road, the subject site does not extend to include same. Vevay Road generally follows a north-south alignment and extends southwards from its junction with Boghall Road to a roundabout with Southern Cross Road which in turn provides access to the N11 National Route. The subject site is directly accessible from Vevay Road via an existing four-arm roundabout (shared with the Briar Wood estate).
- 1.3. The site itself has a stated site area of c. 1.66 hectares, is irregularly shaped, and comprises an expanse of car parking, hardstanding areas, and service roads associated with the former use of the now vacant Dell manufacturing facility. It amounts to a brownfield site and is in a semi-derelict / unkempt condition. The site boundaries are generally defined by a combination of dense planting and fencing.

2.0 Proposed Development

2.1. The subject proposal, as initially submitted, involves the construction of a first phase in the redevelopment of the wider landbank previously occupied by the Dell manufacturing plant and consists of the following:

- A four-storey nursing home accommodating 205 No. bedrooms with ancillary resident and staff facilities (gross floor area: 10,440m²) with a single level basement area (gross floor area: 2,228m²) providing for plant, storage, and car & cycle parking. The design includes internal courtyards and terraced areas in addition to landscaped amenity spaces.
- A four-storey office building with a café unit at ground floor level (gross floor area: 2,857m²).
- Internal access roads and car parking etc. with vehicular access via the existing entrance arrangement from Vevay Road.
- Associated site development works, including drainage services, lighting, landscaping, and boundary treatment.

2.2. Amended proposals were subsequently submitted in response to a request for further information and the principle changes detailed therein can be summarised as follows:

- The redesign of the proposed office building to provide for an 'L'-shaped construction with a three-storey element fronting onto Vevay Road and a four-storey construction set back behind same (floor area: 3,354m²).
- The omission of the ground floor café and 'town hall' proposal from within the office building and its replacement with additional office floorspace.
- An increase in the amount of car parking for the office building from 67 No. spaces to 97 No. spaces.
- Revisions to the nursing home basement level car park to provide for 51 No. spaces and associated ancillary services (the nursing home will be allocated 68 No. spaces in total as per the original submission).

- 2.3. It is anticipated that Phase 2 of the redevelopment of the wider 'Dell' site will encompass a combination of additional office / employment uses and a residential component of c. 150 No. housing units.

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. Following the receipt of a response to a request for further information, on 15th April, 2019 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 16 No. conditions. These conditions are generally of a standardised format and relate to issues including construction management, services, road design, landscaping, archaeological monitoring, and development contributions, however, in the context of the subject appeals, I would suggest that the following condition is of particular note:

Condition No. 4 - Prohibits the occupation of the nursing home until such time as the office block has been constructed and is available for use.

3.2. **Planning Authority Reports**

3.2.1. *Planning Reports:*

Reviews the proposed development in the context of Specific Local Objective: SLO4 and initially raised concerns focussing on the height of the four-storey office block relative to nearby housing, the need to ensure that the nursing home would be delivered in conjunction with the overall employment floorspace requirement for the wider site as set out in the Local Area Plan, and the implications for the redevelopment / phasing of the remaining 'masterplan' / SLO4 lands. Further areas of concern included the differing design formats for the office block and nursing home, the adequacy of the car parking arrangements, the inclusion of a café unit within the office block, and the proposal to culvert the entirety of the Newcourt Stream on site.

Following the receipt of a response to a request for further information, a final report was prepared which noted the amended design for the office block (with its reduction in height) and accepted that the delivery of the additional employment space offered

by the office element of the proposal could be ensured by way of condition in the event of a grant of permission. It was also acknowledged that the revised 'masterplan' proposals could potentially satisfy the requirements of SLO4. The report thus concluded by recommending a grant of permission, subject to conditions.

3.2.2. *Other Technical Reports:*

Bray District Engineer: States that whilst the SUDS proposals, interceptors, and the locations for the silt trap and debris screens on the Newcourt Stream are satisfactory, concerns remain as regards the precise details / design of the silt trap and the proposed trash screen.

3.3. **Prescribed Bodies**

3.3.1. *Irish Water:* No objection, subject to conditions.

3.3.2. *Transport Infrastructure Ireland:* No observations.

3.3.3. *Department of Culture, Heritage and the Gaeltacht:* States that whilst there are no Recorded Monuments within the confines of the application site, there is evidence for settlement in the area during prehistoric times. Accordingly, in the event of a grant of permission, it is recommended that a condition be imposed requiring pre-development archaeological testing.

3.4. **Third Party Observations**

3.4.1. A total of 14 No. submissions were received from interested third parties and the principle grounds of objection / areas of concern raised therein can be summarised as follows:

- The design, scale, density and height of the proposal is out of character with the surrounding pattern of development and will be visually obtrusive.
- Detrimental impact on the residential amenity of nearby properties by reason of overlooking, overshadowing, overbearing appearance, visual intrusion, noise, light spillage and construction works.
- Increased traffic congestion / traffic safety concerns.
- The inadequate capacity of the surrounding road network to accommodate the proposed development.

- Surface water management issues / the potential for the exacerbation of downstream flooding.
- The possible loss of water pressure in the area.
- Concerns as regards the adequacy of existing infrastructure to accommodate the increase in population density.
- The need to consider the implications associated with the development of the wider (Dell) site area / objections to the phased development of the site.
- Non-compliance / contravention of the requirements of SLO4 of the Local Area Plan.
- The conflicting provisions of SLO4 of the Local Area Plan.
- A nursing home is not a high-intensity employment use and is effectively residential in nature.
- The loss of mature trees / planting on site.
- The obstruction of views towards Bray Head & the mountains from Bray town.
- The current predominance of unoccupied office space in the area.
- The adverse impact of light pollution on local biodiversity, including nocturnal species within Briar Wood and the Kilruddery Estate.
- Inadequate open space / amenity provision for the proposed nursing home.

4.0 Planning History

4.1. *On Site:*

- 4.1.1. There is an extensive planning history pertaining to the former use of the property as a manufacturing facility operated by Dell Direct / Dell Computers.

5.0 Policy and Context

5.1. **Wicklow County Development Plan, 2016 – 2022:**

Chapter 5: Economic Development

Section 5.5: Objectives for Economic Development (incl.):

EMP2: To normally require new employment generating developments to locate on suitably zoned or identified land in settlements. Proposals in settlements with no zoning plan should be assessed on the basis of their individual merits, taking into consideration the objectives set out in this chapter of the plan and all other matters pertaining to the proper planning and sustainable development of the area, including ensuring that the proposal is appropriately sited in a location so that it enhances, complements, is ancillary to or neutral to the existing land uses in the area. All other proposals for employment generating developments outside of settlements will be assessed on the 'Objectives for Wicklow's Rural Economy'.

EMP3: To protect employment zoned land from inappropriate development that would undermine future economic activity or the sustainable development of such areas.

EMP7: To encourage the redevelopment of brownfield sites for enterprise and employment creation throughout the County and to consider allowing 'relaxation' in normal development standards on such sites to promote their redevelopment, where it can be clearly demonstrated that a development of the highest quality, that does not create an adverse or unacceptable working environment or create unacceptable impacts on the built, natural or social environment, will be provided.

Chapter 8: Community Development:

Section 8.3.2: Health, Care and Development:

CD14: To facilitate the development of healthcare uses at suitable locations, in liaison with the appropriate health authorities. Health facilities will be considered at all locations and in all zones provided that:

- the location is readily accessible to those availing of the service, with a particular presumption for facilities in towns and villages and in areas of significant residential development. Isolated rural locations will not generally be considered except where it can be shown that the nature of the facility is such that demands such a location;

- the location is generally accessible by means other private car, in particular by public transport services, or by walking / cycling; and
- the location is accessible to those with disabilities.

CD15: To facilitate the establishment of new or expansion of existing hospitals, nursing homes, centres of medical excellence, hospices, respite care facilities or facilities for those with long term illness.

CD17: To provide for new or extended residential care facilities for the elderly at the following locations as shown on maps 8.01-8.02:

- Ballinahinch Lower, Newtownmountkennedy (c. 8ha as shown on Map 8.01)
- *Killickabawn, Kilpedder (c. 6ha as shown on Map 8.02)*

CD18: To facilitate the development and improvement of new and existing residential and day care facilities throughout the County.

CD19: Residential and day care facilities shall in general be required to locate in existing towns or villages and shall be located close to shops and other community facilities required by the occupants and shall be easily accessible to visitors, staff and servicing traffic; locations outside of delineated settlement boundaries shall only be considered where:

- the site is located in close proximity to a settlement and would not comprise an isolated development;
- there are excellent existing or potential to provide new vehicular and pedestrian linkages to settlement services; and
- the design and scale of the facility is reflective of the semi rural location.

Appendix 1: Development and Design Standards: Section 6: Community Developments and Open Space:

Nursing home & 'step down' care developments:

- Nursing home developments and facilities for the elderly shall be located close to local amenities and where adequate pedestrian infrastructure has been or is capable of being provided;

- Facilities shall be so laid and designed to meet standards and obligations specified in Nursing Homes (Care and Welfare) Regulations, (1993) and the Building Regulations, in particular Part M.

