



An
Bord
Pleanála

**S. 6(7) of Planning and
Development (Housing) and
Residential Tenancies Act 2016**

**Inspector's Report on
Recommended Opinion
311610-21**

Strategic Housing Development

139 number apartments, community outreach centre, 2 retail units, community meeting room and a creche and all associated works.

Location

Heiton Buckley Site at Castle Street,
No. 20 Dwyer Park and Saint
Anthony's Wicklow.

Planning Authority

Wicklow County Council.

Prospective Applicant

Silverbow Limited

Date of Consultation Meeting

22nd December 2021

Date of Site Inspection

10th December 2021

Inspector

F. Fair

1.0 Introduction

- 1.1.1. Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the planning authority and the documentation received from the prospective applicant, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

2.0 Site Location and Description

- 2.1.1. The subject site is located at the northern end of Bray Town Centre. The site is accessed from Castle Street, which forms part of the R761, the main thoroughfare running through Bray. Bray DART station is located c. 750m south-east of the site.
- 2.1.2. The overall gross site area extends to c. 1.06 hectares and comprises the Core (Net) Site Area as well as sections of the surrounding public roads and footpaths to facilitate drainage infrastructure works.
- 2.1.3. The core site area on which the proposed mixed-use development will be constructed extends to c.0.86 hectares. The site currently accommodates a number of vacant commercial and residential buildings. The majority of the site accommodates yards and structures associated with its former use as a builder's merchants. The frontage to Castle Street comprises the single storey former Heiton Buckley showroom and a 2-storey vacant commercial building. The south-east corner of the site extends to Dwyer Park and accommodates a single storey dwelling (No. 20 Dwyer Park). The northern part of the site accommodates a residential property and associated outbuildings known as St. Anthony's, which is accessed from Dwyer Park.
- 2.1.4. The site is bounded by a mix of residential, commercial and undeveloped lands. The site occupies a frontage of c.75m to Castle Street, which forms part of the south-

west boundary. The western boundary is set back from Castle Street and wraps around an adjoining commercial development accommodating warehouses and a parade of retail / service units (Dargle Centre).

- 2.1.5. To the east the site bounds the rear of residential properties at 15-19 Dwyer Park. Nos. 1-3 Dwyer Park are located to the north-east on the opposite side of Dwyer Park. To the north are undeveloped lands, including the reservation for a future access road.

3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed development consists of a residential development consisting of:

- Demolition of existing vacant commercial and residential buildings;
- 2. Construction of a mixed-use residential and commercial scheme in 2 blocks ranging in height from 1 to 7 storeys set around a central amenity space;

- 3.1.2. The following development parameters are noted: **Table 1**

Parameter	Site Proposal
Site area	1.055 hectares / Net developable area 0.86 ha
No. of Units	139 1 bed – 33 (24%) 2 bed – 91 (65%) 3 bed – 15 (11%)
Commercial Accommodation	Retail Unit 1 - 226 sq. m Retail Unit 2 – 410 sq. m Creche 220 sq. m Community Facility 90 sq. m Community meeting room 65 sq. m

Density	162 units / ha
Height	1 – 7 Storey
Dual Aspect Apartments	44 % (61 of 139)
Communal Open Space (COS)	1,613 sqm (in excess of the 15% required)
Car Parking Total	60 (Go car 3)
Creche	6
Residential	54
Motorcycle	1
Bicycle Parking	2 per apartment
Vehicular Access	One vehicular access from Castle Street and 2 no. pedestrian entrances to the rear off Dwyer Park and 1 pedestrian entrance to the front of the site off Castle Street.

4.0 National and Local Planning Policy

4.1.1. National

Project Ireland 2040 - National Planning Framework

Chapter 4 of the Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it is considered will assist in achieving same. National Policy Objective 4 sets out to ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

The directly relevant National Policy Objectives as contained within the NPF include: National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected. National Policy

Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

National Policy Objective 57 sets out to enhance water quality and resource management, this includes the requirement to ensure that flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities. Relevant Section 28 Ministerial Guidelines:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- Design Manual for Urban Roads and Streets (Interim Advice Note Covid -19, May 2020)
- Guidelines for Planning Authorities on Urban Development and Building Heights, 2018
- Sustainable Urban Housing: Design Standards for New Apartments (2020),
- The Planning System and Flood Risk Management (including associated Technical Appendices).
- Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities (2009).
- The Architectural Heritage Protection Guidelines for Planning Authorities (2011).

4.1.2. **Regional Policy**

- Regional Spatial and Economic Strategy (RSES) for Eastern and Midland Assembly, 2019

4.1.3. **Local Policy**

The site is located within the town centre of Bray and the majority of the site is zoned "TC", Town Centre. A small area in the north-east corner is zoned R-HD New Residential.

