

An  
Bord  
Pleanála

## **S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report on Recommended Opinion ABP-313442-22**

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#### **Strategic Housing Development**

Demolition of existing buildings,  
construction of 139 no. apartments,  
creche and associated site works.

#### **Location**

The former Heiton Buckley site on  
Castle Street, St. Anthony's Dwyer  
Park and No. 22 Dwyer Park, Bray,  
Co. Wicklow. ([www.castlestreetshd.ie](http://www.castlestreetshd.ie))

#### **Planning Authority**

Wicklow County Council

#### **Prospective Applicant**

Silverbow Limited

#### **Prescribed Bodies**

- (1) Irish Water
- (2) National Transport Authority
- (3) Transport Infrastructure Ireland
- (4) Department of Housing, Local  
Government & Heritage

**Observers**

- (1) Billy Griffiths
- (2) Walter O'Toole & Ciara Duncan
- (3) Catherine & David Griffiths
- (4) Lorraine & Tony Morey
- (5) Vincent Doyle & Aisling Smyth
- (6) Michael & Avril Power
- (7) Noeleen McManus
- (8) Owen McNestry & Sarah Shepard

**Date of Site Inspection**

18<sup>th</sup> October 2022

**Inspector**

Colin McBride

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## **1.0 Introduction**

- 1.1 This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## **2.0 Site Location and Description**

- 2.1 The subject site with a stated area of 1.06 hectares, 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.
- 2.2 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.
- 2.3 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).
- 2.4 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 (SAR road).

### **3.0 Proposed Strategic Housing Development**

- 3.1 The demolition of existing vacant commercial buildings (Heiton Buckley site), vacant residential properties (St. Anthony's and 20 Dwyer Park) and a section of a boundary wall with construction of a mixed-use residential and commercial development in 2 primary blocks (A and B) ranging in height from 3 to 7 storeys set around a central podium level amenity space and a separate single-storey pavilion building along Castle Street.

The residential element will accommodate 139 no apartments comprising 33 no. 1-bedroom units; 91 no. 2-bedroom units; and 15 no. 3-bedroom units, with associated balconies.

Block A (3-7 storeys) will accommodate 93 no. apartments at ground to 6<sup>th</sup> floor, with crèche, bicycle store, substation, bin storage and plant rooms at ground floor;

Block B (4-6 storeys) fronting Castle Street will accommodate 46 no. apartments at 1<sup>st</sup> to 5<sup>th</sup> floor, with 2 no. retail/non-retail service/restaurant units, communal resident's room and bin storage at ground floor level;

The separate street level single-storey pavilion building will accommodate a community facility on Castle Street;

Vehicular access from Castle Street to 59 no. undercroft car parking spaces and 3 no. crèche drop-off spaces with footpath access route to crèche;

Principal pedestrian and cyclist access from Castle Street with secondary access from Dwyer Park;

New surface water sewer extending along Castle Street from the site to River Dargle at Bray Bridge;

Landscaped communal open spaces, boundary treatments, bicycle parking, signage, loading bay at Dwyer Park and all associated site works and services.

**Table 1: Key Figures**

<b>Gross Site Area</b>	1.06 hectares
<b>Net Site Area</b>	0.86 hectares
<b>Site Coverage</b>	58%
<b>Plot Ratio</b>	1.9
<b>No. of Houses</b>	0
<b>No. of Apartments</b>	139
<b>Total</b>	208
<b>Density – Total Site Area</b>	162 units per hectare (net density for 0.86 hectares)
<b>Communal Open Space</b>	1,599 sqm
<b>Car Parking – Apartments/ Residents</b>	59
<b>EV Parking</b>	6
<b>Creche drop off</b>	3
<b>Total</b>	62
<b>Bicycle Parking</b>	330
<b>Motorcycle Parking</b>	0

**Table 2: Unit Mix**

	<b>Bedrooms</b>			
<b>Block</b>	<b>1 Bed</b>	<b>2 Beds</b>	<b>3 Beds</b>	<b>Total</b>
<b>A</b>	28	53	12	93
<b>B</b>	5	38	3	46
<b>Total</b>	<b>33 – 24%</b>	<b>91 – 65%</b>	<b>15 – 11%</b>	<b>139 – 100%</b>

3.2 The application was accompanied by various technical reports and drawings, including the following:

- Planning Report including Statement of Consistency with Planning Policy – Simon Clear & Associates.
- Material Contravention Statement – Simon Clear & Associates.
- Statement of Response to An Bord Pleanála Opinion – Simon Clear & Associates.
- EIA Screening Report – Enviroguide.
- Architectural Design Statement – Henry J Lyons Architects
- Building Life Cycle Report – Aramark
- Landscape Design Statement – NMP
- Daylight and Sunlight Analysis – IN2
- Microclimate Wind Analysis and Pedestrian Comfort report – IN2
- Photomontages and CGIs – Renderare
- Landscape & Visual Impact Assessment – Arc
- Outline Heritage Impact Assessment – Arc
- Transportation Assessment Report – NRB Consulting Engineers
- Flood Risk Assessment – Corrigan Hodnett Consulting Engineers
- DMURS Design Statement – Corrigan Hodnett Consulting Engineers
- Climate Change Impact Assessment– Corrigan Hodnett Consulting Engineers
- Outline Construction & Demolition Waste Management Plan– Corrigan Hodnett Consulting Engineers
- Outline Construction Management Plan – Corrigan Hodnett Consulting Engineers
- Ecological Impact Assessment (including Bat Assessment) – Enviroguide
- Outline Construction Environmental Management Plan– Envrioguide
- Environmental Impact Assessment Screening Report – Corrigan Hodnett Consulting Engineers
- Appropriate Assessment Screening Report – Enviroguide
- Statement in accordance with Article 299(B((1)(b)(ii)(II)(C) – Enviroguide
- Engineering Services report - Corrigan Hodnett Consulting Engineers

- Archaeological Impact Assessment – Shanarc
- Operational Waste Management Plan – Awn
- Energy Statement – MCE
- Outdoor Lighting Report – MCE
- External Light Plans – MCE
- Fire Regulations Review – Factfire
- Disability Access Review – Factfire
- Property Management Strategy Report – Aramark

## 4.0 Planning History

- 4.1 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.

- 4.2 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.
- 4.3 Reg. Ref. 03/630112: 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.
- 4.4 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.

## **5.0 Section 5 Pre Application Consultation**

- 5.1 A Section 5 Pre-Application Consultation took place, remotely via Microsoft Team due to Covid-19 restrictions in place, on the 22<sup>nd</sup> of December 2021; Reference ABP-311610-21 refers. Representatives of the prospective applicant, the Planning Authority and An Bord Pleanála attended the meeting. The development as described was for the construction of 139 no. apartments, 2 no. retail units, a crèche, a community facility, community meeting rooms and associated site works at Castle Street, Bray, Co. Wicklow.

5.2 An Bord Pleanála was of the opinion having regard to the consultation meeting and the submission of the Planning Authority, that the documents submitted with the request to enter into consultation constitute a reasonable basis for an application for strategic housing development. Furthermore, pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was 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.

5.3 Finally, a list of authorities that should be notified in the event of the making of an application were advised to the prospective applicant and which included the following:

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.

## 5.4 Applicants Statement

5.4.1 A report prepared by Simon Clear & Associates, entitled 'Response to An Bord Pleanála Opinion' and was submitted in accordance with Section 8(1)(iv) of the Act of 2016. The proposed development is unchanged from the development presented at pre-application consultation in terms of scale, design, layout and configuration.

5.4.2 The following information was provided in response to the opinion:

Issue 1-Material contravention: Simon Clear & Associate have prepared an Material Contravention Statement outlining why permission should be granted in the context of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

Issue 2- Housing Quality Assessment: Henry J Lyons have prepared an Architectural Design Statement that includes Housing Quality Assessment. This provides full details about the apartment mix throughout the proposed development, the size of the apartments, the quantum of open space, storage space, living/dining/kitchen

areas, bedroom areas, and indicates which units are dual aspect. The submitted assessment demonstrates that the proposed development meets all the requirements of the Apartment Guidelines and further detail is provided in the Statement of Consistency report.

Issue 3-Traffic and Transport: NRB Consulting Engineers prepared a Transportation Assessment report incorporating a preliminary travel plan, Stage 1 Road Safety Audit, Bus/Dart Capacity & Demand report and Parking Management/Strategy report.

Issue 4-Green Infrastructure, Landscaping: A Landscape Design Statement prepared by NMP in conjunction with Henry J Lyons includes an analysis of how the proposal ties into existing green infrastructure network in Bray, include landscaping proposal for the site. There are no trees on site and no requirement for aboritcultural assessment.

Issue 5-Open Space: The response state that communal open space is consistent with County Development Plan requirements. In relation to public open space development plan policy allows for public open space in town centre locations to be waived particularly in areas where public amenity space is in close proximity.