5.2. **Bray Municipal District Local Area Plan, 2018 – 2024:**

Land Use Zoning:

The proposed development site is zoned as ‘*MU: Mixed Use*’ with the stated land use zoning objective ‘*to provide for mixed use development*’.

Other Relevant Policies / Sections:

Chapter 2: Overall Vision & Development Strategy:

Section 2.2.4: Economic Development and Employment:

Economic Development and Employment Strategy for Bray MD (incl.):

- To ensure sufficient zoned land is available in appropriate locations capable of facilitating the development of appropriate employment opportunities in accordance with the provisions of the County Development Plan. Maintain existing, developed employment lands and resist changing the zoning or use of such sites, particularly to residential uses, except where local conditions can justify same. In such limited circumstances, employment providing development may still be required as part of the package of development including residential.
- To target that at least 50% of the required jobs growth in any town shall be in the town centre or existing developed employment sites and thereafter, to zone lands for new employment creation at the most optimal locations.
- To prioritise the existing town centres as the core location for more intensive economic activity and job creation.

Chapter 3: Residential Development:

Table 3.1: Bray & Environs: SLO4 – Dell: 150 No. Potential Units

Chapter 4: Economic Development & Employment:

Section 4.1: Priority employment areas:

Bray: Existing employment areas on Bray SCR, Boghall Road and Killarney Road

Section 4.2: Priority industries:

E6: Large-Scale Employment Generating Developments:

It is the objective of the Council to promote and facilitate the development of large-scale employment generating developments, including industrial, knowledge, high-technology, office and service based and science space developments, at appropriate locations.

E7: Knowledge, High-Technology and Service Based Industries:

To encourage and facilitate the development of knowledge, high-technology and service based specialist industries at appropriate locations, in accordance with the relevant development and environmental standards, and to support and strengthen the capability and quality of research and development functions in the District. The Council will promote the clustering of these type industries and other inter-related industries.

E8: Office Developments and Small-Scale Service Industries:

To encourage and facilitate the provision of office developments and small-scale service industries at appropriate locations. The most suitable location for local or small-scale office developments and small-scale service industries is generally in above-ground floor commercial premises at appropriate locations in town / village centres and neighbourhood centres. The development of these types of uses in neighbourhood centres can reinforce the existing service function of these centres, as well as create new opportunities for local employment in locations that are accessible to residential areas. The Council will permit office development in appropriate employment zoned locations that are deemed suitable with regard to sustainable traffic and land use considerations.

Chapter 10: Key Development Areas:

Specific Local Objectives (SLO):

The purpose of the SLO is to guide developers as to the aspirations of the plan regarding the development of certain lands where more than one land use is proposed or the lands are zoned for 'mixed use', in a manner similar to Action Areas, but with the exception that no masterplan will be required to be agreed prior to the submission of a planning application.

SLO 4: Former Dell Site, Vevay Road – Boghall Road:

This site was formerly occupied by computer company Dell and has been vacant for some years. The site is occupied by a large manufacturing building and surrounding grounds and car parking, measuring c. 3.75 ha. While there is a demand for additional housing in Bray, it is not considered appropriate that any and every vacant employment site should be considered for solely residential redevelopment as it is not sustainable to only deliver significant new housing at the expense of employment opportunities.

Given that this site is surrounded by both residential and employment uses, it is considered that a mixed, high intensity employment and residential scheme would be suitable on these lands, in accordance with the following criteria:

- The development shall be delivered at a high density format and in particular, shall have a plot ratio of not less than 1:1. Development of up to 4 storeys may be considered on the western and southern parts of the site, with heights on the northern and eastern parts of the site being more consistent with and respecting the existing amenity of existing residential areas surrounding the site;
- The employment element shall be in a high employment intensity format and low density manufacturing / warehousing will not be considered; on the basis of achievement of a 1:1 plot ratio, a total employment floor space yield of at least 20,000sqm is desired;
- A nursing home and / or health care facility will be considered subject to such use not comprising more than 50% of the employment floorspace requirement

on site and being delivered in conjunction with the remaining employment elements;

- Not more than 40% of total floor space shall be devoted to residential use; depending on the range of unit sizes and formats, at least 150 units is desired (c. 15,000sqm)
- Any planning application shall include a detailed phasing programme that ensures the timely delivery of all elements of the SLO. In order to 'kick start' the development, a first phase of housing, comprising not more than 50% of the total housing programme, may be developed as a 'Phase 1' of the overall development, strictly on the basis of the remaining housing being delivered in tandem with the employment element.

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Bray Head Special Area of Conservation (Site Code: 000714), approximately 800m east of the site.
- The Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately 3.2km northwest of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Avonvard Limited (First Party):

- The Board is requested to omit Condition No. 4 from the notification of the decision to grant permission in that it prohibits the occupation of the nursing home until such time as the office block has been constructed and is available for use.
- The phasing plan submitted with the planning application indicated an intention to construct the nursing home as Phase '1A' in 2019-2020 with the office building to follow as Phase '1B' in 2021-2022. This was provided for information purposes and was based on the applicant's knowledge of market demand, including discussions with a number of nursing home operators who saw a demand for same in Bray in the short term and the greater challenge in securing a pre-let for the office building. It was not suggested that the proposed development should be subject to a condition in respect of phasing as it was considered reasonable to allow the standard five-year duration of the permission to complete the development.
- In response to the request for further information issued by the Planning Authority, a detailed submission was made supporting the proposed phasing arrangements and outlining why the development should be permitted with sub-phases '1A' & '1B' in the context of SLO4 and other relevant aspects of the Local Area Plan. It was noted, inter alia, that the Specific Local Objectives contained in the Local Area Plan were to be used as a guide for developers regarding the development of 'mixed use' sites such as the subject lands and thus there was a degree of flexibility provided with respect to the delivery of the requirements of SLO4 i.e. it offered a 'guide' to the nature of the mixed-use development.
- SLO4 of the Local Area Plan states the following:

'A nursing home and / or health care facility will be considered subject to such use not comprising more than 50% of the employment floorspace

requirement on site and being delivered in conjunction with the remaining employment elements’.

In assessing the subject application, the case planner was of the opinion that the phasing plan did not accord with the aforementioned provision as it was *‘effectively proposing the construction of the nursing home in the absence of any employment floorspace’* which culminated in the imposition of Condition No. 4.

In this respect, the Board is referred to Chapter 10 of the Local Area Plan which relates to ‘Specific Local Objectives’ (SLOs) and states as follows:

*‘The purpose of the SLO is to **guide** developers as to the aspirations of the plan regarding the development of certain lands where more than one land use is proposed or the lands are zoned for ‘mixed use’ in a manner similar to Action Ares, but with the exception that no masterplan will be required to be agreed prior to the submission of a planning application’.*

The sub-phasing of the development as detailed is for information purposes only and reflects the likely approach to construction during Phase 1 of the wider redevelopment of the SLO4 lands. Moreover, there is a degree of flexibility as to the delivery of SLO4 in that it offers a ‘guide’ as to the nature of the mixed-use development ‘envisaged’ for the former Dell site. Therefore, the Board must balance the overall aim of SLO4, which seeks to provide *‘a mixed, high intensity employment and residential scheme’*, against the specific criteria listed.

- The proposed phasing plan is a reasonable response to the SLO4 guidance that requires any planning application to include *‘a detailed phasing programme that ensures the timely delivery of all elements of the SLO’*.
- Both the nursing home and office space proposed are commercial and employment-generating uses which are permitted in principle in accordance with the zoning objective. In this regard it should be noted that the nursing home will provide c. 205 No. jobs (based on the accepted industry average of c. 1 No. employee per bedroom) on a full and part time basis whilst the proposed office floorspace could provide in the range of c. 168-258 No. jobs. Therefore, Phase 1 of the wider development will deliver significant

employment uses on site consistent with the 'mixed-use' zoning and SLO4 of the Local Area Plan.

- The overall masterplan for the wider site proposes the following:
 - Phase 1: A 10,440m² nursing home (sub-phase '1A') and 3,354m² of office floorspace (sub-phase '1B').
 - Phase 2: 151 No. residential units and 9,480m² of office floorspace in two blocks with additional basement car parking etc.
 - Overall: 23,274m² of employment floorspace (office and nursing home use) and 14,435m² / 151 No. units of residential floorspace, resulting in a plot ratio of 1:1. The nursing home floorspace will equate to c. 44.9% of the overall employment floorspace proposed.

Accordingly, Phases 1 & 2 combined will deliver the development envisaged under SLO4 i.e. 20,000m² of employment floor area (with a limit of 50% of same dedicated to the nursing home) and 150 No. residential units at a plot ratio of 1:1.

