



An
Bord
Pleanála

Inspector's Report ABP308055-20

Development	Demolish former cab office, erect 6 storey building, comprising retail, apartments, bike parking associated works.
Location	'Bray Cabs', Station Road Bray, County Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	19/1305
Applicant(s)	B & C Moloney
Type of Application	Permission
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Margaret Carty
Observer(s)	None
Date of Site Inspection	3 rd March 2021
Inspector	Hugh Mannion.

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.035ha and comprises a single storey building and adjoining open area formerly in use as 'Bray Cabs' office and parking area at Florence Road, Bray, County Wicklow¹. The site is currently sealed off with hoardings from the public road. Opposite the application site is Bray Dart station with associated on-street bus parking. Immediately to the south is a 4 to 6 storey building under construction with which wraps around the block of Florence Road and Adelaide Road. The appellant's property (Bri Chualann Court) is on the adjoining site to the west and faces onto Adelaide Road. To the north of the application site with frontage onto Florence Road, Quinsborough Road and Adelaide Road is the Bray Bowl building (a bowling alley) which also accommodates the Bray School of Dance. Between the School of Dance and the application site is a two-storey building comprising with apartments overhead and at ground floor a vacant commercial premise, a hair studio and a café.

2.0 Proposed Development

- 2.1. The proposed development comprises;
- the demolition of the of the existing buildings on site,
 - constriction of a 6-storey building fronting onto Station Road,
 - 2 ground floor retail units
 - 14 one-bedroom apartments (amended to 12 in FI)
 - 32 bicycle spaces,
 - Refuse storage, boundary treatments, balconies and associated works.

All at former bray Cabs, Station Road, Bray County Wicklow.

¹ It may be known locally as Station Road, but it is officially Florence Road.

3.0 Planning Authority Decision

3.1. Decision – grant permission with 14 conditions.

Condition 7 sought opaque glazing on elements of the rear facade facing the Bri Chualann Court building.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended further information and subsequently recommended a grant of permission subject to conditions as set out in the manager's order.

3.2.2. Other Technical Reports

Transport Section recommended a grant subject to a construction management plan having regard to the proximity of the site to Bray DART station.

Irish Water recommended requesting further information in relation to the foul sewer serving the site. No follow up report was submitted.

4.0 Planning History

4.1. No relevant planning history for the application site.

4.2. ABP300645-18 referred to derelict site notice on the adjoining site to the south facing onto Adelaide Road.

4.3. PL39.242836 referred to a take-away restaurant immediately to the north of the application site.

4.4. Planning Register Reference 11/166 granted permission for development consisting of 1) The demolishing of all existing buildings on site (c.1,617sqm) 2) The construction of a mixed use development, ranging from 4 to 6 storeys fronting Adelaide Road to the west, Florence Road to the south, Florence Road to the east (also known as Station Road), around a central landscaped podium open space c.866sqm which includes a play area. 3) 72 no. apartments consisting of 34 no. one bedroom, 36 no. two bedroom and 2 no. three bedroom units. 4) Three ground floor

retail units (total c.375.1sqm) and one office unit (c.101.8sqm). 5) Carparking (50 spaces), bicycle spaces (162 spaces) under podium level with new vehicular and pedestrian access from Adelaide Road. 6) ESB substation, refuse storage, plant, landscaping, private open space, boundary treatment work and provision of all ancillary site development works and services, at Adelaide Road, Bray, County Wicklow.

5.0 Policy and Context

5.1. Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DOEHLG 2009) require higher residential densities in city/town centres and in areas with good public transport links and existing public services and facilities.

5.2. The current apartment standards are the Sustainable; Urban Housing Design Standards for New Apartments (Dept. of Housing, Local Government and Heritage December 2020).

5.3. Development Plan

5.4. Wicklow County Development Plan 2016-2022 is the relevant County Development Plan for the area. Volume 3 Appendix 1 sets out Development and Design Standards.

5.5. The Bray Municipal District Local Area Plan 2018 is the relevant LAP for the area. The site is zoned GTH Gateway and Transport Hub with the objective “to provide for the development and improvement of appropriate gateway and transport hub uses” and further described in the plan as “to provide for the development and improvement of public transportation infrastructure. The area shall be developed as a gateway to the town with clear linkages to the Town Centre and the Seafront. The area is considered suitable for higher density mixed use development including retail, commercial, office, residential and civic use”.

5.6. Natural Heritage Designations

Not relevant.