Issue 6-Daylight and Shadow Impact: The applicant has engaged the services of IN2 Consultants to undertake a Daylight and Sunlight Analysis. The report finds that the vast majority of neighbouring developments are not negatively impacted in terms of daylight and sunlight. Where there are some rooms which are below the guidelines, appropriate compensatory measures are provided within the development as follows:

- Increased private amenity provision.

Issue 7-Adjoining Amenity: The impact on adjoining amenity is addressed in the Architectural Design Statement prepared by Henry J Lyons and the Daylight and

Sunlight Analysis prepared by IN2. A number of measures are proposed to prevent overlooking in the form of overall design, height graduation, screened private balconies/opaque glazing.

Issue 8-Surface Water Drainage and Management: An Engineering Services Report prepared by Corrigan Hodnett Consulting details surface water drainage and management.

Issue 9- Response to PA Opinion: A response is included to issues raised in the PA Opinion relating to density and typology, mix, access and permeability, car parking, cycle parking, childcare facilities, boundary treatments, services, Part V, archaeology, bats, impact on adjoining amenity, water and environmental services.

Issue 10-EIAR: A statement in accordance with Article 299(B)(1)(b)(ii)(II)(C) of the Planning and Development regulations, 2001 has been prepared by Enviroguide.

Issue 11-Ecological Impact: An up to date Ecological Impact Assessment has been prepared by Enviroguide and includes a Bat Survey report.

Issue 12: Appropriate Assessment: An Appropriate Assessment Screening report has been prepared by Enviroguide.

Issue 13: Life Cycle Report: A Building life Cycle Report has been prepared by Aramark.

Issue 14-Taking in Charge: A drawing has been submitted addressing areas that are to be taken in charge.

Issue 15- Construction and Demolition Waste Management Plan: An Outline Construction & Demolition Waste Management Plan has been prepared by Corrigan Hodnett Consulting.

Issue 16-Public Lighting: Details of public lighting is provided on the drawings submitted and in the External Light report and Outdoor Lighting Report prepared by MCE.

## **6.0 Relevant Planning Policy**

### **6.1 National Policy**

#### **6.1.1 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 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

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.

#### 6.1.2 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).

#### 6.1.3 Other Relevant Policy Documents include

- Housing for All (2021).



- Smarter Travel – A Sustainable Transport Future: A New Transport Policy for Ireland 2009 – 2020.
- Permeability Best Practice Guide – National Transport Authority.

## 6.2 Regional Policy

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

Bray is identified as a Key Town in the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region. These are identified as 'large economically active service and/or county towns that provide employment for their surrounding areas and with high-quality transport links and the capacity to act as growth drivers to complement the Regional Growth Centres'. The RSES indicates that the metropolitan key towns are important in a regional and county context and have the capacity and future growth potential to accommodate above average growth in the Region with the requisite investment in employment creation, services, amenities and sustainable transport.

## 6.3 Local Policy

### 6.3.1 Wicklow County Development Plan 2022-2028

#### Settlement Strategy

Bray is designated as a Level 1: Metropolitan Key Town and is the largest settlement in Co. Wicklow.

#### Building height

CPO 5.24 In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town / city cores, planning authorities are required explicitly identify areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the NPF and RSES.

In this regard, the identification of locations for increased building height shall be carried out in the preparation of Local Area Plans for settlements in tiers 1-3 of the County Settlement Hierarchy as these are deemed the only settlements of sufficient scale and diversity in urban grain to accommodate such increases in height.

## Appendix 1: Development and Design Standards

2.1.7 Car parking New / expanded developments shall be accompanied by appropriate car parking provision, including provision for electric vehicle charging points as set out in Table 2.3, with particular regard being taken of the potential to reduce private car use in locations where public transport and parking enforcement are available. At such locations, the car parking standards set out in Table 2.3 to follow shall be taken as maximum standards, and such a quantum of car parking will only be permitted where it can be justified.

### Section 8.5 Residential public open space:

Public open space in residential developments shall be provided in accordance with the following standards:

- Public open space will normally be required at a rate of 15% of the site area – areas within the site that are not suitable for development or for recreational use must be excluded before the calculation is made;
- Where a public park is being provided by the same developer (or by a group of developers in a combined Action Area) in close proximity to the residential development site, the public open space provided on site may be reduced to 7.5% of the residential site area, with the remainder being made up in the park;
- The need to provide public open space in town centre developments may be waived, particularly where public amenity space such as a town park or beach is in close proximity;
- Open spaces shall be attractively landscaped through the use of both hard and soft landscaping where appropriate.

Open spaces should incorporate existing features and encourage pedestrian use by suitable paving;

#### 6.3.2 Bray Municipal District Local Area Plan 2018-2024

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 TC 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”. The R-HD zoning objective is “to protect, provide and improve residential amenities in a high density format”.

BT3 Generally, a height of 4 storeys (including ground floor) will be considered appropriate in the Bray ‘town centre’ zone, irrespective of adjoining property heights. However, the Council may permit heights above this, where the specific context of the site and the design of the building allow it (for example where additional storeys are set back from street frontage).

**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.

## **7.0 Third Party Submissions**

7.1. A total of 8 third party submissions were received.

7.2. Submissions were received from...

Billy Griffiths, 19 Dwyer Park, Bray, Co. Wicklow.

Walter O'Toole & Ciara Duncan, 18 Dwyer Park, Bray, Co. Wicklow.

Catherine & David Griffiths, 16 Dwyer Park, Bray, Co. Wicklow.

Lorraine & Tony Morey, 15 Dwyer Park, Bray, Co. Wicklow.

Vincent Doyle & Aisling Smyth, 17 Dwyer Park, Bray, Co. Wicklow.

Michael & Avril Power, 5 Dwyer Park, Bray, Co. Wicklow.

Noeleen McManus, 1 St. Cronan's Road, Bray, Co. Wicklow.

Owen McNestry & Sarah Shepard, 1 Dwyer Park, Bray, Co. Wicklow.

The submissions from residents/ members of the public, grouped under appropriate headings, can be summarised as follows.

### **7.3.1 Support for the proposal**

Five of the submission (15-19 Dwyer Park inclusive) which adjoin the existing vacant development site note active engagement from the applicant and have agreed mutually acceptable mitigation measures to secure future amenity. The five no. submission outline formal support for the development.

### **7.3.2 Height**

Height and scale is excessive and twice the height criteria specified in the LAP. This level of height is not justified in the context of Urban Development and Building heights guidelines.

#### 7.2.3 Adjoining Amenity

- The proposal would have a significant impact on adjoining amenities and does not address the issue of loss of privacy, overbearing impact and visual impact in relation to adjoining dwellings.
- The daylight and sunlight analysis does not include an analysis of impact on upstairs windows and the low rates of VSC and annual sunlight hours is noted regardless of the reduction being less than 20% of former value.
- Impact of outdoor lighting and light pollution on adjoining dwellings.
- Concern regarding the use of Dwyer Park for pedestrian/cycling access due to its narrow width and the increase activity it would bring.

#### 7.3.4 Traffic

There are existing issues of traffic congestion in the area along Castle Street and Dwyer Park. The proposal would generate additional traffic movements and exacerbate congestion, result in overspill of parking onto Dwyer Park and the provision of a loading bay and impact of service vehicles (waste) is noted as a concern. The provision of an additional access onto Castle Street is noted as concern with a number of existing access points and concern regarding visibility and conflict of traffic and pedestrian movements.

#### 7.3.5 Flood Risk

The submissions are critical of the Flood Risk Assessment and the impact of pluvial flooding noting that the risk assessment submitted fail to give adequate regard to the topography of the area. It is pointed out that that the Flood Risk Management Guidelines state that flood defences are to be ignored when assessing flood zones.

The submission notes that the Flood Risk Assessment state the site has never been flooded. The submission outline that the site has been flooded on a number of occasions. The assessment is deficient in consideration of impact of flood risk upstream from the site with a significant level of vulnerable development within Flood Zone A.

#### 7.3.6 Public open space

The lack of public open space is noted with a question why communal open space cannot be made available to the public with it noted that existing public open space is not readily accessible especially to children.

### 8.0 Planning Authority Submission

8.1. The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 21<sup>st</sup> of June 2022. The report details the site location/ site zoning, provides a description of the proposed development, details pre-submission meetings, planning history, lists the issues in the received submissions, the internal reports of Wicklow County Council are summarised, details the relevant Development Plan policies and objectives, and provides a planning assessment of the development. The CE report refers to policies under the Wicklow County Development Plan 2016-2022 and the Bray Municipal District Local Area Plan 2018-2024. A new development plan was adopted on the 23<sup>rd</sup> of October 2022.

8.2 The CE report, in Section 4, also includes a summary of the views of the elected members of the Bray Municipal District held on the 10<sup>th</sup> of May 2022, and these are outlined as follows:

- The Members stated the site is suitable for high density development due to good transport links however had concerns about seven-storey height beside a residential area, four-storeys is more suitable.