- Section 7.4 of the '*Development Management, Guidelines for Planning Authorities, 2007*' advises that '*having regard to the statutory provisions regarding the life of a planning permission, conditions should not be generally (except in the case of retention permissions) require that a development be commenced or finished by a certain date*'. Therefore, in the context of the mixed-use development proposed, which will be a managed property, it is submitted that it is not necessary to regulate the phasing of development in the same way as, for example, a new housing development.
- It is considered reasonable that a certain flexibility be applied to the delivery of the subject development in order to help realise and facilitate the redevelopment of the wider site for an appropriate mix and quantum of uses. Whilst the Local Area Plan allows for a first phase of housing to 'kick-start' the overall development of the SLO4 lands, the applicant has not sought to avail of this provision which should be acknowledged in the Board's assessment of the application and the phasing required by Condition No. 4.

- Consideration must be given to the other overarching principles of the Development Plan and the Local Area Plan as regards the phasing of development. For example, the Bray MD Local Area Plan states that the development of zoned land should generally be phased in accordance with the sequential approach.
- Policy E9: '*Small and Medium Enterprises*' of the Local Area Plan supports a flexible approach to the delivery of enterprise and employment in the county and should be considered against the 'guide' to development 'envisaged' under SLO4.
- The proposed phasing of development envisaged for the subject lands is an orderly and sustainable approach in the context of providing significant employment in Phase 1 and is broadly consistent with the requirements of the Local Area Plan.
- The provision and occupation of the nursing home in advance of the construction of the office building would not materially contravene the Local Area Plan.
- The timing of the construction of the office building would depend on achieving a pre-let with an occupier which, based on the applicant's significant property development experience, is considered to be more challenging in Bray than the delivery of the nursing home.
- In planning policy terms, it is appropriate to allow the nursing home to be constructed and occupied in advance of the office building.
- Having regard to the '*Development Management, Guidelines for Planning Authorities, 2007*', the inclusion of Condition No. 4 is unreasonable and unwarranted in that it will significantly impact on the deliverability of Phase 1 and the regeneration of the wider site.
- The Phase 1 proposals provide for a viable development which can be brought forward in the short term and which will kickstart the redevelopment of the overall site.
- The applicant has engaged with a number of nursing home operators who have indicated an immediate need for such a facility in Bray. The imposition of

Condition No. 4 will unnecessarily delay the nursing home and the employment opportunities associated with same contrary to the provisions of the Local Area Plan (incl. SLO4).

6.1.2. *Paul & Anne Costello (Third Party):*

- The proposed development would materially undermine compliance with Specific Local Objective No. 4 (SLO4) of the Bray Local Area Plan, 2018.
- On the basis of the notional masterplan submitted in support of the application, the applicant has chosen to locate the proposed nursing home within the confines of an office parkland (i.e. a commercial setting) away from existing residential dwellings and as close as possible, within the context of other possible options and site parameters, to existing and proposed non-residential buildings and land uses. The siting of a residential care home within such a setting would seem contrary to an intuitive approach that would deliver a facility that would relate to an existing residential environment and have a visual connection and physical link to the surrounding residential community.
- The location of the nursing home within the wider SLO4 lands, being proposed immediately adjacent to, and surrounded by, commercially zoned lands, industrial buildings, derelict structures, future office blocks, and remote from any existing residential / community setting, is contrary to good urban design practice that would otherwise advocate the location and integration of new residential elements into existing residential settings where possible. Such a location would be prejudicial to the enjoyment of future residents of the facility and would be inappropriate as regards the future planning of the remainder of the SLO4 lands.
- Specific Local Objective No. 4 aims to provide for an employment and residential mix on site although it allows for the development of a nursing home in conjunction with employment uses as follows:

‘A nursing home and / or healthcare facility will be considered subject to such use not comprising more than 50% of the employment floorspace requirement on site and being delivered in conjunction with the remaining employment elements’.

In this context, it would strongly appear that the nursing home is considered to constitute an employment use as opposed to a residential use. Office development proposals (save for that forming part of the subject application) are detailed on the notional 'masterplan' for the remainder of the SLO4 lands, although these may never actually be realised.

The '*Design Rational*' submitted with the initial application indicates that the total commercial floorspace for the entirety of the SLO4 lands (i.e. Phases 1 & 2) has been calculated as 12,887m² in addition to the nursing home (10,440m²) and thus it would appear that the nursing home will not provide '*more than 50% of the employment floorspace requirement*'. However, the Phase 2 / 'masterplan' proposals do not form part of the development under consideration and any such notional proposals cannot form the basis for the assessment of the subject application i.e. in the absence of the masterplan, the Planning Authority should only consider the gross floorspace pertaining to the subject proposal. Therefore, the proposed nursing home (10,440m²) and office block (3,354m²) clearly amount to more than 50% of the employment floorspace requirement and thus contravene those provisions of SLO4 under which a nursing home can be considered.

- It is apparent from Policy CD17 of the County Development Plan that the Planning Authority has allocated substantial sites (at Newtownmountkennedy & Kilpedder) outside of Bray for the purposes of providing elderly care developments. In this regard, it is submitted that the proposed development, if approved, could potentially undermine the provision of nursing homes on those lands.
- Section 8.3.2 of the Development Plan states that new elderly-care facilities should be '*well integrated into society and afford residents full access to goods and services outside of the facility*'. Given the proposed siting of the nursing home within the 'office' aspect of the masterplan and the wider site context, it would not appear to be '*well integrated into society*' and will not easily '*afford residents full access to goods and services outside of the facility*'.

- The proposed nursing home will be located on the edge of Bray town and will not be very close to local amenities relevant to the assumed predominant abilities of future residents e.g. the closest retail food outlet is 700m distant whilst the nearest small retail centre is located c. 600m away.
- There is no obligation on the applicant (or any future owner of the site) to deliver the 'masterplan' as indicated.
- Table 3.1 of the Local Area Plan indicates that 150 No. residential units could potentially be provided on those lands designated under SLO4, although Chapter 10 of the Plan subsequently states that this will be a minimum requirement of SLO4. In this regard, there are concerns that the subject proposal does not include for any residential units.
- The detailed aims of SLO4 as set out in the Plan do not address whether or not the provision of a nursing home / healthcare facility would alter the requirement to provide the stated number of residential units or the gross floor area thereof by way of compensating for same. Therefore, it can be reasonably assumed that notwithstanding the provision of any nursing home / healthcare facility on site, the overall number of housing units expected to be delivered pursuant to SLO4 will remain unaltered.
- In accordance with the development management standards set out in the County Development Plan, and notwithstanding that the subject proposal does not include for any 'residential' use, there would appear to be a requirement for 15% of the wider site / SLO4 lands to be designated as open space to serve the residential component of the mix of uses envisaged (to include employment and 150 No. residential units). The subject proposal would appear to jeopardise the ability of future designers to be able to incorporate the aforementioned open space requirements into the overall SLO4 lands whilst adhering to the floorspace requirements and height restrictions set out in the specific objective.

Therefore, the proposed development, in that it does not seek to provide for any residential units or open space that could be beneficial to meeting the aims of the future development of residential units within the SLO4 site, is

likely to seriously jeopardise the realisation of the envisaged residential and open space requirements for the wider SLO4 lands.

- Given the level of development proposed, it is not considered that any flexibility is warranted as regards adherence to the plot ratio and development standards set out in the Development Plan and / or Local Area Plan. The proposed plot ratio of less than 1.0 is contrary to the requirements of SLO4, is likely to prejudice the future development of the remainder of those lands, and is contrary to the proper planning and development of the area.
- The phasing of the proposed development, insofar as it does not include for any 'housing' phase, is contrary to the objectives of the Local Area Plan, including SLO4.
- Section 1: *'Mixed Use and Housing Developments in Urban Areas'* of Appendix 1: *'Development and Design Standards'* of the Development Plan states the following:

'In 'edge of centre' or 'out of centre' new residential development, the quantum of apartments allowable will be regulated, as this dense format of development is more suited to urban core locations, where direct access to services is available. In this regard the maximum quantum of floorspace that may be devoted to apartments in 'edge of centre' locations shall be 40% of the development and 20% in 'out of centre' locations.'

This would appear to champion the position that any residential development outside of a town centre location should incorporate a mix of apartments and dwelling houses. In this respect, it is submitted that whilst the subject proposal does not include for any residential units, the notional masterplan provided in support of the application details that only apartments will be provided within the remainder of the SLO4 lands at a future date.

In terms of land coverage and plot ratio, it is reasonable to argue that the provision of houses is less efficient than apartments i.e. a proposal providing for 80% houses and 20% apartments would deliver less dwelling units on any given site that a development consisting solely of apartments with the same height restrictions and design parameters.

The subject proposal does not include for any residential development and, therefore, if approved, it will have the effect that any future development proposals for 'Phase 2' of the SLO4 lands will have to provide all of the residential component required i.e. a minimum of 150 No. units. Whilst the applicant would appear to have indicated that the employment use and residential units required by SLO4 can be provided within the wider landbank whilst achieving a plot ratio of 1:1 and adhering to the height restrictions set out in the Local Area Plan, this has only been shown to be possible (albeit notionally by way of a masterplan that is not under consideration as part of the subject application) through the sole provision of apartment units.