5.7. EIA Screening

5.8. Having regard to the nature of the proposed development as a relatively modest commercial/residential building on an infill site in a built-up urban area where public water and sewerage are available and to the absence of ecologically sensitive receptors in the area I conclude that the requirement for the submission of an EIAR and the carrying out of an EIA may be discounted as preliminary assessment stage.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant is the owner of Bri Chuallann Court building which is behind/west of the application site. The windows on the rear elevation of the proposed building are between 5m and 10 m from the rear of the appellant's building and, with the roof garden, will overlook and negatively impact the privacy of the appellant's property.
- The proposed development will negatively impact on the development potential of the appellants' property.
- The foul sewer proposed to serve the proposed development is an original clay pipe installed in 1862. This pipe now serves all the developments on the footprint of the original hotel on site (demolished in the 1970s) and the quantum of residential/commercial development now proposed has the capacity to surcharge that pipe.

6.2. Applicant Response

- Site coverage of 80% is within the limits set by the Wicklow County Development Plan and the Bray Municipal Plan. The apartment guidelines recommend a flexible approach to communal amenity spaces in urban infill sites. The application site is close to a number of amenity open space areas including Bray Seafront and promenade and Sidmonton Park.

- All the windows on the rear elevation serve communal areas, kitchens and bedrooms and the planning authority conditioned these to have opaque glazing. The rooftop garden is also screened.
- The Bri Chuallann Court building is three storeys. The first two storeys are in commercial use which the third storey has two dual aspect apartments. These uses will not be impacted by the proposed development.
- The proposed development at 'Bray Cabs' does not compromise the development potential of adjoining property.
- As part of the additional information an engineering report on the capacity of the foul drainage was submitted to and satisfied the planning authority on this point. The existing and proposed loading on the system does not exceed the original loading from 212 bedrooms including bars, ballrooms and reception areas.

6.3. Planning Authority Response

- No response.

6.4. Observations

- None

7.0 Assessment

7.1. Principle of development.

7.2. The application site currently accommodates a single storey former taxi office and 3 or 4 parking spaces. Opposite the site on Florence Road is Bray dart and mainline rail station with a bus set down/parking area on the street. Immediately to the north of the application site and turning the corner onto Quinsborough Road/R766 are a number of commercial premises including a café, hairdressers and Bray School of Dance. To the south is a 4/6 storey building under construction.

7.3. The site is zoned GTH Gateway and Transport Hub in the current Bray LAP and this zoning objective covers all the uses outlined above and the Bri Chuallann Court

building which is behind the application site and opens onto Adelaide Road. The LAP provides that this area be developed as a gateway to the town with clear linkages to the Town Centre and the Seafront and that the area is suitable for higher density mixed use development including retail, commercial, office, residential and civic use.

- 7.4. Having regard to the mix of residential and commercial uses included in the application I conclude that the proposed development is acceptable in principle in this area.
- 7.5. **Overlooking of adjoining property.**
- 7.6. A main concern of the appeal is that the proposed development would unreasonably overlook the adjoining building to the west - Bri Chuallann Court.
- 7.7. The planning authority sought additional information in relation to the availability of shared open space (point 3 of the FI request). The applicant submitted revised drawings on the 9th July 2020. The revised drawings provided for ground floor shared open space at the back of the building and a first-floor roof garden over the bike store to the rear of apartment number 2. The planning authority's condition 7(ii) required that a triangular area be excised from this roof garden at the windows of apartment number 2. I recommend amending this part of the condition (the relevant windows serve a bathroom and kitchen and they should be glazed with opaque glass which will maintain the shared open space and protect the amenity of the occupants of the apartment).
- 7.8. The rear/western elevation is shown on drawing number PL.89.0301. Starting from the left there are windows at 2nd, 3rd and 4th floors serving bathrooms (the outside staircase shown on the drawings accesses the outdoor seating area at ground floor level). There are no similar windows at 5th floor level. These windows will serve rooms which are generally not occupied full time and largely face up the car park access lane between Bri Chuallann Court and the Bray Bowl building.
- 7.9. The next two columns of windows serve the staircase and landing areas on each floor and will not be ordinarily occupied for long periods. The next two columns of windows serve landings. The final two columns of windows serve a hallway and bathroom at third floor facing onto a 4m deep flat roof, a kitchen at fourth floor facing onto the flat roof and an entrance hall and kitchen at 5th floor also facing onto the flat

roof. There is an additional area of open space between the application site boundary and the rear wall of Bri Chuallann Court.