- Concern was expressed regarding traffic impact with existing problems in Dwyer Park with illegal parking and potential major implications of a development of this size at this location.
- Question regarding the usability of open space at first floor level.
- Part V units should be spread throughout development and provision should be made for affordable units.
- Concern was expressed in relation to impact on surrounding residential properties in relation to loss of light/overshadowing/overlooking and overall impact on residents of Dwyer Park. Inadequate consultation with residents of no. 1-3 Dwyer Park, concerns regarding impact on privacy due to boundary treatment and provision of an access point opposite the existing dwellings.
- Crèche facilities not adequate, impact of drop-off, removal and relocation location of bus stop will have impact on Belton Terrace. Impactions for development for a retained fire service.
- Compliance with Draft County Development Plan with provision that both house and apartments cannot be bought by investor funds. Concern that development would be targeted by such.
- The proposal is contrary to the Local Area Plan and in this regard is unacceptable.

8.3 A summary of the submissions made by third parties is provided and a full list of who made these submissions. Submissions were grouped under the following headings:

- Positive aspect of site development
- Scale, height, massing & visual impact
- Neighbouring amenity
- Lack of public open space
- Transport & parking, impact of proposed pedestrian and cycling connections on Dwyer Park
- Potential flood impact

- 8.4. A submission has been received by Irish Water.
- 8.5 Interdepartmental Reports have been received from the Water & Environmental Services, Roads Section, Housing and Corporate Estate and the Bray MD Engineer.
- 8.6 Planning Assessment

This is summarised as follows under the headings of the Chief Executive Report.

**Core Strategy:**

- Bray is designated a Level 1 Metropolitan Consolidation Town. The Core Strategy indicates a housing growth requirement of 6,426 units with former Heiton Buckley OP2 site of 0.6 hectares having the potential for 120 units. This is under the Wicklow County Development Plan 2016-2022.
- The Planning Authority through the CE report are of the view that the number of units proposed is acceptable having regard to the targets outlined for the settlement in the core strategy.

**Zoning:**

- TC-Town Centre with a small portion of the site zoned R-HD-New residential high density. It is an objective that this land is developed as a mixed use development including commercial, retail, residential, community and cultural uses.
- The Planning Authority through the CE report consider that the proposed development is in accordance with the zoning objective for the site.

**OP2 Former Heiton Buckley's:**

- The land is designated as an opportunity site (OP2) and such sites should be developed to contribute to enhancement of the public realm, vibrancy and vitality, and retail/services in the town (Chapter 5 of Bray Municipal District LAP).
- The Planning Authority through the CE report consider that the submitted documents show how the OP2 site will be developed in a manner consistent with the objectives for the site.

**Density/Phasing/Mix:**



- The proposal provides for a density of 162 units per hectare and is c.900m walking distance to Bray Dart Station. 'The Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities' indicate that there should be no upper limit to density on City Centre sites subject to qualitative standards. Areas in close proximity to public transport corridors should provide densities of 50 units per hectare. The site is in a Central and/or Accessible Urban Location as per the 2020 Apartment Guidelines and such locations are identified as being generally suitable for higher density developments.
- The development is to be carried out in a single phase.
- Objective HD15 of the CDP (2016-2022) advocates a range of unit types/sizes within medium to large scale housing developments.
- The Planning Authority through the CE report consider that the density, phasing and mix of units is satisfactory based on the central and accessible location of the site.

#### **Apartments/General Design and Layout**

- Objective HD13 (CDP 2016-2022) allows for apartments in designated settlements or within 10 minutes walking distance of public transport. The submitted documents demonstrate compliance with standards set out in Sustainable Urban Housing: Design Standards for New Apartments.
- The Planning Authority through the CE report consider that the provision of apartment development at this location is consistent with CDP policy (2016-2022), have no significant objection to overall layout and design.

#### **Access and Connectivity/Car-Parking and Cycling Facilities**

- The proposal is in a location where it is not dependent on vehicular traffic with accessibility to public transport and the town centre. The design allows for sufficient space for implementation of Bus Connects proposals along Castle Street. Provision is made for a pedestrian/cycling connection SAR Road
- Car parking provision is below relevant standards of the Wicklow CDP (2016-2022) however policy states that parking provision should be reduced where public transport is available. Reduced parking is advocated by the Apartment Guidelines in accessible and intermediary locations.

- The Planning Authority through the CE report consider that the development is in accordance with CDP objectives (2016-2022) and would have no significant or adverse impact on the surrounding road network. The car parking and cycle proposals are considered generally acceptable.

### **Open Space**

- CDP policy (2016-2022) requires provision of communal space as per the Apartment Guidelines with a requirement for 937sqm.
- The Planning Authority through the CE report consider that the level of provision of communal open space is in accordance with CDP objectives (2016-2022) and the Apartment Guidelines, and is of satisfactory quality in terms of layout and design.

### **Childcare Facilities**

- CDP requirements (2016-2022) are 20 childcare spaces per 75 dwelling units. Based on this standard the requirement is 37 childcare space for 139 units with provision of 28 in the facility in Block A. The Apartment Guidelines specify that one-bed units should not be included in such calculations with the requirement for the 106 two and three bed units being 28 childcare spaces.
- The Planning Authority through the CE report consider the childcare facility provided is acceptable.

### **Archaeology**

- The site is within the Bray zone of archaeological potential with no national monument within the site. There are two monuments located in close proximity of the site. An Archaeological Impact Assessment was submitted with no features of archaeological significance noted during excavations.
- The Planning Authority through the CE report consider the proposal would not result in significant or adverse impacts on archaeology.

### **Flooding**

- A Site Specific Flood Risk Assessment has been submitted. A portion of the southern part of the site is within Flood Zone A and B. The River Dargle flood

defence works have been carried out and current flood maps does not show impacts of such. Accounting for flood defences it is appropriate to classify the site as Flood Zone C.

- The Planning Authority through the CE report consider the proposal be in accordance with the Planning System and Flood Risk Management guidelines.

### **Other Issues**

- Part V: A total of 14 units are to be provided and the Housing Section have reported no objection to this.
- Services: Irish Water have issue confirmation of feasibility in relation to foul water and water supply.

### **Conclusion**

The Planning Authority conclude that the development is acceptable in terms of the zonings that apply to this site, the height and quantum of development is acceptable on this site and overall, the development is considered to be acceptable, though it is reported that the height of seven storeys exceeds the suggested 3-4 storey provision for OP2 under the LAP. Suitable conditions are provided in the event that permission is to be granted. The Planning Authority recommend that permission should be granted.

8.7 In addition to the CE report, additional Wicklow County Council internal reports have been provided and are included in Appendix A of the CE report.

- Roads Section: In the event of grant of permission a number of conditions should be applied concerning agreement of works on the public road, engagement with the Council's Public Light Section if works interfere with public lighting and carrying out a Stage 3 Road Safety Audit.
- Bray MD Engineer: Flood Risk has not been adequately assessed in the Engineering Services Report with concern that most of the site is within Flood Zone A and that some drainage proposals may be ineffective. The development

is considered to endanger public safety by reason of traffic hazard due to the provision of a new junction at a bend on a heavily congested urban road.

- Water & Environmental Services: Conditions are recommended including the need for agreement of detail of proposed outfall to the Dargle River, confirmation of storm water attenuation system accessibility for maintenance.
- Housing & Corporate Estate: Engagement has been had between the developer and the Housing & Community Services in relation to meeting Part V requirements, the developer is suitably aware of their obligations.

## 9.0 Prescribed Bodies

9.1. The applicant was required to notify the following prescribed bodies prior to making the application:

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 (no response)
6. An Taisce — the National Trust for Ireland (no response)
7. Fáilte Ireland (no response)
8. Wicklow County Childcare Committee (no response)

9.2. The following is a brief summary of the issues raised.

### 9.2.1. Irish Water:

Irish Water has issued a Confirmation of Feasibility for the proposed development to connect to the public water and wastewater networks. The applicant has engaged with Irish Water and has submitted design proposals.

Irish Water has requested that in the event that permission is granted that conditions be included as follows:

- 'The applicant must sign a connection agreement with Irish Water prior to any works commencing and to connecting to our network'.
- Irish Water does not permit any build over its assets and separation distances as per Irish Water Standards Codes and Practices shall be achieved.

#### **9.2.2 National Transport Authority:**

The NTA confirm that the development can be undertaken in a manner that facilitates the delivery of the Bus Connects Bray CBC scheme. The NTA consider the provision of 0.42 car parking spaces per residential unit is appropriate in the context of available alternatives to the private car. The provision of a shared car scheme should be introduced when the development is occupied.

The NTA has requested that in the event that permission is granted that conditions be included as follows:

- At least 10% of the car parking spaces are provided with EV charging points.
- The appropriate number of spaces are allocated to car sharing and an agreement reached with an operator prior to occupation.

#### **9.2.3 Transport Infrastructure Ireland:**

The TII has no observations to make.