Accordingly, any such exclusively apartment scheme on the SLO4 lands would be contrary to Section 1: '*Mixed Use and Housing Developments in Urban Areas*' of Appendix 1 of the Development Plan which requires a 4:1 ratio of houses to apartments in 'out of centre' locations. Furthermore, if the proposed development were allowed to proceed and a 4:1 house / apartment design proposed for the remainder of the SLO4 lands at some future date, in all likelihood the number of dwellings required by the specific objective would not be achieved.

Therefore, the proposed development, being devoid of any contribution towards the housing numbers required by the Local Area Plan and with a ground coverage fully devoted to other non-residential uses, is contrary to Specific Local Objective No. 4 and severely compromises the potential for the wider SLO4 lands to achieve the required number of residential units in a manner compliant for such an 'out of centre' site. The proposal is not consistent with the Specific Local Objective and would seriously prejudice the future development of the wider SLO4 lands.

- The design rationale for the proposed development makes no reference to the either the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*' or the companion '*Urban Design Manual*' as having informed either the subject proposal or the wider 'masterplan'. Moreover, the design of the proposed nursing home would appear to be in conflict with several aspects of the aforementioned guidance.

- It has not been established that the proposed nursing home is best suited to the selected location within the context of the overall masterplan.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

6.4.1. Response of First Party to Third Party Appeal:

- The third-party appeal has been lodged by the operator of a commercial nursing home in Bray and, therefore, the Board is requested to evaluate the merits of the issues raised in the context of its powers to dismiss appeals which are considered to be *'vexatious, frivolous or without substance or foundation'*.
- The former 'Dell' site is identified by SLO4 of the Bray MD Local Area Plan for a nursing home as follows:

'a nursing home and / or health care facility will be considered subject to such use not comprising more than 50% of the employment floorspace requirement on site and being delivered in conjunction with the remaining employment elements'.

The proposed nursing home accounts for less than 50% of the commercial floorspace envisaged for the overall site (including Phase 2) and, therefore, the principle of the proposed use is wholly appropriate at this location.

- SLO4 does not define a location for the nursing facility within the former 'Dell' site. Accordingly, the selected siting has been chosen as part of an overall master-planning exercise which demonstrates how the range of uses envisaged for the wider site can be delivered in an appropriate manner over two phases.

- The subject proposal will make a positive contribution to the current and projected demand for nursing home / aged care facilities within the Metropolitan Area of Dublin. On the basis of the applicant's knowledge of the market demand for such facilities, which includes discussions with a number of nursing home operators and an analysis of demographic trends, it has been established that there is an urgent need for this type of facility.
- The subject site is within the built-up area of Bray, in proximity to a range of different uses, and is a suitable location for a nursing home as acknowledged by SLO4.
- The '*Potential Measures to Encourage Provision of Nursing Home & Community Nursing Unit Facilities – Report to the Department of Health, 2015*' states that there is an emerging supply gap in nursing home capacity, particularly in larger urban areas. The proposal will positively contribute to the current and projected demand for this type of accommodation in a highly suitable urban location within the Dublin Metropolitan Area.
- The Draft Regional Spatial and Economic Strategy for the Eastern and Midland Region states that the population of the area is rapidly aging and that by 2031 '*there will be a significant increase in the regional population aged over 65 and we need to plan for adequate healthcare, accommodation and services to enable independent living for as long as possible, encourage active lifestyles and address isolation for our older residents*'. Regional Policy Objective 9.22 thus aims to '*facilitate the development of primary health care centres, hospitals, clinics, and facilities to cater for the specific needs of an ageing population in appropriate urban areas in accordance with draft RSES settlement strategy and core strategies of development plans*'. The proposal to locate a nursing home on an underutilised brownfield site within the administrative boundary of Bray MD and in close proximity to local services is consistent with the foregoing objective.
- The overall masterplan for the site will contribute towards meeting the longer-term residential needs of the Bray area while also generating employment and delivering appropriately scaled and designed buildings on a designated opportunity site.

- The application documentation demonstrates that in land use planning, design and amenity terms, the selected siting for the proposed nursing home is a suitable location for such a use.
- The high-quality architectural design of the proposal will improve the visual and built environment through the enhancement of the public realm and the redevelopment of an underutilised site which presently detracts from the surrounding area.
- The proposed nursing home will be located within a landscaped setting that includes high quality open spaces in the form of two central courtyards and outdoor terraces. These areas provide safe accessible amenity spaces for residents and will be enhanced with a landscaping scheme.
- The Local Area Plan states that SLOs are a '*guide*' for the development of '*mixed use*' sites such as the subject lands. In respect of the '*MU: Mixed Use*' land use zoning which seeks '*To provide for mixed use development*', the Plan acknowledges that '*the nature of the mixed use development envisaged for any particular site is set out in the text of the plan*'. Therefore, there is a degree of flexibility as regards the delivery of the requirements of SLO4 and the subject proposal is broadly consistent with same.
- The proposed nursing home will help deliver a significant employment use which is consistent with the overall objective of the '*mixed use*' land zoning and SLO4. In combination with the proposed office floorspace, Phase 1 of the redevelopment of the SLO4 lands has the potential to deliver c. 370 – 420 No. jobs with a commensurate level of employment being delivered by both proposed uses.
- The nursing home and office floorspace are both commercial / employment generating uses which are permitted in principle under the zoning objective.
- Phase 1 of the wider development will deliver employment uses on site as per the requirements of the Local Area Plan. The applicant is not seeking to '*leapfrog*' the requirement for employment use on site by providing residential development in the first phase.

- The submitted proposal will deliver a considerable quantum of employment whilst being complementary to the residential and office uses planned for Phase 2. The Planning Authority considered the proposed uses acceptable and the case planner referred to the development as providing for '*high intensity employment*' uses.
- In response to the appellant's concerns that the subject application does not include for any residential units, it is reiterated that SLO4 allows for the development of a nursing home on site and that the proposal will provide for a considerable quantum of employment use that is complementary to the wider development planned in Phase 2 of the masterplan.
- The application documentation clearly illustrates how the Phase 2 proposals will ensure that the requirements of SLO4 are delivered for the overall landholding. In this regard, the masterplan details the provision of 151 No. residential units and an additional 9,480m² of office floorspace as part of Phase 2 of the wider development of the 'Dell' site.
- Phases 1 & 2 will deliver the development envisaged by SLO4, which includes a requirement for c. 20,000m² of employment floorspace (with a limit of 50% of that space being dedicated to the nursing home), 150 No. residential units, and a plot ratio of 1:1.
- With regard to concerns that Phase 2 of the wider redevelopment of the SLO4 lands may never materialise (and thus the site would not satisfy the requirements of SLO4), it is respectfully submitted that Phase 2 does not form part of the development under consideration and will be assessed as part of a future planning application. The Planning Authority has accepted the proposed phasing plan for the overall landholding in the context of SLO4.
- The appellant has argued that the employment floorspace shown for Phase 2 should not be considered as it does not form part of the subject application and, therefore, as the proposed nursing home equates to more than 50% of the employment floorspace within Phase 1, the proposal contravenes SLO4. The rationale for the proposed development is set out in the first party appeal and it has been demonstrated that the planned Phase 1 approach does not contravene the Local Area Plan.

- It is considered that the provision of employment use only within Phase 1 with a subsequent Phase 2 to include for both employment and residential uses is a reasonable response to the requirements of SLO4.
- It is reiterated that a certain flexibility be applied to the delivery of the subject development in order to help realise and facilitate the redevelopment of the wider site for an appropriate mix and quantum of uses. Whilst the Local Area Plan allows for a first phase of housing to ‘kick-start’ the overall development of the SLO4 lands, the applicant has not sought to avail of this provision. Moreover, the Planning Authority has referred to the proposed phasing as being acceptable in that it would *‘not materially undermine the achievement of the overall objectives of the SLO area’*.
- Consideration must be given to the overarching principles of the Development Plan and Local Area Plan as regards the phasing of development. For example, the Bray MD Local Area Plan states that the development of zoned land should generally be phased in accordance with the sequential approach.
- Policy E9: *‘Small and Medium Enterprises’* of the Local Area Plan supports a flexible approach to the delivery of enterprise and employment in the county and should be considered against the ‘guide’ for development ‘envisaged’ under SLO4.
- Whilst Phase 1 of the wider masterplan is marginally below the plot ratio of 1:1 required by SLO4, this is considered acceptable as the redevelopment encourages an infill opportunity on a brownfield site and makes better use of underutilised lands. Furthermore, the delivery of development on the remaining Phase 2 lands will provide for an overall plot ratio of c. 1:01.
- Other development control measures should be used in conjunction with plot ratio to gauge the appropriate density of development on the subject lands.
- Whilst the appellant has asserted that the subject application will severely compromise the development potential of the remaining SLO4 lands (with specific reference to achieving the minimum number of residential units), the documentation supplied with the application serves to demonstrate that at least 150 No. residential units and sufficient open space can be provided on the overall landholding to satisfy the requirements of SLO4.