- 7.10. It is significant that the majority of private open space/balconies are on the east elevation of the building looking east onto the Dart station/rail line. I consider it reasonable to conclude that most open-air domestic activity arising from the apartments will take place on these balconies.
- 7.11. Additionally I note the shadow analysis submitted with the further information and having regard to this material and the orientation of the proposed development due east of Bri Chuallann Court I conclude that the proposed development will not unreasonably impact on daylight or sunlight to that building.
- 7.12. Having regard to the location of the site in a built up urban area zoned for mixed use retail/residential development, the nature of the areas served by the windows on the western/rear elevation (predominantly circulation and sanitary facilities not for day long occupation), the separation distances to the application site boundary and additionally to the rear wall of the Bri Chuallann Court building and subject to draft condition number 2 below requiring opaque glazing I conclude that the proposed development will not seriously injure the amenity of that building through overlooking.
- 7.13. **Apartment Standards.**
- 7.14. The current apartment standards are the Sustainable Urban Housing Design Standards for New Apartments (Dept. of Housing, Local Government and Heritage December 2020).
- 7.15. The Guidelines advise higher density (more than 45 units per ha) in areas within walking distance of city/town centres and public transport stops. The gross residential density proposed in the present case is 343 units/ha which in the context of the built environment in the area including the mixed use development on the adjoining site to the south), the zoning objective for the site and proximity to the Dart station is acceptable.
- 7.16. The mix of apartment sizes (10 one bed units, 1 two bed unit and 1 three bed unit – the notation on the floor plans is inaccurate in that they say 11 units but show 12 units) proposed by way of the amendments made at further information stage complies with specific planning policy requirements 2 in the Guidelines. All the units meet or exceed the minimum floor areas of 45m² for one-bedroom units, 63m² for

two-bedroom units and 73m² for 3-bedroom units. Most units are dual aspect, and all have private amenity space by way of balconies which meet or exceed the national standards. All units have individual internal storage. There is a ground floor bike storage for 35 bikes and there is provision for refuse storage/management.

7.17. Having regard to the foregoing I conclude that the proposed apartments meet the standards set out in the guidelines and provide a good level of residential amenity for future residents.

7.18. Public Sewer.

7.19. The appeal makes the point that the public sewer into which the proposed development would drain is inadequate to handle the additional loading. Irish Water sought further information in relation to the capacity of the sewerage system to serve the proposed development and the capacity of the pipe to be used to drain the proposed development was raised as item 6(b) in the planning authority's request for further information.

7.20. The applicant responded (see poga Consulting Engineers report submitted on 9th July 2020) that there is a combined surface and foul water sewer (150mm) running west under the adjacent Bri Chuallann Court building and decanting into an existing combined sewer on Adelaide Road. The applicant carried out a CCTV survey of the pipe and, despite needing some repair, the report concluded that there was adequate capacity in the pipe to accommodate the existing loading and the loading from the proposed development.

7.21. Irish Water did not review the further information response, but the planning authority reported that it was satisfied with the additional information in relation to the capacity of the sewer and granted permission.

7.22. Having regard to material submitted with the application and appeal, including the further information submitted by the applicant, I conclude that there is capacity in the combined sewer proposed to serve the site and, subject to conditions 4 and 5 in the draft order below, that the proposed development would not be prejudicial to public health for lack of capacity in the sewerage system.

7.23. Appropriate Assessment.

7.24. Having regard to the nature of the proposed development as the redevelopment of a commercial site in a built up urban area, the nature of the receiving environment and distance from the nearest European site, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend a grant of planning permission.

9.0 Reasons and Considerations

9.1. The site is zoned for higher density mixed use development in the Bray Municipal Local Area Plan 2018.

Having regard to the zoning objective for the site, the pattern of development in the area including the existing mix of residential, commercial and community uses, the proximity of the site to significant transport infrastructure and subject to the conditions set out below it is considered that the proposed development is an appropriate form of development in the area, would not seriously injure the amenity or depreciate the value of property in the area, would not give rise to excessive demand on public sewerage in the area and would provide a reasonable standard of amenity for future residents of the proposed development in accordance with the current Sustainable Urban Housing: Design Standards for New Apartments.

Therefore, the proposed development would be in accordance with the provisions of the Bray Municipal Local Area Plan and with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 9th day of July 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none">a) The first-floor roof garden shall be fitted with an opaque screen a minimum of 1.8m above the inside floor level.b) The two rear windows (serving a bathroom and kitchen) in apartment number 2 shall be fitted with opaque glazing.c) The west facing windows in the circulation core and landings shall be fitted with opaque glazing. <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity.</p>
3.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate</p>

	<p>measures for the future maintenance of shared open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Proposals for a building name and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of urban legibility.</p>
8.	<p>No external security shutters shall be erected on the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>Details of all external shopfronts and signage shall be submitted to and agreed in writing with the planning authority prior to the occupation of any retail unit.</p> <p>Reason: In the interest of the amenities of the area/visual amenity.</p>

10.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>
11.	<p>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.</p> <p>Reason: In the interests of sustainable waste management.</p>
12.	<p>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 hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>

14.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Hugh Mannion
Senior Planning Inspector

5th March 2021