#### **9.2.4 Department of Housing, Local Government & Heritage (Development Applications Unit):**

The DAU confirm note that an Archaeological Impact Assessment has been submitted.

The DAU has requested that in the event that permission is granted that conditions be included as follows:

- Archaeological monitoring of groundworks at construction stage.

## 10.0 Assessment

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. Having examined the application details and all other documentation on file, including the Chief Executive's Report from the Planning Authority and all of the submissions received in relation to the application, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this application are as follows:

10.2. The assessment of the submitted development is therefore arranged as follows:

- Principle of Development
- Development Height
- Design and Layout
- Visual Impact
- Residential Amenity – Future Occupants
- Residential Amenity – Existing/ Adjacent Residents
- Transportation, Traffic and Parking
- Infrastructure and Flood Risk
- Other Matters
- Material Contravention

10.3. Principle of Development

10.3.1 The proposal is for the construction of a mixed use development with the residential element will accommodate 139 no apartments. Block A (3-7 storeys) will accommodate 93 no. apartment at ground to 6<sup>th</sup> floor, with crèche, bicycle store, substation, bin storage and plant rooms at ground floor. Block B (4-6 storeys) fronting Castle Street will accommodate 46 no. apartments at 1<sup>st</sup> to 5<sup>th</sup> floor, with 2 no. retail/non-retail service/restaurant units, communal resident's room and bin

storage at ground floor level. The separate street level single-storey pavilion building will accommodate a community facility on Castle Street. Vehicular access from Castle Street to 59 no. undercroft car parking spaces and 3 no. crèche drop-off spaces with footpath access route to crèche. The appeal site is currently a vacant site with a number of existing structures including commercial and residential properties. The site is zoned TC Town Centre under the Municipal Bray Local Area Plan 2018-2024 with a stated objective 'to provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation'. Chapter 11 of the LAP sets out uses which are compatible with and may contribute to the TC zoning objective. This includes residential, retail and community uses. A small portion of the site (north east corner) is zoned R-HD and the proposal is for residential development on this portion of the site, which is compatible use with this land use zoning.

10.3.2 Bray is designated a Level 1 Metropolitan Key Town under the Wicklow Settlement Hierarchy of the Wicklow County Development plan 2022-2028. The Core Strategy indicates a housing target of 8,467 units between Q3 2022 – Q2 2028 (Table 3.2) with a housing growth target of 4,026 unit for Bray between Q3 2022 – Q2 2028 (Table 3.5). The Bray Municipal Distract Local Area Plan 2018-2024 identifies the former Heiton Buckley OP2 site of 0.6 hectares having the potential for 120 units (Table 3.1). The site is 1.06 hectares and is larger than the area are identified as OP2 but incorporates the 0.6 hectares site identified. The suggested density for OP2 site is 200 units per hectare (120 units on 0.6 hectares). The actual density proposed is 162 units per hectare (net density based on 0.86 hectare net area of the site).

10.3.3 **CE report Comments:** The Planning Authority have indicated that the proposal is consistent with zoning policy of the LAP and that the principle of the proposed development is acceptable at this location.

10.3.4 Conclusion on Section 10.3: The third party observations acknowledge the principle of the development and the designation of the site as OP2 under the LAP with objection mainly to the scale and height of development rather than the principle of

development of the site. There is some level of objection to the principle of development on the basis of flood risk. The site is suitably zoned for a mixed use development, which is primarily a residential development and the proposal would see the provision of 139 apartment units, 2 no. retail units, a childcare facility and community building on a site in an established urban area, where public transport is available. The proposal is consistent with the core strategy and settlement strategy as outlined under the Wicklow County Development Plan 2022-2028, which identifies Bray as the largest settlement and is designated to facilitate housing growth. Considering the zoning of the site and nature of the proposed development, there is no reason to recommend a refusal to the Board.

#### 10.4 Development Height:

10.4.1 The proposal is for two no. blocks, Block A is 3-7 storeys seven storeys in height with a maximum ridge height of 29.475m whereas Block B is 4-6 storeys in height with a maximum ridge height of 26.175m. The height of the building is one of the issues raised in the third party submissions with the height considered to be excessive and out of character at this location. The area is characterised by buildings of no greater height than two-storeys with a number of single-storey and two-storey commercial structures, and the two storey dwellings in Dwyer Park in the vicinity of the site. Planning policy on building height is outlined above. BT3 of LAP specifies a height of four-storeys being appropriate in Bray town centre with consideration of increased height where the specific site context and building design allow it. The LAP identifies the site as OP2 (0.6 hectares of overall site) with objectives for the site identifying a 3-4 storey high density development with heights not exceeding 3-storeys along Dwyer Park.

10.4.2 Section 3.2 – ‘Development Management Criteria’ of the ‘Urban Development and Building Heights – Guidelines for Planning Authorities’, December 2018, sets out a number of considerations for developments with increased heights.

10.4.3 In the interest of convenience, I have set these out in the following table:



At the scale of the relevant city/ town	
Criteria	Response
The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.	Public transport is available in the form of Bus Routes 45A, 455B, 84, 84A, 143, 145, 155 along the Castle Street (existing bus lanes) and Route 185 along Dargle Road Upper. Bray Dart Station is 1km from the site (12 min walk time). .
Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key view.  Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.	<ul style="list-style-type: none"> <li>• No protected views, Architectural Conservation Area (ACA), or other architectural/ visual sensitives apply to this site. The development is not located within a landscape character area worthy of particular protection.</li> <li>• Verified Views and photomontages have been prepared by Renderare and a Landscape and Visual Impact Assessment has been prepared by ARC in support of the application.</li> <li>• Architectural Design Statement prepared by Henry J Lyons.</li> </ul>
On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the	<ul style="list-style-type: none"> <li>• The site provides a strong urban edge along Castle Street, the layout includes provision of pedestrian linkages with the surrounding area and future road objectives as well as providing active</li> </ul>

required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.	<p>and more compatible uses with zoning on an underutilised vacant site.</p> <ul style="list-style-type: none"> <li>• An Architect Design Statement prepared by Henry J Lyons has been submitted in support of the development.</li> </ul>
<b>At the scale of district/ neighbourhood/ street</b>	
<b>Criteria</b>	<b>Response</b>
The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.	<ul style="list-style-type: none"> <li>• The development will provide for strong active frontage along the Castle Street and animation/activity at ground floor level along the public road and provision increased residential activity at this location.</li> </ul>
The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.	<ul style="list-style-type: none"> <li>• The design includes careful articulation of fenestration and detailing that ensure that the massing of the blocks is suitably broken up to ensure that it is not monolithic, there is also clear step down of development blocks where they adjoin existing development.</li> </ul>
The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements	<ul style="list-style-type: none"> <li>• The design provides for a public open space/plaza space along the Castle Street frontage and adjacent the single-storey community building link into the communal open space areas on site.</li> <li>• The 'Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009) are complied with, and a Site-Specific Flood Risk</li> </ul>

of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).	Assessment is included in the Infrastructure Design report.
The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.	<ul style="list-style-type: none"> <li>Improved legibility is provided in the form of strong elevations.</li> </ul>
The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.	<ul style="list-style-type: none"> <li>The proposed development will provide for a more defined urban edge along Castel Street and Dwyer Park.</li> </ul>
<b>At the scale of the site/ building</b>	
<b>Criteria</b>	<b>Response</b>
The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.	<ul style="list-style-type: none"> <li>The development allows for good access to natural light and reduces the potential for overshadowing.</li> </ul>
Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for	<ul style="list-style-type: none"> <li>The applicant has engaged the services of IN2 to prepare a Daylight and Sunlight Analysis, and which is included with the application.</li> </ul>

Buildings – Part 2: Code of Practice for Daylighting’.	
Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this has been clearly identified and a rationale for any alternative, compensatory design solutions has been set out, in respect of which the Board has applied its discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.	<ul style="list-style-type: none"> <li>• As above.</li> </ul>
<b>Specific Assessment</b>	
<b>Criteria</b>	<b>Response</b>
To support proposals at some or all of these scales, specific assessments may be required and these may include: Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include	<ul style="list-style-type: none"> <li>• Daylight and Overshadowing analysis have been submitted and demonstrate compliance with standards, as applicable.</li> </ul>

measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.	
In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.	<ul style="list-style-type: none"> <li>• An Ecological Impact Assessment (EcIA) and an Appropriate Assessment Screening Report have been submitted in support of the application and which fully consider the impact of the development.</li> <li>• In summary, the site is an existing urban site and not an ecologically sensitive environment.</li> </ul>
An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.	<ul style="list-style-type: none"> <li>• N/A Due to seven storey nature of the development.</li> </ul>
An assessment that the proposal maintains safe air navigation.	<ul style="list-style-type: none"> <li>• N/A Due to seven storey nature of the development.</li> </ul>
An urban design statement including, as appropriate, impact on the historic built environment.	<ul style="list-style-type: none"> <li>• Included with the application is An Architectural Design Statement, prepared Henry J Lyons which demonstrates how the development will integrate into its surroundings.</li> </ul>
Relevant environmental assessment	<ul style="list-style-type: none"> <li>• SEA and EIA not required/ applicable due to the scale of the development.</li> </ul>

requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.	<ul style="list-style-type: none"> <li>• EclA and AA screening report are submitted with the application.</li> </ul>
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10.4.4 The above table demonstrates that the development complies with Section 3.2 of the 'Urban Development and Building Height' guidelines and that the criteria are suitably incorporated into the development proposal. Many of the issues identified in the table are assessed in greater depth in the following sections of my report.