- Although the appellant has referred to a requirement to provide 80% houses and 20% apartments, no such provision has been found within the Development Plan or national guidance. Therefore, the provision of 150 No. apartments is appropriate for a brownfield site within the built-up area of Bray.
- The specific locations identified in the County Development Plan for the provision of nursing homes are less sequentially preferable to the subject site.
- The proposed development finds support in both the Development Plan and the Local Area Plan with Policy Objective CD15 of the former aiming '*To facilitate the establishment of new or expansion of existing . . . nursing homes.*'
- In order to comply with SLO4 in terms of building height, the design of the office building was revised in response to a request for further information to provide for a three-storey construction fronting onto Vevay Road before stepping up to four storeys within the Phase 1 site. The structure was also reconfigured into an 'L'-shape with a landscaped area to the front of same. This revised height is reflected in the Phase 2 masterplan proposals i.e. three-storey elements along Vevay Road in order to achieve an overall plot ratio of 1:1 on the SLO4 lands. Therefore, the submitted proposal provides for a suitable transition from east to west with the four-storey nursing home located within the western part of the Phase 1 development.
- The proposed building heights are consistent with the '*Urban Design and Building Height, Guidelines for Planning Authorities*', with particular reference to SPPR3 which supersedes the restrictions on building height imposed in Development Plans / Local Area Plans where it can be demonstrated through compliance with a series of criteria that a site is suitable for increased building heights.

6.4.2. *Response of Third Party to First Party Appeal:*

- No reference has been made to the siting of the nursing home which will be surrounded by existing and proposed commercial / non-residential developments with the result that it will be physically isolated from any existing / proposed residential uses and will have no visual connection to the local community.

- If the development is carried out as per the submitted phasing plan, the proposed nursing home will be ready for occupation while still forming part of a future construction / redevelopment site.
- No evidential basis has been provided to support the applicant's contention that there is a demand for a nursing home in Bray.
- Given the comments as regards the challenges posed in securing a 'pre-let' for the proposed office building, it can be concluded that the applicant is of the opinion that the demand for such accommodation in Bray at present is poor and the proposed timing / phasing of development may serve to address this issue. The question therefore arises if it would be viable to construct offices at the location proposed in 2021 / 2022.
- If the proposed office building were not to proceed, the nursing home could become situated within a long-term derelict industrial site remote from the nearest residential community. Such a scenario would not be conducive to the amenity of its residents and would, in hindsight, be considered evidence of poor judgement on the part of the decision-makers involved in the development of the site.
- Contrary to the applicant's assertions, it is considered that SLO4 requires the provision of some residential units. The subject proposal does not provide for any such units and is therefore non-compliant with SLO4.
- The plot ratio of the development is 0.83 which is significantly less than that required by SLO4.
- Given the requirement to provide open space as part of any future housing development, it is considered that the submitted proposal jeopardises the proper development of the wider SLO4 lands.
- On the basis that the nursing home constitutes an employment use, its provision contravenes the '50%' floorspace limitation imposed under SLO4.
- The Local Area Plan requires the initial phase of the redevelopment of the SLO4 lands to include up to 50% of the residential units required, however, no such provision has been made in the subject proposal.

- It is reiterated that the siting of the proposed nursing home is contrary to Appendix 1: '*Development and Design Standards*' of the County Development Plan.
- The rationale for the siting of the nursing home within the wider site is not entirely clear and this has not been challenged by the Planning Authority.
- The location of the nursing home is inappropriate and without merit given the site context and is unlikely to be conducive to a high-quality of life for its occupants.
- Whilst the merits of employing a flexible approach to development are acknowledged, any such flexibility should not become the rationale for justifying a proposal (and the phasing thereof) which is designed to satisfy the logistical requirements of a particular project at the expense of the aspirations of the Local Area Plan and the proper planning and development of the area.
- The applicant has sought to emphasise the merits of the 'masterplan' and 'Phase 2', however, neither of these aspects is under consideration as part of the subject application.
- The proposal does not adhere to a significant amount of the 'guidance' set out in SLO4 and elsewhere in the Development Plan and / or Local Area Plan.
- The requirements of the Development Plan and Local Area Plan should not be disregarded for the sake of expediting the commencement of a development.
- Any flexibility employed within areas subject to SLOs should ensure that the basic requirements of the envisaged aims are not entirely compromised. In this regard, it is considered that the failure to provide for any housing and to include the entirety of employment use within the submitted development is contrary to SLO4.
- No argument has been put forward in Sections 6.9-6.16 of the applicant's grounds of appeal for the proposed phasing of the nursing home and office building in the context of the application under consideration but rather has been made with regard to a '*planning application approach to a Phase 1 development of employment use only . . . and a subsequent Phase 2*

development of employment and residential use Neither 'Phase 2' nor the 'masterplan' are under consideration as part of the subject application.

- The applicant has failed to justify the omission of Condition No. 4.
- No evidence has been provided to support the employment creation attributable to the nursing home (i.e. 205 No. jobs).
- The construction of the proposed offices, in and of itself and as speculative development, will not necessarily 'generate' jobs and will require existing companies to locate / relocate at the site.
- Notwithstanding any employment creation attributable to the development under consideration, the application site is zoned as 'mixed-use' for the purposes of providing both employment and residential uses (as opposed to the single employment use proposed).
- The applicant is placing an undue overt reliance on the delivery of a notional masterplan.
- Any delay of the nursing home resulting from Condition No. 4 would not be '*contrary to the mixed use zoning and overarching employment generating objective of SLO4*'. Any delay would be just that, a delay, with all elements of the development delivered in due course (should permission be granted).
- The third party appellant is uncertain as to the link between expediting the construction of the nursing home with its subsequent job creation and the omission of Condition No. 4. The jobs will be created with or without Condition No. 4 on the assumption that permission is granted and the two buildings are completed.
- SLO4 envisages the provision of housing within the initial phase of development, yet none is proposed in the subject application.
- A lack of demand for office accommodation in Bray in 2022 could influence the actions of the current / future owners of the SLO4 lands (or parts thereof) which would warrant the present concerns of the Planning Authority.

- The overall size and scale of the proposed nursing home would seem to be without merit as no evidence has been produced to substantiate the need for such a sizeable facility.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The merits of the third-party appeal
- The principle / phasing of the proposed development
- The siting of the proposed nursing home
- Overall design and layout
- Traffic considerations
- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

7.2. **The Merits of the Third-Party Appeal:**

7.2.1. With regard to the applicant's request for the Board to dismiss the third party appeal pursuant to the provisions of Section 138(1) of the Planning and Development Act, 2000, as amended, on the basis that said appeal is '*vexatious, frivolous or without substance or foundation*', having considered the grounds of appeal, I am satisfied that they raise legitimate material planning considerations and thus I propose to assess same accordingly.

7.3. **The Principle / Phasing of the Proposed Development:**

7.3.1. The proposed development site is located within the settlement boundary of Bray as identified in the Bray Municipal District Local Area Plan, 2018 on lands zoned as '*MU: Mixed Use*' with the stated land use zoning objective '*to provide for mixed use development*', however, the nature of the mixed-use development envisaged for these lands is set out in Specific Local Objective No. 4 (SLO4), the purpose of which

is to guide developers as to the aspirations of the Plan as regards the development of these 'mixed use' lands (in a manner similar to 'Action Area Plans' but with the exception that no masterplan will be required to be agreed prior to the submission of a planning application). The full extent and text of SLO 4: '*Former Dell Site, Vevay Road – Boghall Road*' is set out in Chapter 10: '*Key Development Areas*' of the Local Area Plan and in this respect it is of relevance in the first instance to note that SLO4 extends to the entirety of the former 'Dell' manufacturing facility and encompasses an overall landbank of c. 3.75 hectares of which the subject site forms part. Moreover, it is envisaged that '*a mixed, high intensity employment and residential scheme*' would be suitable on these lands, subject to certain criteria, with the remainder of SLO4 setting out a detailed list of requirements.

- 7.3.2. At the outset, it is clear that the development of a nursing home and office accommodation on the subject lands would broadly accord with the intent of SLO4 given that the construction of a '*nursing home and / or healthcare facility*' is explicitly referenced as being open for consideration within the prescribed criteria whilst the proposed office space could reasonably be held to involve the '*high employment intensity format*' of development sought by the Plan. Therefore, it can be established that the subject proposal is acceptable in principle as regards adherence to the applicable land use zoning objective i.e. '*to provide for mixed use development*'.
- 7.3.3. However, it has been asserted in the third-party grounds of appeal that difficulties arise in reconciling the proposal as submitted with certain aspects of the specific developmental criteria prescribed in SLO4, most notably, the provision of the total employment floorspace and housing numbers envisaged for the wider SLO lands and the phased delivery of same. It has been further suggested that the subject scheme could prejudice the future redevelopment of the remainder of the SLO lands and undermine compliance with the wider requirements of SLO4.
- 7.3.4. From a review of the various criteria set out in SLO4, I would suggest that an overtly strict interpretation of the rather prescriptive nature of certain aspects of the developmental requirements for the wider SLO lands is likely to cause difficulties in terms of the development of same. For example, whilst the provision of a nursing home within the SLO4 lands is specifically referenced in the criteria prescribed, it has been stipulated that any such use must not amount to more than 50% of the total

employment floorspace requirement on site whilst it must also be delivered in conjunction with the remaining employment elements.