The zoning Objective is: "To provide for the development and improvement of appropriate town centre uses incl. retail commercial, office and civic use, and to provide for 'Living Over the shop' residential accommodation, or other ancillary residential accommodation.'

Part of the site is subject to Objective OP2: Former Heiton Buckley's, Dublin Road. "To provide for a mixed use development including commercial, retail, residential, community and cultural uses;

- Active commercial, community or cultural uses will generally be required at ground and street levels, with residential use above, other than (a) along the Dwyer Park frontage and (b) on the truncated northernmost sector of the site.
- A high density development, that makes the best use of this serviced urban land will be expected, in a 3-4 storey development;
- The design (including height) of any development shall pay particular regard to the height of immediately adjoining (mostly 2-storey) residences and in general heights shall not exceed 3-storeys along Dwyer Park;
- Any development on the lands shall include street frontage directly onto Castle Street, ideally with limited set back across the frontage of the site; (other than that required for adequate pedestrian / cyclist usage); any set back in excess of 5m from the road kerb will require to be justified based on specific design criteria and in any event buildings shall not be set back any further than 15m from the kerb.
- Those parts of any proposed development that adjoin existing streets shall provide for an active street frontage that addresses and connects with the public domain".

Map H1 identifies part of the site as an Area of Archaeological Potential.

5.0 Planning History

5.1.1. Reg. Ref. 14/2174 (ABP Ref. PL 27.245361)

Permission sought by Aldi Stores Ireland Limited for:- Demolition of existing buildings and outbuildings (totalling 1970sqm gross) and associated site development works, the construction of a single storey double height discount food store (with ancillary off licence sales) measuring 1635sqm gross floor space.

Permission refused by An Bord Pleanála on 21 December 2015 for the following reason:

- Having regard to the objective of the Bray Town Development Plan 2011 – 2017 to “promote the re-development and intensification of use” of opportunity sites, and to the specific identification of the subject site as Opportunity Site Number 3 under Section 4.4.13 of this Plan, (wherein it is indicated that “mixed-use development comprising commercial units on ground floor and office/residential units on upper floors” would be acceptable), it is considered that the proposed development, which provides for a single retail unit at ground floor level only, would not promote the appropriate redevelopment and intensification of use of this opportunity site and would result in this opportunity site, which is located in the core retail area of Bray, becoming under-utilised.
- Furthermore, by reason of its monolithic and standardised form, and its generally single storied nature, and notwithstanding the modifications to the original design, as submitted to the planning authority on the 23rd day of April, 2015, it is considered that the proposed development does not demonstrate a sufficiently high quality of urban design nor provide an innovative architectural design solution for this opportunity site within the core retail area of Bray. The proposed development would, therefore, materially contravene the objective of the Bray Town Development Plan 2011 – 2017 to promote the re-development and intensification of use of this opportunity site, and would be contrary to the proper planning and sustainable development of the area.

5.1.2. Reg. Ref. 06/630256

Permission sought by Heiton Buckley Limited for:- Erection of a 600mm additional course plus supporting piers to the top of the existing boundary wall and fence adjoining St. Anthony’s, Dwyer Park. 101

Permission granted on 30 November 2006.

5.1.3. Reg. Ref. 03/630112

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Permission sought by Thomas & Elaine O'Reilly for:- Installation of dormer windows to south facing roof to convert existing attic area to living accommodation and construction of porch and canopy to south facing wall at existing front door at St. Anthony's, Dwyer Park.

Permission granted on 19 August 2003.

5.1.4. Reg. Ref. 01/630142

Permission sought by F&T Buckley Holdings Limited for:- Erection of a fence 1.2m above existing fence and wall adjacent to St. Anthony's, Dwyer Park.

Permission granted 6 November 2001.

6.0 Section 247 Consultation(s) with Planning Authority

It is stated by the prospective applicant that a Section 247 pre-planning meeting took place with Wicklow County Council (WCC) on 19th March 2021. The minutes of the meeting are attached to the file.

7.0 Submissions Received

Irish Water (report dated 5th November 2021)

Irish Water had issued a Confirmation of Feasibility has been issued to the applicant. Connection(s) to the public network are subject to a Connection Agreement with Irish Water.

8.0 Forming of Opinion

Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submissions and the discussions which took place during the tripartite consultation meeting. I shall provide brief detail on each of these elements hereunder.