10.4.5 National and local policy is to provide for increased heights and density on sites that can be demonstrated to be suitable for such development. The above table includes appropriate considerations for such development. A number of the third-party submissions state that this development results in the introduction of a seven-storey development into an area defined by lower heights. The proposed development will provide for an efficient use of zoned serviced land and provide for increased residential accommodation for which demand exists.

10.4.6 The issue of Material Contravention is considered further in this report under Section 10.13.

10.4.7 **CE Report Comments:** The Planning Authority, through the CE Report, have been generally positive towards the proposed development in terms of principle, density, and the overall design. No explicit concerns are raised regarding the height of the proposal with it pointed out that the height proposed is not consistent with the height objective of the LAP which suggest a 3-4 storey building across the development site. The overall scale and quality of design was considered appropriate and of acceptable quality.

10.4.8 **Conclusion on Section 10.4:** I am satisfied that proposed development demonstrates that it complies with the criteria set out in Section 3.2 of the 'Urban

Development and Building Height' guidelines. In terms of local planning policy there is a town centre objective BT3 that states heights of four-storeys will generally be appropriate in town centre areas, with scope to allow higher where specific context of the site and the design of the building allow it. Objectives for OP2 identify a three-four storey development for the site with no more than three-storeys along Dwyer Park. The proposed blocks range from 3-7 storeys and 4-6 storeys. Table 3.1 of the LAP identifies a development of 120 units on a site of 0.6 hectares (OP2), I would question whether a density (200 units per hectare as opposed to the density proposed on an enlarged site of 162 units per hectare) such as this could be achieved within the height limits for the site under the LAP. I recommend that the Board grant permission for the development having regard to SPPR 3, in addition to NPO13 and 35 – which seek to improve urban areas through suitable regeneration and increased densities/height. The issue of Material Contravention is considered later under Section 10.11 of this report.

## 10.5 Design and Layout:

10.5.1 The site is currently occupied by vacant commercial structures and two vacant residential properties with a road frontage along Castle Street and some road frontage along Dwyer Park.

10.5.2 The proposal is for two blocks, Block B is an L-shaped Block (4-6-storeys) with frontage along Castle Street and a part of Dwyer Park where it forms a junction with Castle Street. Block A (3-7-storeys) is located to the north of Block A and has a limited amount of road frontage along Dwyer Park. The development features a vehicular entrance off Castle Street to undercroft parking, a pedestrian entrance through a plaza area along Castle Street. There is single-storey community building along the Castle Street frontage adjoining the pedestrian entrance. The pedestrian entrance provides access to the communal open space areas, which is in the form of courtyard area between the two blocks at first floor level and open space areas along the perimeter of the site.

10.5.3 **CE report comments:** CE report consider that the provision of apartment development at this location is consistent with CDP policy, have no significant objection to overall layout and design.

10.5.4 I note these comments however and I would be of the view that the proposal does have regard to the provision of linkages and permeability as well as providing an improved public realm. The existing site is defined by an underutilised brownfield site in an established town centre area. The proposal provides for an appropriate mix of uses, an improved streetscape along Castle Street with active frontage at ground floor level and enhanced public realm with the proposed pedestrian plaza along the Castle Street road frontage. The proposal provides good pedestrian linkages into the adjoining area with pedestrian connections along Castle Street as well as two pedestrian linkages within Dwyer Park. The design has regard to the provision of upgrades along Castle Street in the form of Bus Connects as well as provision for future pedestrian connection to the proposed SAR road running along northern boundary of the site.

10.5.6 **Conclusion on Section 10.5:** The proposed design is considered to be acceptable for this location in terms of urban form, layout, permeability and enhancement of the public realm. There is no reason to recommend a refusal of permission to the Board in terms of the proposed design and layout.

## 10.6 Visual Impact:

10.6.1 The Architectural Design Statement describes the elevational treatment of the structure, and which are to consist of a mix of light and darker brick finishes, smooth render and perforated metal balconies. The Planning Authority have raised no objections to the external finishes. The use of external materials is acceptable in that it provides variation to sufficient break up the facades of the block. Final details on the external treatment can be agreed with the Planning Authority by way of condition.

10.6.2 As already reported, the area is characterised by commercial and residential structures with the maximum height being some two-storey structures along Castle



Street with two-storey dwellings along Dwyer Park. The applicant has submitted a number of documents in support of the proposed development and with particular reference to the issue of height as follows:

- Architectural Design Statement by Henry J Lyons
- CGI, Aerial & Verified Views by Renderare
- Landscape and Visual Impact Assessment by Arc.
- Outline Architectural Heritage Impact Assessment by Arc.
- Landscape Design Statement by NMP Landscape Architecture

The submitted documents in conjunction with the submitted elevational and contiguous elevational drawings, clearly demonstrate what the visual impact will be on the character of the area.

10.6.3 The primary view that the public will have is from Castle Street and at the junction of Castle Street and Dwyer Park. Block B consist of 4-6 storey block, which will step up from four-storeys where it adjoins the junction of Castle Street and Dwyer Park to six-storeys moving north west. The development does step down to a single-storey community building along Castle Street (opposite side of pedestrian entrance) and where it adjoins the existing single-storey First Stop tyre garage. Along Dwyer Park, Block B is four-storeys with a step down to no. 17-19 Dwyer Park. Where Block A adjoins existing dwellings in Dwyer Park, no.s 15 and 16 to the east of the Block and no. 1-3 on the opposite side of Dwyer Park, Block A is three-storeys and steps up to seven moving westwards.

10.6.4 The proposal is located in an area characterised by a mixture of residential and commercial development characterised by structures ranging from single-storey up to two-storeys. There is a lack of a defined pattern of development or architectural character in particular along the Castle Street frontage with the previous use on site being commercial warehousing and adjoining development along Castle Street to the north west being similar in nature. The proposal does provide for a more defined urban road frontage and the site is suitable for a structure of increased height. The development has adequate regard to the existing residential development in the way

both blocks step down in height where they adjoin existing residential properties and increases in height are handled in a transitional manner rather than abrupt increases. The application is accompanied a report showing verified views and CGI of the proposed structures. The development is screened by the existing intervening structures/vegetation in the wider area given its town centre location and views that would be available, would not be significant.

10.6.5 I do accept that the proposed development will have a significant impact on the visual character of the area in relation to Castle Street and Dwyer Park, however I am of the view that the provision of a structure of height above that of the prevailing heights can be adequately absorbed and is beneficial to establishing a stronger streetscape along the Castle Street, and that the impact is a positive one. The area is not characterised by any structures of significant architectural merit, heritage value or any view or prospects. The development is not visible or has a significant impact in the form of any listed views and prospects under the Bray Municipal District Local Area Plan. I would be of the view that the area can adequately absorb the visual impact of a taller structure such as this, with the mass and scale of the blocks adequately broken up and stepped in nature to prevent significantly abrupt transitions in height from adjoining development. The verified views and CGI images provided demonstrate that the proposal would be acceptable in regards to the visual amenities of the area and give an accurate reflection of the visual impact of the proposal.

10.6.6 **CE Report comments:** The Planning Authority raised no concerns in respect of the visual impact of the development and only refer to the fact that the height proposed exceeds the level specified under the LAP for the site.

10.6.7 **Conclusion on Section 10.6:** The overall design, scale and massing on site will have a significant visual impact in the immediate area, however this impact will be an acceptable visual impact and provide for an improved streetscape along Castle Street, active frontage with appropriate town centre uses. Along the residential

streets of Dwyer Park the height and scale of the proposed blocks is stepped down to have regard to its location adjoining established residential development and is at a scale that is acceptable in regards to visual impact. The provision of a taller structure at this location can be adequately assimilated without having an adverse impact on the visual amenities of the area.

#### 10.7 Residential Amenity-Future Occupants:

10.7.1 Unit Mix: A total of 139 apartment units are proposed broken down into 33 no. 1-bedroom units; 91 no. 2-bedroom units; and 15 no. 3-bedroom units, with associated balconies.

10.7.2 Quality of Units – Floor Area: A ‘Housing Quality Assessment’ prepared by Henry J Lyons Architects has been submitted with the application and this provides a detailed breakdown of each of the proposed apartment units. All units exceed the minimum required floor areas, with the 100% of the units over the minimum size by 10%. The proposed apartments are considered to be acceptable and demonstrate compliance with SPPR 3 of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’.