7.3.5. Considering that the subject proposal includes for a nursing home with a gross floor area of 10,440m², and if it is assumed that this will equate to 50% of the total employment floorspace to be provided on the SLO4 lands, it can be calculated that the total employment floorspace requirement consequent on same will equate to 20,880m² i.e. 2 x 50% (notwithstanding that some degree of flexibility would appear to be allowable by the second criterion of SLO4 which states that the provision of at least 20,000m² of employment floorspace is 'desirable' i.e. it would seem to be permissible to provide in excess of 20,000m² of employment floorspace on the wider site). By extension, it can be further determined by reference to the fourth criterion (i.e. no more than 40% of the total floorspace shall be devoted to residential use) that the residential component of any future development on the wider SLO lands (in the event the subject proposal is approved) cannot exceed 13,920m² on the basis of a 60/40 split between the employment and residential floorspace usage. It can also be ascertained on the basis of the foregoing figures that the proposed nursing home (floor area: 10,440m²) and the office block, as amended in response to the request for further information, (floor area: 3,354m²) will cumulatively provide for an employment floor area of 13,794m² within Phase 1 of the redevelopment of the overall SLO lands with only 7,086m² of additional employment floorspace permissible within Phase 2. In addition, if the desired minimum of 150 No. residential units is provided in Phase 2 of the masterplan, it can be calculated that the average unit size will be 92.8m². However, I would emphasise that the foregoing calculations are based on the assumption that the nursing home equates to the permissible maximum of 50% of the employment floorspace which may not necessarily be the case.

7.3.6. Instead, on the basis of the applicant's response to the request for further information wherein it is stated that it is proposed to provide an additional 9,480m² of office / employment floorspace within Phase 2 of the 'masterplan' for the redevelopment of the wider SLO4 lands, the proposed nursing home would equate to c. 45% of the total anticipated employment floorspace. In turn, it can be calculated by reference to the 60 / 40 ratio that up 15,516m² of housing development would be

permissible and that the applicant's proposal to provide 14,435m² of residential floorspace in Phase 2 would fall within the necessary parameters.

- 7.3.7. Clearly, any minor deviation from the aforementioned figures is unlikely to be of consequence in terms of the proper planning and sustainable development of the area, however, the calculations illustrate the implications arising from a strict observance to the criteria set out in SLO4 when applied to the subject application and extrapolated into the development of the remaining SLO lands. In my opinion, the immediate restrictions placed on future design options for the SLO lands arising from the decision to phase the 'masterplan' development through the lodgement of individual planning applications are readily apparent.
- 7.3.8. Whilst there is merit in providing indicative floorspace figures / unit numbers as regards the development of a given site, any such requirements may have ramifications beyond those envisaged in the Development Plan. In my opinion, this would seem to lend weight to the applicant's assertion that SLO4 should be viewed as a 'guide' to the redevelopment of the subject lands as opposed to a strict set of fundamentals.
- 7.3.9. At this point, I would also suggest to the Board that there are certain aspects of SLO4 which are somewhat at odds with one another. Most notably, the stated intent of SLO4 is to provide for a '*mixed, high intensity employment and residential scheme*' with the employment use to take the form of a '*high employment intensity format*', however, I would have reservations as regards the categorisation of a nursing home as a (high) 'employment use' notwithstanding its apparent classification as such in Item No. 3 of SLO4. Furthermore, the provision by which up to 50% of the housing requirement may be delivered within the first phase of the overall development of the SLO4 lands in the absence of any employment use would seem to lessen the emphasis placed on the delivery of high intensity employment uses on site (by way of clarity, and with reference to the express wording used in SLO4, I am satisfied that there is no obligation on the applicant to include residential development as part of the subject proposal provided provision is made for same within the redevelopment of the remaining SLO4 lands).
- 7.3.10. In terms of the phasing of development, the applicant has indicated that the subject proposal will be delivered sequentially over the five-year lifetime of any grant of

permission with Phases '1A' (the nursing home) and '1B' (the office building) to be constructed during 2019-2020 and 2021-2022 respectively. The development of the remainder of the SLO4 lands (i.e. the provision of c. 150 No. residential units and the additional employment floorspace in the form of office accommodation) is to be undertaken as Phase 2 in accordance with the submitted masterplan and subject to the approval of subsequent planning applications. However, the applicant has sought to emphasise that the submitted phasing plans for construction of the nursing home and office building are for information purposes only and are not intended to be rigidly adhered to by way of condition given the need to consider future market demands as regards the office accommodation.

7.3.11. Moreover, the third criterion set out in SLO4 as regards the redevelopment of the subject lands requires any proposed nursing home to be delivered in conjunction with the remaining employment elements. Regrettably, the Local Area Plan does not provide any further elaboration as to the intent of the phrase '*in conjunction with*' and thus it is somewhat open to interpretation. The question therefore arises as to whether or not the masterplan for the phased development of the wider SLO lands satisfies the aforementioned requirement, particularly as the applicant (or any future owner/s of the lands in question) would be under no obligation to adhere to that plan. Indeed, the fact that the masterplan is essentially indicative and does not form part of the development under consideration forms a key aspect of the third party grounds of appeal.

7.3.12. By reverting to the full text of SLO4 as set out in the Local Area Plan, it is of relevance to note that whilst '*a mixed, high intensity employment and residential scheme **would** be suitable on these lands*' in accordance with the criteria listed, this does not seem to preclude the consideration of alternative development proposals provided they accord with the broader land use zoning. In effect, the criteria listed in SLO4 could be interpreted as applying to a particular development option and thus are not intended to be definitive. Such an interpretation would lend more credence to the suggestion that SLO4 is intended to function as a 'guide' to the redevelopment of the wider site, particularly as Chapter 10 of the Plan expressly states that there is no requirement for any masterplan for the development of SLO lands to be agreed prior to the submission of a planning application.

7.3.13. Having reviewed the available information, it is clear that the proposed development accords with the land use zoning objective which seeks '*to provide for mixed use development*' and that the provision of a nursing home and office accommodation on the subject lands is permissible by reference to SLO4. Furthermore, it is apparent that the proposal complies with the broader strategic policy objectives of the National Planning Framework, the Regional Spatial & Economic Strategy for the Eastern and Midland Region, 2019, the Wicklow County Development Plan, and the Bray MD Local Area Plan. For example, Objective EMP2 of the Development Plan aims to ensure that new employment generating developments are located on suitably zoned or identified lands within settlements whilst Objective EMP7 expressly encourages the redevelopment of brownfield sites for enterprise and employment creation and allows for a 'relaxation' in normal development standards in order to promote their redevelopment. Section 4.1 of the LAP further states that it is an objective of the Planning Authority to support and facilitate the growth of existing employment areas and identifies Boghall Road as a '*priority employment area*'. Support for the proposed nursing home can also be found in Objective CD19 of the Development Plan which states that residential and daycare facilities should generally be required to locate within existing towns or villages. In addition, the case can also be put forward that the subject proposal involves (in part) the welcome redevelopment of an under-utilised and dilapidated property and thus would make a positive contribution to the wider area both economically and visually. Therefore, on balance, I am satisfied that the overall principle of the proposed development is acceptable.

7.3.14. With regard to the phasing arrangements for the proposed development, I am inclined to accept that the primary purpose of SLO4 is to serve as a guide for the development of these 'mixed-use' lands and that it is entirely permissible for an alternative development proposal, which is not bound by the various prescribed criteria, to be open for consideration provided it accords with the overall aim of the land use zoning objective. This would seem to reflect the position adopted by the Planning Authority. Notwithstanding, I am amenable to the position that the masterplan submitted in support of the future Phase 2 proposals for the remainder of the SLO lands forms a sufficient basis on which to progress the development of same, particularly as the purpose of the SLO is to guide developers regarding the

development of 'mixed use' lands and specifically does not require a masterplan to be agreed in advance of any planning application. In my opinion, the stated intent of the applicant as outlined in the submitted masterplan serves to satisfy the requirement, if deemed applicable, that the nursing home be delivered in conjunction with the remaining employment elements. Furthermore, in keeping with the foregoing rationale, and noting that the Planning Authority has accepted that the proposed nursing home constitutes an employment use, I would suggest that the inclusion of Condition No. 4 as imposed by the Planning Authority is unwarranted and should be omitted from any decision to grant permission.

7.3.15. Having established that the principle of the proposed development is acceptable and that the submitted phasing arrangements are also permissible, it remains to be considered if the proposal would undermine the wider aims of SLO4 as regards providing for additional employment floorspace and the desired number of residential units. In this regard whilst I would acknowledge the legitimacy of the appellant's concerns as regards the potential for the subject proposal to undermine the ability of any future development / design response on the remaining SLO lands to satisfy the prescribed plot ratio and building height requirements, I would reiterate that SLO4 serves as a guide for the broader development of the site as opposed to a definitive set of requirements (noting also that other provisions within the Development Plan / Local Area Plan allow for a greater degree of flexibility in terms of adherence to development management standards). Cognisance must also be taken of the need to adhere to current national guidance as regards density, urban (incl. apartment) development, and building heights. Accordingly, it is my opinion that the proposal as submitted does not unreasonably prejudice the future development of the remaining SLO lands or the fundamental purpose of same in light of the applicable land use zoning.