9.0 Documentation Submitted

The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Article 285 of the Planning and Development (Strategic Housing Development) Regulations 2017. This information included, inter alia,

- Planning Context Report & Statement of Consistency
- Material Contravention Statement
- Social Infrastructure Audit
- Architectural Design Statement
- Landscape Design Statement
- Daylight & Sunlight Analysis
- Engineering Services Report
- Site Specific Flood Risk Assessment
- Outline Construction Management Plan
- Outline Construction & Demolition Waste Management Plan
- Climate Change Impact Assessment
- DMURS Design Statement
- Transportation Assessment Report
- Operational Waste Management Plan
- Appropriate Assessment Screening Statement
- Environmental Impact Assessment Screening Report
- Ecological Impact Assessment
- Construction & Environmental Management Plan
- Section 299B Statement

- Bat Assessment
- Archaeological Desktop Assessment
- Stage 2B Report (Fire)
- Disability Access Review
- Energy Statement
- External Lighting Report
- Outdoor Lighting Report

I have considered all of the documentation submitted by the prospective applicant, relating to this case.

10.0 **Planning Authority Submission**

In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located Wicklow County Council, submitted copies of their section 247 consultation with the prospective applicant and also submitted their opinion in relation to the proposal. These were received by An Bord Pleanála on the 3rd November 2021.

The Planning Authority has identified a number of considerations which may have a bearing on the Board's decision as to whether the proposal constitutes a reasonable basis for an application.

- Principle, Density, Typology, Mix is acceptable.
- No significant objection to the general layout and design
- Essential indicative possible future pedestrian and cycling connections are shown to link to SAR Road and the OPR Former Everest Centre
- Issue of justification of the building line to comply with specific obj and Bus Connects layout.

- Comments from Roads noted and the entrance must be justified (The location of the proposed vehicular entrance opposite the busy Castle Street Shopping Centre entrance would endanger public safety by reason of traffic hazard. Layout would interrupt bus movement (Bus Connects) in the adjoining bus lanes. A sight entrance further north on Castle Street would be more acceptable).
- Reduced car parking deemed acceptable but needs to be justified.
- Justification why green roofs are not incorporated into all of the apartment buildings.
- Further archaeological investigations and assessment should be undertaken prior to any application.
- A portion of the site is within Flood Zone A in Bray SFRA. Impact of River Dargle is not shown on flood maps. According for the river Dargle Flood Defence Scheme, it is appropriate to classify it as Flood Zone C. PA generally satisfied with the site specific flood risk assessment carried out.

I have reviewed and considered all of the documentation submitted by the planning authority relating to this case.

11.0 Consultation Meeting

A Section 5 Consultation meeting took place via Microsoft Teams on the 22nd December 2021, commencing at 10.00 am. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

The main topics raised for discussion at the tripartite meeting were as follows:

1. Compliance with the TC zoning and specific Objective OP2.
2. Layout, massing, integration with and visual Impact on the surrounding area, in particular Dwyer Park.

3. Residential Amenity (both within the proposed development and to surrounding existing residents)

4. Access, permeability, integration with Castle Street and boundary treatments along Dwyer Park.

5. Archaeology.

6. AOB

11.1.1. In relation to, compliance with TC zoning and Objective OP2, An Bord Pleanála representatives sought further elaboration / discussion / consideration on the following:

- It was acknowledged that much agreement has been reached between the PA and the applicant on many issues.
- The proposed building heights are in excess of the Bray MD LAP. The submitted material contravention statement is noted, this should be submitted at full application stage.
- Further consideration and justification of how all of the OP2 objectives within the Bray MD LAP are met.
- Consistency between all drawings and documentation, no room for inaccuracies, drawings need to be sufficiently detailed, accurate and legible.

11.1.2. In relation to layout, massing, integration and visual impact on the surrounding area, in particular Dwyer Park, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Further justification of urban design considerations such as height/scale/density/massing of proposed apartment blocks in the context of the existing pattern of development in the area and in the context of existing Development Plan policy.

- Justification of the height, architectural design / treatment and interface with public streets, in particular, in respect of impact of the development upon two storey dwellings in Dwyer Park.
- Consideration and regard to potential submissions from members of the public at application stage, in relation to the impact on the surrounding area.
- Further discussion and consideration of connectivity to SAR Road and the timeframe for which construction of the road will be delivered. Query whether the road is a public or private project.

11.1.3. In relation to residential amenity, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Residential amenity in the context of possible/perceived impacts on existing residential properties in Dwyer Park, setbacks, site slope, landscaping and boundary treatments.
- There is a requirement to carry out a daylight and sunlight assessment as part of any future application. The assessment should set out where the proposal complies with relevant BS or BRE standards and any noncompliance or shortfall should be clearly identified, justified and mitigation measures proposed.
- Further consideration of over shadowing to amenity spaces within the development and to adjoining properties and their amenity spaces.
- Residential amenity in the context of separation distances between proposed blocks and to existing adjoining development.