10.7.3 A total of 63 units (45.3%) are dual aspect units and there are no north facing only units (north east facing). This is in compliance SPPR 4, which requires “a minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate”. The proposed floor to ceiling heights are in accordance with SPPR 5 of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’. The provision of lifts per floor is in compliance with SPPR 6 of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’.

10.7.4 **Conclusion on Sections 11.7.1 - 11.7.3:** The proposed development provides for an adequate mix of unit types. The area consists predominately of commercial

development with some family sized homes and the development provides for a mix of one, two and three bedroom units, thereby improving the mix of housing types in the area. The internal layout of these units is acceptable and complies with recommended requirements. There is no reason to recommend a refusal of permission to the Board in terms of the unit mix and internal floor area quality.

10.7.5 Quality of Units – Amenity Space: All units are provided with adequate private amenity space in the form of balconies for the upper floor units/ terraced areas for the ground floor units. All balconies have at least 1.5 m depth.

10.7.6 Amenity space is in the form of communal amenity space. The proposal includes three area of communal open space, the main area is podium level space between the blocks of 1,029sqm, an area to the north west (north garden) of 361sqm and an area to the south east (south garden) of 209sqm giving a total of 1599sqm. The Development Plan requirement is 15% (1,289sqm) of the site area whereas 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' standard under appendix A requires a total of 937sqm. The level of communal open space exceeds both Development Plan and Apartment Guidelines standards.

10.7.7 The communal open space is accessible to all units. I note that having regard to the location of the development/ open space, it is likely that all areas of open space will only be used by the residents of the proposed development. The Landscape Plan prepared by NMP Landscape Architecture is considered to be of a suitably high quality to serve the future residents of this development. The provision of the main area of open space at podium level/first floor level is raised in some submissions/by the elected members. This space is accessible and there are units at the same level as the space in question with additional space provided at ground floor level. The usability of this communal space is not compromised by its level relative to the overall scheme.

**10.7.8 Conclusion on Sections 11.7.5 – 11.7.7:** The proposed development provides for adequate private and communal space. There is no reason to recommend a refusal of permission to the Board in terms of the quality of the amenity spaces.

**10.7.9 Daylight and Sunlight:** The applicant has engaged the services of IN2 to assess the impact of the development on daylight and sunlight and a 'Daylight and Sunlight Analysis has been submitted in support of the application. This assessment has been prepared based on best practice guidance set out in the following documents:

- Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' BRE, 2011 (BR209).
- BS8206 Part 2:2008, Lighting for Buildings, Code of Practice for Daylighting.
- BS EN 17307:2018 – Daylight in Buildings – British Standard
- IS EN 17037: 2018 – Irish Standard
- Sustainable Urban Housing: Design Standards for New Apartments (December 2020)

The submitted assessment undertook a number of tests and these are detailed in the following section of this report.

**10.7.10 Site Sunlight and Shading:** The submitted analysis includes an assessment of the communal open space. The BRE requirement is that a minimum of 50% of the amenity space shall receive two or more hours of sunlight on the 21<sup>st</sup> of March. The submitted analysis demonstrates that the BRE requirement is met and exceeded at greater than 78% for all amenity areas (podium garden, north garden, south garden) as a whole with the main amenity space area at podium level 99% compliant. The proposed areas of communal open space will be provided with adequate daylight and sunlight in accordance with the BRE requirements.

**10.7.11** The submitted analysis includes an assessment of balcony sunlight with it noted that the majority of balconies (99 of 115) will receive at least 2 hours of sunlight over

50% of their area on the 21<sup>st</sup> March. In the case of balconies that do not achieve such it is noted that these face north west and north east towards at a mature tree filled aspect.

10.7.12 Daylight Analysis: From the information provided in the 'Daylight Analysis', I am satisfied that the target Average Daylight Factor's (ADF) are appropriate and are generally compliant. Table 2 of BS8208 Part 2:2008, provides the following minimum Average Daylight Factor (ADF)

- Bedrooms 1%
- Living Rooms 1.5%
- Kitchens 2%

10.7.13 The guidelines recommend that in the case of rooms that serve more than one function, the higher of the two minimum ADFs should be demonstrated. The proposed apartments provide for floor plans in which the kitchen/ living and dining areas (KLD) are effectively the one room and I accept that the higher figure may not be achieved for the kitchen area in all cases.

10.7.14 The submitted analysis provides full details of the Average Daylight Factors (ADFs) and a breakdown of the achieved results for all units. In summary, out of 399 rooms that were assessed, 396 or 99% demonstrated compliance with the advisory minimums. Of the 3 rooms that fall short of the advisory minimums, 2 no. bedrooms (0.9% and 0.9%) and one KLD (1.8%) in Block A.

10.7.15 Those units that are below 2% for Kitchen/ Living/ Dining and below 1% for Bedroom spaces, include the following:

Block	Floor	Unit – Room - Kitchen	Kitchen/ Living/ Dining	Bedroom 1

A	First	A.01.08 (1 Bed)	2.0	0.9 (-0.1)
A	First	A.01.16 (1 Bed)	1.8 (-0.2)	2.3
A	Second	A.02.08 (1 Bed)	2.2	0.9 (-0.1)

10.7.16 The submitted IN2 report clearly indicates which units are below standard. In the case of spaces that do not achieve the 2% ADF target for KLD and 1% for bedrooms, suitable compensatory measures have been provided. In this case it is in the form of oversized balconies accessible from the rooms in question including from 2 no. bedrooms below the target figure. The units in question are also exceed minimum floor area standards.

10.7.17 **Conclusion on Daylight and Sunlight Assessments:** I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. The proposed development is restricted by its orientation and by the existing site size/layout. I am satisfied that the design and layout of the scheme has been fully considered alongside relevant sunlight and daylighting factors. The standards achieved, when considering all site factors and the requirement to secure comprehensive urban development of this accessible and serviced site within the Bray town centre area, in accordance with national policy guidance, are in my opinion acceptable and will result in an acceptable level of residential amenity for future occupants of this development. Overall, I am satisfied that the proposed development will provide for good daylight and sunlight to the proposed units.

10.7.18 I have taken account of compensatory measures provided as part of the development such as the provision of balconies which are provided with good

sunlight amenity, good, landscaped areas, good internal floor space, and the location of the site provides for a good range of services/ amenities. These compensatory measures are considered to be sufficient in this instance.

**10.7.19 Childcare Provision:** The proposed development provides for a total of 139 residential units; with the development broken down into 33 no. one bed units, 91 no. two bed units and 15 no. three bed units. The applicants' Planning Context Report & Statement of Consistency includes reference to the Guidelines for Planning Authorities on Childcare Facilities (2001) and the provision of one childcare facility for each 75 dwellings. A crèche facility which can accommodate c.28 children is proposed and is located at ground floor level of Block A. The number of childcare spaces is calculated based on the number of two and three bed units (106) at a rate of 20 childcare spaces per 75 units identified as being the minimum standard under the Guidelines for Planning Authorities on Childcare Facilities (2001).

**10.7.20 CE Report Comments:** The level of childcare provision is considered to be appropriate in the context of national policy and the requirement for a minimum of 20 places per 75 units and in the context of 2020 Apartment Guidelines, which advocate exclusion of one bed units and in part or whole of two and three bed apartment units.

**10.7.21 Conclusion of Childcare Provision:** The proposed development provides for 124 one and two-bedroom units out of 139 units and the likely demand for childcare is low. Notwithstanding such a childcare facility has been provided that can accommodate 28 childcare places and such is based on the minimum standards of the Childcare Guidelines and is based on the 106 two and three bed units. This approach is consistent with both national policy in the form of both the Childcare Guidelines (2001) and the Apartment Guidelines (2020) and the level of childcare provision is satisfactory to deal with the likely demand to be generated by the proposed development.



**10.7.22 Conclusion on Residential Amenity:** Overall the proposed development will provide for a high quality of residential amenity in this established urban area. Room sizes and amenity spaces are of a good standard. The site is restricted by its urban location and the site layout, but the proposed scheme will provide for a suitable development of this serviced urban site. The development complies with the requirements of National and Local policies.

## **10.8 Residential Amenity-Existing/Adjacent Residents**

**10.8.1 Existing Site:** The redevelopment of an infill/brownfield site within an established urban setting will give rise to a level of disturbance to residents, especially during the construction phase. I am satisfied that any form of development of a site of this scale and located in such an area will give rise to some temporary disturbance and this has to be weighed up against the long-term impact of the development of this site. A Construction Management Plan will be put in place prior to the commencement of development.

**10.8.2 Daylight and Sunlight:** The impact of the development on adjoining properties is considered in the Daylight & Sunlight Analysis prepared by IN2.