7.4. The Siting of the Proposed Nursing Home:

7.4.1. Concerns have been raised as regards the wider suitability of the site location for the proposed nursing home in addition to the selected siting within the confines of the site itself and the SLO4 lands. In this respect it has been suggested that the application site is located on the periphery of Bray town and is therefore detached from local services and amenities. It has also been questioned whether the proposed siting is appropriate in the context of the neighbouring land uses and, more

particularly, in light of the future plans for the development of the remaining SLO4 lands, including the nature of the uses proposed and the likely timeframe for the delivery / construction of same.

- 7.4.2. The proposed development site is located on zoned and serviced lands within the built-up surrounds of Bray town, approximately 2.0km south of the town centre, which have been expressly identified for redevelopment purposes in line with SLO4 of the Local Area Plan where the provision of a nursing home has been deemed to be open for consideration. It is suitably zoned for 'mixed-use' purposes and forms part of a larger 'brownfield' site and in this regard it has already been established that the principle of a nursing home at the subject site is acceptable.
- 7.4.3. In terms of the actual suitability of the site given the nature of the use proposed, having regard to the provisions of Objective CD19 of the County Development Plan, it is clearly preferable to locate residential facilities for the elderly within existing towns and villages and proximate to local / community services and amenities which can be easily accessed by visitors, staff and servicing traffic. This is reiterated in Section 6: '*Community Developments and Open Space*' of Appendix 1: '*Development and Design Standards*' of the Plan which states that nursing home developments and facilities for the elderly should be located close to local amenities and where adequate pedestrian infrastructure has been or is capable of being provided. In this respect, I am satisfied that the subject site adheres to accepted policy and is suitably located as regards its proximity to a variety of local services / amenities, including those retail / commercial uses situated further north along Vevay Road, the adjacent Wilton Hotel with its associated bar / restaurant facilities, and the grounds of the Kilruddery Estate. Moreover, the site is readily accessible given its siting relative to Southern Cross Road (with access onwards to the N11 National Road) and is well serviced by both public transport (including Route Nos. 84, 184 & 45a), with bus stops located along both Vevay Road and Boghall Road, and an extensive footpath and cycleway network. Indeed, the subject site is perhaps sequentially preferable to those other locations expressly identified in the Development Plan as suitable for the provision of nursing homes (i.e. at Newtownmountkennedy & Kilpeddar).
- 7.4.4. In terms of the siting of the nursing home within the application site and the wider SLO4 lands, whilst I would acknowledge that the selected location is positioned

away from those established residential areas alongside Boghall Road and Vevay Road to the north and east respectively with the result that the facility will adjoin the Beechwood Close industrial estate to the west, a series of office units to the south, and the Wilton Hotel to the southeast, I am cognisant that this is a mixed-use area and that the SLO4 lands have been designated as such. Furthermore, in light of the nature of the aforementioned uses, including those business premises operating from within the neighbouring industrial estate, I am satisfied that the surrounding pattern of usage is not such as to be incompatible with the operation of the proposed development. It is also of relevance to note that the selected siting allows the proposed nursing home to avail of the increased building height (up to four-storeys) permissible within the western and southern parts of the site and provides for an enclosed facility set back from the public road and away from passing traffic with secure external space and site boundaries.

- 7.4.5. In the context of the applicant's masterplan for the development of the remainder of the SLO4 lands, and assuming that said development proceeds in the manner proposed, although the proposed nursing home will be surrounded by office blocks to the northeast and northwest, I am not of the opinion that this would unduly impact on its operation or the level of amenity likely to be enjoyed by its residents. Whilst some concerns may arise as regards the potential impact of future construction activities on the amenities of residents of the nursing home, particularly in light of the scale of the works involved, it must be acknowledged that any such impacts will be of a limited duration and I would further suggest that such matters can be satisfactorily addressed through the appropriate sequencing of development and adherence to best construction practice as regards noise management etc.

7.5. Overall Design and Layout:

- 7.5.1. The proposed development includes for the construction of a four-storey nursing home (over a basement level car park), the design of which is based on two interlocking blocks offset in a staggered formation that will provide for 2 No. enclosed courtyards with additional terraced amenity areas overlooking same on the second and third floors. This structure will be set back into the south-western extent of the site and is to be located behind a proposed office building which will occupy a more prominent positioning at the entrance to the wider landbank via the existing roundabout on Vevay Road. The design of this office block was amended in

response to a request for further information and the revised proposals received by the Planning Authority on 15th March, 2019 provide for an 'L'-shaped construction with a three-storey element incorporating extensive glazing fronting onto Vevay Road and a four-storey construction set back behind same. Whilst the design of the proposed nursing home is somewhat institutional, efforts have been made to break up the massing of the structure and to enliven its appearance through the use of features such as corner projections, changes in ridge height, and variations in external finishes, which include brickwork, cladding, insulated render & glass panelling. The proposed office building is of a more contemporary design and aims to serve as a landmark structure at the entrance to the wider SLO4 / masterplan lands from Vevay Road.

7.5.2. From a review of SLO4 as set out in the Bray MD Local Area Plan, 2018, it is apparent that the intention for the redevelopment of this brownfield site was to locate taller buildings of up to four storeys in height within the southern and western extent of same. In this regard, I am satisfied that proposed nursing home is appropriate to the site context and adheres to the aforementioned provision without appearing unduly prominent on the landscape or overbearing relative to neighbouring properties (please refer to the submitted photomontages).

7.5.3. With respect to the proposed office building, I note that SLO4 seeks to ensure that building heights within the eastern part of the site in the vicinity of the existing housing alongside Vevay Road (i.e. Briar Wood) are more consistent with, and respectful of, the residential amenity of those properties. The initial proposal submitted with the application sought to construct a four-storey block orientated towards the roundabout on Vevay Road and, in my opinion, the Planning Authority raised legitimate concerns as regards the overall design, height, mass and scale of this construction given its prominent positioning and the limited set back from the public road. In particular, I would concur with the Planning Authority's determination that said proposal failed to adequately consider the site context and did not provide for a satisfactory visual transition from the scale of surrounding developments with the result that it would appear as a somewhat incongruous addition to the area. The amended design submitted in response to the request for further information represents a considerable improvement in visual terms with its lowered height, simplified contemporary aesthetics, and staggered three / four storey construction,

with the result that it serves as a suitable 'gateway' feature to the wider SLO4 / masterplan lands which is cognisant of the lower scale of development within the Briar Wood estate opposite.

7.5.4. Whilst the applicant has acknowledged that the plot ratio of the proposed development is below that sought by the Local Area Plan, I would reiterate my earlier comments that SLO4 should perhaps be interpreted as a 'guide' to the redevelopment of the subject lands as opposed to a strict set of criteria. I would also suggest that consideration must be given to the fact that the subject proposal does not involve the redevelopment of the entirety of the SLO4 lands and thus difficulties arise in attempting to apply such a strict criterion to an isolated part of a wider 'masterplan' proposal. Moreover, I note that Objective E4 of the LAP states that consideration will be given to a 'relaxation' in normal development standards as regards the redevelopment of brownfield sites for enterprise and employment creation where it can be demonstrated that a development of the highest quality suitable to the receiving environment will be provided.

7.5.5. On balance, I am satisfied that the overall design of the proposed development represents an acceptable response to the site context and adheres to the stated intent of the LAP. It would also appear to comply with the requirements of the *'National Quality Standards for Residential Care Settings for Older People in Ireland, 2016 (HIQA)'*, with particular reference to Standard No. 2.6: *'The residential service is homely and accessible and provides adequate physical space to meet each resident's assessed needs'* (features of a service meeting this standard may include access to appropriate and accessible indoor recreational areas in addition to safe, secure outdoor spaces) and Standard 2.7: *'The design and layout of the residential service is suitable for its stated purpose. All areas in the premises meet the privacy, dignity and wellbeing of each resident'*.

7.6. **Traffic Considerations:**

7.6.1. Access to the wider SLO4 lands is presently available via Boghall Road to the north and Vevay Road (the R761 Regional Road) to the east, however, as the subject application does not extend to include the entirety of the SLO designation, the proposed development will only be accessible from Vevay Road via the existing four-arm roundabout shared with the Briar Wood estate. In this regard I would advise the

Board that the pertinent section of Vevay Road relevant to the subject proposal generally follows a north-south alignment and extends southwards from its signalised junction with Boghall Road to a roundabout with Southern Cross Road (the R768 Regional Road) which subsequently allows for access to the N11 National Road. The roadway itself is single carriageway and in a good overall condition with pedestrian footpaths along both sides and street lighting. On the northbound approach from the Southern Cross Road, the Vevay Road includes a dedicated bus pull-in bay whilst there is a two-lane entry onto the roundabout shared with Briar Wood thereby allowing for a separation of left-turn traffic turning movements into the proposed development site. Between Briar Wood and the junction with Boghall Road there is a raised northbound cycleway alongside the footpath bounding the SLO lands. In a wider context, Boghall Road follows an east-west alignment to connect with Vevay Road to the east by way of a signalised junction and includes dedicated footpaths and cycleways on both sides of the carriageway in addition to assorted traffic calming measures such as speed ramps and road narrowing.