11.1.4. In relation to access, permeability, integration with Castle Street and boundary treatments along Dwyer Park, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Further consideration and clarity with respect to the permeability of the proposed development.
- Further consideration for the impact of the development on the function of Castle Street in the future, in particular with respect to Bus Connects.
- Consideration of a detailed up to date Traffic and Transportation Report and a Mobility Strategy and details of any consultation with NTA regarding planned improvements to public transport and cognisance to same.
- It is essential that indicative possible future pedestrian and cycling connections are shown to link the proposed development with the proposed SAR Road.
- The prospective applicant is to set out clearly at application stage where there is a difference in opinion with the PA on any of the issues.
- Further consideration that the connectivity concerns and roads infrastructure items raised in the PA's report is fully addressed at application stage. In particular, the comments raised in the Bray MDE Report are noted and the location of the proposed vehicular entrance should be sufficiently justified.

11.1.5. In regard to archaeology, An Bord Pleanála sought further elaboration / discussion / consideration of the following:

- Further consideration that the site is located within an area highlighted as a zone of archaeological potential. Further investigations should be undertaken and an assessment undertaken prior to submission of any application.

11.1.6. In regard to any other matters, An Bord Pleanála sought further elaboration / discussion / consideration of the following:

- Clarification that all items raised by the PA in their report submitted to the Board are addressed, further meetings should be sought to resolve outstanding issues.

12.0 Conclusion and Recommendation

12.1.1. Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development,

as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

- 12.1.2. I have examined all of the information and submissions before me including the documentation submitted by the prospective applicants, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the section 28 Ministerial Guidelines and local policy via the statutory plans for the area.
- 12.1.3. Having regard to all of the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act **constitutes a reasonable basis for an application for strategic housing development** under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 12.1.4. I would also recommend that the prospective applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

13.0 Recommended Opinion

- 13.1.1. An Bord Pleanála refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

13.1.2. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, **An Bord Pleanála is of the opinion that the documentation submitted with the request to enter into consultations constitute a reasonable basis for an application for strategic housing development.**

13.1.3. Furthermore, pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission:

1. A detailed statement, which should provide adequate identification of all such elements and justification as applicable, where / if the proposed development materially contravenes the statutory plan or LAP for the area other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.
2. A Housing Quality Assessment that provides details in respect of the proposed apartments set out as a schedule of accommodation, with the calculations and tables required to demonstrate compliance with the various requirements of the 2020 Guidelines on Design Standards for New Apartments. It is important that the proposal meets and preferably exceeds the minimum standards in terms of dual aspect and proportion of apartments which exceed the floor area by 10%. In the interests of clarity clear delineation / colour coding of floor plans indicating which of the apartments are considered by the applicant as dual / single aspect, single aspect north facing and which apartments exceeds the floor area by 10%.
3. A Traffic and Transportation Impact Assessment.

4. Details of a Green Infrastructure Plan, Landscaping Plan, Arboriculture Drawings, and Engineering Plans that take account of one another.
5. Justification of quantum and quality of open space provision, both communal and public open space (POS). Clarity with regard to change in levels, compliance with Development Plan standards and planting details.
6. A Daylight and Shadow Impact Assessment of the proposed development, specifically with regard to:
 - (i) Impact upon adequate daylight and sunlight for individual units, public open space, courtyards, communal areas, private amenity spaces and balconies.
 - (ii) Impact to any neighbouring properties.
7. Assessment of impact upon the amenity of the surrounding properties, which should include an assessment of loss of light, overshadowing, overlooking, loss of privacy, potential overbearing impact and visual impact. Any identified impacts should be justified and mitigated against.
8. A report on surface water drainage, surface water management strategy and flood risk which deals specifically with quality of surface water discharge.
9. A full response to matters raised within the PA Opinion and appended internal department reports submitted to ABP on the 03.11.2021.
10. Where an EIAR is not being submitted the applicant should submit all necessary information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 for the purposes of EIAR screening.
11. An up-to-date Ecological Impact Assessment, inclusive of a Bat Survey.
12. An AA screening report which considers potential impacts on the Qualifying Interests of any Natura 2000 site.

13. A life cycle report shall be submitted in accordance with section 6.13 of the Sustainable Urban housing: Design Standards for New Apartments (2020). The report should have regard to the long-term management and maintenance of the proposed development. The applicant should consider the proposed materials and finishes to the scheme including specific detailing of finishes, the treatment of balconies in the apartment buildings, landscaped areas, child friendly spaces, pathways, and all boundary treatments. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development.

14. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.

15. Site Specific Construction and Demolition Waste Management Plan.

16. Details of public lighting.

13.1.4. Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. Irish Water
2. National Transport Authority (NTA)
3. Transport Infrastructure Ireland (TII)
4. The Minister for Culture, Heritage and the Gaeltacht,
5. The Heritage Council
6. An Taisce — the National Trust for Ireland
7. Fáilte Ireland
8. Wicklow County Childcare Committee.

PLEASE NOTE:

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Fiona Fair
Senior Planning Inspector
04.01.2022