**10.8.3 Daylight:** The Vertical Sky Component (VSC) is a measure of how much direct daylight a window is likely to receive. The Vertical Sky Component is described as the ratio of the direct sky illuminance falling on the vertical wall at a reference point, to the simultaneous horizontal illuminance under an unobstructed sky. A new development may impact on an existing building, and this is the case if the Vertical Sky Component measured at the centre of an existing main window is less than 27%, and less than 0.8 (20%) times its former value.

**10.8.4** The applicant has assessed the potential impact on dwellings within Dwyer Park, which are two-storey terraced dwellings located to the north east, east and south east of the site. The assessment relates to no.s 1-3, no.s 15 and 16, and no. 18. The assessment concerns windows to the front of no. 1-3 and to the rear of no. 15-

16, and no. 18. The assessment has excluded any existing trees in accordance with the BRE Guidelines.

10.8.5 The analysis of the above listed units found that only one window serving a ground floor bedroom at no. 1 Dwyer Park demonstrated a reduction below 27% and below 80% of the current figure. The VSC at this address will reduce to 19.8% which is, 66% of the existing figure. In the case of all other windows the reduction in VSC levels can be broken down as follows...

4 no. existing windows are above the 27% level pre-development and will remain above this level post development with 2 no. windows having an increased value.

4 no. existing windows above the 27% value pre-development will be reduced below the 27% value, however the reduction will be less than 80% of their current value.

5 no. existing windows below the 27% value pre-development will improve their value but not to a level above 27%., improvements will be 103%, 105%, 123%, 113% and 114% of their former value.

4 no. existing windows below the 27% value pre-development will be reduced in value, however such will be less than 80% of their current value, with reductions to a level of 99%, 98%, 90% and 0.89% of their former value in each case.

One of the third party submissions question the assessment of ground floor windows only in relation to no 1-3 in relation to VSC and not upstairs windows. In this regard assessment of ground floor windows would represent worst case scenario given that VSC levels can reasonably be adjudged to be better in level at more elevated height. In addition the ground floor windows are more likely to serve living space in the dwellings question. I am satisfied that the level of assessment is sufficient to draw conclusions on impact on daylight.

10.8.6 Sunlight: The Annual Probable Sunlight Hours (APSH) assessment indicates what the impact of a development would be on the sunlight received by existing units. Only south facing windows are considered in this assessment, in accordance with BRE guidance. According to the BRE guidance a dwelling/ or a non-domestic

building which has a particular requirement for sunlight, will appear reasonably sunlit if:

- At least one main window wall faces within 90° of due south and
- The centre of at least one window to a main living room can receive 25% annual probable sunlight hours, including at least 5% of annual probable sunlight hours in winter months (the winter period is considered to fall between the 21st of September and the 21st of March).

Further to this the BRE advise that the sun lighting of existing dwellings may be adversely affected if the centre of the window in question:

- Receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours between the 21st of September and the 21st of March and
- Receives less than 0.8 times its former sunlight hours during either period and
- Has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

10.8.7 The results are provided in section 5.4 of the submitted report. The assessment relates to no.s 1-3 and 15 to 16 inclusive and 18 Dwyer Park. All windows analysed receive greater than 25% of annual probable sunlight hours between 21 September and 21 March and are compliant fully compliant with the target values recommended under the BRE guidelines.

10.8.8 Shadow Analysis: Shadow Diagrams have been prepared/ included in the analysis. These are prepared for the 21<sup>st</sup> of March, June, and December at hourly intervals from 10.00 hours to 17.00 hours. There is an analysis of impact on neighbouring amenity spaces. The BRE requirement is that a minimum of 50% of the amenity space shall receive two or more hours of sunlight on the 21<sup>st</sup> of March. The submitted analysis relates to no. 15-19 Dwyer park, which have rear amenity spaces backing onto the site (no. 16 has no rear amenity space, with an extension to the rear, this dwelling has a side garden due to it being a corner site). The results of analysis demonstrates that the BRE requirement is met. The existing amenity

spaces serving dwellings adjoining the site will be provided with adequate daylight and sunlight in accordance with the BRE requirements.

10.8.9 The submitted details give no rise for concern. The private amenity space associated with the neighbouring units will receive at least two hours of sunlight on the 21<sup>st</sup> of March. In relation to overshadowing, shadowing will be evident in the late evening for March, just before sunset for the dwellings in Dwyer Park on the opposite side of the road. The level of shadowing during March is not severe or constant during the majority of day and such does not impact private amenity space. The scale of the blocks has been stepped down to where it adjoins existing residential development and is three/four-storeys where it adjoins existing development. In relation to no.s 1-3, there is an existing high wall and structures located south of the existing dwellings. The impact of overshadowing would be marginal and given the town centre context of the site and the clearly defined objectives for development of the site for high density development or an acceptable level.

10.8.10 The submitted details are noted. From the available information, all residential units will continue to receive good daylight and the proposed development will not result in a reduction of residential amenity to an unacceptable level. Overall, the assessment indicates that good compliance with BRE guidance is achieved.

10.8.11 **Conclusion on sunlight/ daylight impacts to neighbouring properties:** It is noted that there is likely to be instances where judgement and balance of considerations apply. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines and within the Wicklow County Development Plan 2022-2028 to assist me in identifying where potential issues/impacts may arise and to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Bray area, and to increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents from such development is not significantly negative and is

mitigated in so far as is reasonable and practical. Existing units and their private amenity spaces will receive adequate sunlight, in accordance with the BRE Guidance. I have no reason, therefore, to recommend to the Board that permission be refused.

10.8.12 Potential Overlooking: There are no specific restrictions set out in the current Wicklow County Development Plan regarding separation distances for taller buildings other than to ensure that residential amenity is protected. There is reference to a separation distance for opposing first floor windows for back to back dwellings. The design and layout of the blocks on site is such that where it adjoins existing dwellings (no. 16-19 Dwyer Park) there is a level of separation between the proposed blocks and the existing dwellings with communal open space areas adjoining the rear boundaries of the existing dwellings including ground floor communal space and the podium level communal open space. The provision of stepped floors (four storeys and three-storeys where both Blocks are at their nearest points to existing dwellings and design features that reduce the potential for overlooking, will ensure that the privacy of the houses on Dwyer Road are maintained. Some of the measures to prevent overlooking include boundary screening along the podium level open space where it is close to the rear of existing dwellings, semi-opaque glazing in windows located on north eastern gable of Block B and south eastern gable of Block A, which adjoin the side boundaries of existing dwellings (19 and 15 Dwyer Park). In the case of the no. 1-3 Dwyer Park it is proposed to provide a perforated metal screens to a higher level than the rest of the proposed units for the apartments at first to second floor directly opposite no. 1-3 Dwyer Park.

10.8.13 **CE Report comment on residential amenity:** I note again the comments in the CE report. The CE report raises concerns regarding impact of the development on surrounding properties in terms of loss of light/overshadowing, overlooking and an overbearing impact. Particular concern is raised regarding impact on no. 1-3 Dwyer Park in relation to privacy (impact of access opposite no. 3 and reduction of height of existing walls).

**10.8.14 Conclusion:** Overall I am satisfied that the development will not have an unduly negative impact on the existing residential amenity of the area. The site is zoned for town centre/residential uses including residential and commercial development, is located in an established urban area and with access to existing services. The development has been designed to have regard to existing residential properties in the form of the stepped nature of the blocks with specific measures to prevent overlooking. In the case of no. 1 to 3 Dwyer Park the provision of development on the opposite side of the road is acceptable in this town centre context and design has proposed measures above first floor level to prevent overlooking from balconies despite these units being orientated onto the street. I would consider the provision active residential frontage along the street opposite the existing dwellings is an acceptable form of development within a town centre context including the provision of access to the childcare facility, which may be of beneficial use to existing residents in the vicinity as well as the future residents of the development. I have no reason, therefore, to recommend to the Board that permission be refused due to impact on the residential amenity of the existing area.

#### 10.9 Transportation, Traffic and Parking:

10.9.1 The application is supported with a number of documents in relation to traffic and parking as follows:

- Traffic Assessment Report – NRB Consulting Engineers  
Incorporates...  
Preliminary Travel Plan,  
Stage 1 Road Safety Audit  
Bus/Dart Capacity & Demand Report  
Parking management/Strategy report.
- DMURS Design Statement – Corrigan Hodnett Consulting Engineers

10.9.2 Traffic: The submitted reports indicate that the proposed development will not adversely impact on traffic flows in the area. In addition, the development will not impact on the capacity of the Chapel Lane/Dublin Rd junction (north of site), Upper

Dargle Rd/Dublin Rd junction (north of the site), Green Park/Castle St junction (north of site), Dwyer Park West/Castle Street junction (south of the site), Dwyer Park East/Castle Street junction (south of the site), Lower Dargle Rd/Castel Street junction (south of the site) and Herbert Rd/Quinsborough Ed/Castle Street junction (south of the site); none of the junctions are above the 5% or the 10% thresholds set out in the Traffic And Transport Assessment Guidelines, 2014 by TII for AM or Pm peak hours. A junction analysis for the proposed vehicular entrance off Castle Street serving the development shows it will operate within capacity for the opening year of 2024 and design year of 2039 for both AM and PM peak hours. Forward visibility of at least 49m (on bus routes) is available in both each direction is available as per the recommendation of the Design Manual for Urban Streets and Roads for urban roads with a design speed of 50kph.