7.6.2. In support of the proposed development, the subject application has been accompanied by a Traffic & Transport Assessment which has analysed the potential traffic impact of the trip generation attributable to the proposed development, in addition to that associated with the planned redevelopment of the remaining SLO4 lands in line with the submitted masterplan, on the surrounding road network at specified key junctions for design years of 2020, 2025 & 2035. In this respect, it is of particular relevance to note the modelling scenarios assessed:

- *'Do nothing'*: The 'base traffic scenario which takes into account the existing flows across the network.
- *'Do-Minimum'*: Refers to the previous Dell development on site and takes into account the existing traffic flows across the network in addition to the Dell land-use generated vehicle trips.
- *'Do-Something'*: The 'post development' scenario i.e. the additional traffic flows attributable to the subject development.

7.6.3. From a review of the analysis provided (whilst also noting that the specifics of the proposed development (i.e. the office block) were amended in response to the request for further information), it can be ascertained that Junction Nos. 1 (Vevay

Road / Southern Cross Road) & 3 (Vevay Road / Boghall Road), in the 'Do-Nothing' scenario, are both predicted to be operating at or above capacity in the three design years during the AM peak traffic hour. In comparison, the PM peak hour is not considered to be problematic. The analysis further indicates that with (i) the road network traffic growth, (ii) the introduction of the subject development traffic, or (iii) the reintroduction of the previous (Dell) land use traffic, operational performance will deteriorate year on year. However, it is of particular relevance to note that a comparison of the 'Do-Minimum' (the previous Dell development) and the 'Do-Something' (proposed masterplan development) scenarios reveals that, in general, the 'Do-Minimum' scenario produces a comparable or greater impact on the surrounding road network when compared to the 'Do-Something' scenario. In effect, the conclusion can be drawn that the traffic impact of the proposed 'masterplan' development on the road network will be comparable to, if not less than, the previous use of the lands by the Dell manufacturing plant and, therefore, cognisance should be taken of the historical traffic impact associated with the use of these strategic employment lands.

- 7.6.4. In acknowledging the likely impact of the overall masterplan development on traffic congestion in the area, Section 7 of the TTA has proposed a series of mitigation measures in an attempt to off-set the additional local demand attributable to Phase 1 of the wider scheme i.e. the proposal under consideration. These include the implementation of a Mobility Management Plan in order to encourage sustainable travel practices for all journeys to and from the site, the provision of a reduced rate of car parking to that required by the Development Plan thereby encouraging staff and visitors to avail of alternative travel modes such as public transportation, the provision of additional cycle parking facilities, and the reservation of a 16.6m wide corridor along Vevay Road (as part of the proposed development and the wider masterplan) in line with the longer-term objective of the Local Authority to implement bicycle and bus priority measures alongside the R761 Vevay Road (please refer to Section 8.2 of the LAP, including Roads Objective No. R07). It has also been suggested that junction improvement works, including the provision of a left-turn flare on the Vevay Road (south) approach to the junction with Boghall Road, would serve to improve traffic flows in the surrounding area and should be considered as part of any Phase 2 planning application.

7.6.5. In view of the foregoing, it is apparent from the available information that the proposed development will certainly increase traffic volumes and congestion within the surrounding road network when compared to the current baseline scenario and that this is unavoidable. However, I would concur with the applicant that it is only reasonable to take cognisance of the historical traffic patterns associated the former use of the lands as a major manufacturing facility and in this respect it is notable that the impact of the subject proposal will likely be comparable to that of Dell had it not ceased operation. Furthermore, the additional impact of the proposed development over both the existing baseline level and the 'Do-Minimum' scenario will be mitigated to some extent through adherence to the mitigation measures set out in the TTA, including the longer-term roads objective as regards the provision of a northbound priority bus lane along Vevay Road. Therefore, on balance, I am satisfied that the traffic impact of the proposed development is permissible in this instance.

7.7. Impact on Residential Amenity:

7.7.1. Concerns have been raised that the proposed development will have a detrimental impact on the residential amenity of surrounding properties by reason of overlooking, overshadowing and visual intrusion, with specific reference to those dwelling houses within the Briar Wood estate on the opposite side of Vevay Road.

7.7.2. Having reviewed the available information, including the analysis contained in Appendix A: '*Shadow Study*' of the updated '*Architect's Design Rationale*', it is my opinion that in light of the site context and its location within a built-up urban area, the nature of the development proposed alongside Vevay Road (i.e. the proposed office building), the overall scale, design, positioning and orientation of the proposed development, with particular reference to the minimum separation distance of c. 29m from nearby housing, and the presence of a heavily-trafficked public road within the intervening lands, the subject proposal will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by reason of overlooking or overshadowing / loss of daylight / sunlight.

7.7.3. With respect to visual impact and the overall appearance of the proposed development, I would refer the Board to my earlier comments as set out elsewhere in this report.

7.8. **Appropriate Assessment:**

7.8.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that although the proposed development site is not located within any Natura 2000 designation, there are a number of Natura 2000 sites within the wider area with the closest such sites being the Bray Head Special Area of Conservation (Site Code: 000714), approximately 800m east of the site, and the Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately 3.2km to the northwest. In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Wicklow County Development Plan, 2016, to avoid negative impacts upon the natural environment and to promote the appropriate enhancement of the natural environment as an integral part of any development. Furthermore, Objective NH2 of the Plan states that no projects which would give rise to any significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects will be permitted on the basis of the plan (either individually or in combination with other plans or projects). By way of further clarity, Objective NH4 also states that all projects and plans arising from the Development Plan (including any associated improvement works or associated infrastructure) will be screened for the need to undertake Appropriate Assessment pursuant to Article 6 of the Habitats Directive whilst any such plan or project will only be authorised after the competent authority has ascertained, based on scientific evidence, Screening for Appropriate Assessment, and a Stage 2 Appropriate Assessment, where necessary, that:

- 1) The Plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site (either individually or in combination with other plans or projects); or
- 2) The Plan or project will have significant adverse effects on the integrity of any European site (that does not host a priority natural habitat type and / or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature. In this case, it will be

a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000; or

- 3) The Plan or project will have a significant adverse effect on the integrity of any European site (that hosts a natural habitat type and/or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons for overriding public interest, restricted to reasons of human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000.

7.8.2. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.

7.8.3. Having reviewed the available information, including the '*Information for Screening for Appropriate Assessment*' submitted with the application documentation, and following consideration of the 'source-pathway-receptor' model, including potential hydrological connectivity via the Newcourt Stream, it is my opinion that given the nature and scale of the development proposed (as amended in response to the request for further information), the site location on 'brownfield' lands within an established urban area outside of any protected site, the limited ecological value of the lands in question, the absence of any pollution pathways between the application site and any Natura 2000 sites (noting the dilution factor and assimilative capacity of the open sea, particularly when taken in combination with the separation distances and the substantial marine open water buffer between the surface water sewer outfall and any Natura 2000 sites), the separation distances involved between the subject site and nearby Natura 2000 designations, and the availability of public services, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any

Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.

- 7.8.4. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the nature, design and scale of the proposed development, the site location within the development boundary of Bray town on lands zoned 'MU: Mixed Use' and identified as a key development area by SLO 4: 'Former Dell Site, Vevay Road – Boghall Road' of the Bray Municipal District Local Area Plan, 2018-2024, in an area well served by public transport and close to and accessible to services, residential areas and public amenities, to the pattern of existing development in the surrounding area, and to the provisions of the Wicklow County Development Plan, 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 15th day of March, 2019 and the 25th day of March, 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

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

3. Water supply and drainage arrangements, including the attenuation and 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.

4. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual amenity.

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

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

7. Prior to opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management of the company for the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

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

Reason: In the interest of visual amenity and the proper planning and development of the area.

9. The landscaping scheme detailed in the plans and particulars lodged with the planning application, and as amended by the further plans and particulars submitted on the 15th March, 2019, shall be carried out within the first planting seasons following substantial completion of external construction works. Tree protection measures including fencing shall be erected before construction works commence and shall be maintained in place until completion of external construction works, or as otherwise agreed in writing with the planning authority. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the

development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity and the proper planning and development of the area.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Public lighting within the proposed development shall be directed and cowled such as to reduce as far as possible the light scatter to adjacent properties and the public road.

Reason: In the interests of amenity and public safety.

11. Details of signage for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual amenity and legibility.

12. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the amenities of property in the vicinity and the visual amenities of the area.

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

for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

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

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

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

16. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Robert Speer
Planning Inspector

2nd October, 2019