10.9.3 Provision is made in the design to facilitate future Bus Connects proposals along Castle Street. The proposal would appear to entail removal of a bus stop adjacent the junction of Castle Street and Dwyer Park. This will be offset by the implementation of Bus Connects proposal and the fact there is still high level existing bus stops within walking distance of the site. The NTA submission raised no objection and confirms that the development can be undertaken in a manner that facilitates the delivery of the Bus Connects Bray CBC scheme.

10.9.4 Car Parking: The proposed development provides for a total of 59 car parking including provision for car-share spaces if required. 3 no. spaces are provided for crèche drop off near the vehicular access to the car park. 6 spaces for EV charging are provided with spaces being easily upgraded for future EV charging and 3 of the spaces are suitable for mobility impaired users. The Car Parking Management/Strategy Report is included as Appendix I of the Traffic Assessment Report. It is accepted that not all residents will have access to a car parking space at any given time.

10.9.5 Bicycle/ Motorcycle Parking: A total of 330 bicycle parking spaces are proposed to serve the development. These include the provision of 260 residents bicycle spaces

within a secure internal area at ground floor level and 70 visitor bicycle parking spaces located externally and distributed throughout the site. The bicycle parking provision is based on the recommendation for Sustainable Urban Housing Design Standard for New Apartments, which has a minimum standard of 1 cycle space per bedroom and provision of 1 visitor cycling space per 2 residential units. The provision of bicycle parking spaces is in line with the recommendations of national guidelines for new apartments and in line with the requirements of the County Development Plan (330 spaces).

10.9.6 Loading: A loading bay is to be provided along the Dwyer Park Road frontage of the site beside the junction with Castle Street. A swept path analysis is included demonstrating that the movements associated with service vehicles including a refuse lorry and fire tenders can be catered for in the existing road network and the proposed development layout.

10.9.7 **CE Report Comments:** Wicklow County Council's Transportation, Water & Emergency Services section raised no objection to the development in their report; conditions are provided in the event that permission is to be granted requiring that any works to be carried out in the public road or impact on existing public lighting requiring detail to be agreed/engagement prior to the commencement of development. The Bray Municipal District Engineer did raise concerns regarding the provision of the entrance on a bend near existing road junctions, the impact of such on the right hand turning lane for the Castle Street Shopping Centre (entrance should be left turn in and left turn out only).

10.9.8 **Conclusion on Transportation, Traffic and Parking:** The development is located in an area with good public transport provision, and which is accessible within walking distance of the site. Car and bicycle parking provision is appropriate to the scale and nature of development proposed and for an area that is accessible to the town centre and high quality public transport infrastructure. The site is located on a route that is subject to Bus Connects upgrades which have been accounted for in the design of the proposal and the provision of the entrance complies with DMURS



visibility standards. 6 EV parking spaces are proposed with potential to upgrade more for such purpose. I have no reason to recommend a refusal of permission to the Board.

#### 10.10 Infrastructure and Flood Risk:

10.10.1 Irish Water and the Council's Water & Environmental Services Section have reported no objection to this development in relation to the connection to public foul drainage and water supply systems. The applicant has engaged with Irish Water and has submitted design proposals. Irish Water has issued a Statement of Design Acceptance and conditions are recommended in the event that permission is granted. Necessary works to connect to the public system (water supply and foul drainage) will be funded by the applicant.

10.10.2 The Bray Engineers report identified concerns that flood risk has not been adequately assessed in particular noting the site may be within flood zone A based on the study for the Dargle Flood Defence Scheme, that some of drainage proposal may ineffective and discharge to the River Dargle would need to be fitted with a non-return valve.

10.10.3 A 'Site-Specific Flood Risk Assessment' – prepared by Corrigan Hodnett Consulting has been included with the application. The assessment has full regard to 'The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009'. Stage 1 flood risk identification include details of the proposed development/site context (c700m from the Irish Sea and c170m from the River Dargle) and identifying that Flood Defence Scheme has been carried out along the River Dargle with the site in a defended area. This stage includes a review of flood risk information in the form of the OPW Flood Risk Assessment & Management Study, the Bray Municipal District LAP Strategic Flood Risk Assessment (SFRA), Irish Coastal Protection Strategy Study (ICPSS), Eastern Catchment Flood Risk and Management Study (CFRAMS) and the OPW Flood Records. This stage also includes review of topographic surveys for the site, GSI mapping, a walkover survey and review of planning and development records. The proposed design incorporate

SuDS drainage measures to minimise flood risk with surface water discharge limited to a greenfield runoff rate, attenuation storage and permeable paving.

10.10.4 In terms of flood risk identification the site is determined to be in Flood Zone C for fluvial flooding based on the OPW Fluvial Flood Extents mapping and Bray Municipal District LAP SFRA.

10.10.5 Due to site the topography of the immediate area the site is determined to be at no risk of pluvial flooding.

10.10.6 A review of the OPW Tidal Flood Extents Mapping CFRAMS and ICPSS, was carried out and indicates no coastal flooding at the subject site.

10.10.7 The risk of flooding due to ground water ingress to the proposed development is reported to be low based on examination of GSI mapping.

10.10.8 It was concluded that a Stage 2 Flood Risk Assessment was not required based on the Stage 1 assessment. The initial flood risk assessment found that the risk of coastal/ tidal, fluvial, pluvial and ground water flooding was low. The development design included a number SuDs drainage measures to minimise flood risk, surface water drainage is limited to greenfield run-off and attenuation storage is designed to take account of 20% climate change factor with use of permeable surfaces. The floor levels of all units are a minimum of 500mm above the modelled attenuation storage critical top storm water levels. The sequential approach for flood risk was undertaken and in conclusion, the site was identified as located within Flood Zone C.

10.10.9 The third party submissions and Bray Engineers report raise concerns regarding the level of assessment of flood risk in terms of its location within Flood Zone A and the fact that the site being a within a defend area should not to be taken account of in the Flood Risk Assessment with a history of flooding on site.

10.10.10 I am satisfied based on the information included that the site is not at risk of flooding from coastal/tidal, pluvial or groundwater sources. Based on flood history the OPW information shows the site was subject to flooding on one previously recorded occasion in 1987 as a result of a storm (hurricane). The site is in a defended area part of the Dargle River Flood Defence Scheme. I would note that The Planning System and Flood Risk Management indicates that “the provision of flood protection measures in appropriate locations, such as in or adjacent to town centres, can significantly reduce flood risk. However, the presence of flood protection structures should be ignored in determining flood zones. This is because areas protected by flood defences still carry a residual risk of flooding from overtopping or breach of defences and the fact that there may be no guarantee that the defences will be maintained in perpetuity. The likelihood and extent of this residual risk needs to be considered, together with the potential impact on proposed uses, at both development plan and development management stages, as well as in emergency planning and applying the other requirements of these Guidelines in chapter 3. In particular, the finished floor levels within protected zones will need to take account of both urban design considerations and the residual risk remaining”.

10.10.11 Based on the Strategic Flood Risk Assessment carried out for the Bray Local Area Plan 2018-2024, part of the application site is located in flood zoned A and B (coincides with an area along the Castle Street and Dwyer Street road frontage of the site) and such does not take into account being a defended site. This classification is based on fluvial flooding with the Dargle River a short distance to the south of the site. The proposal entails the provision of a mixed use commercial and residential development with some residential development at ground floor level. The majority of the development at ground floor level includes 2 no. commercial units, undercroft parking, 6 no. apartments, a crèche and community building. The residential and crèche portion of the development would constitute highly vulnerable development as classified by under Table 3.1 with the remainder of uses at ground floor level classified as less vulnerable. Based on the mapping within the SFRA, none of the vulnerable uses at ground floor level fall within either Flood Zone A or B.

Notwithstanding such the development is mainly a residential development and is partially located with Flood Zone A and B based on the information in the SRFA.

10.10.12 The Planning System and Flood Risk Management guidelines recommend that where development is being considered in an area, which may be vulnerable to flooding the criteria under Box 5.1 apply (Justification Test for development management).

The proposal passes test no. 1 in that the site is zoned or otherwise designated for the particular use or form of development in an operative development plan (Bray Municipal Local Area Plan 208-2024), which has been adopted or varied taking account of these guidelines.

Test no. 2 is that the proposal has been subject to an appropriate flood risk assessment demonstrating that the proposal will not increase flood risk elsewhere, includes measures to minimise flood risk, measure to ensure no residual flood risk and that such is achieved in a manner compatible with achievement of wider objectives in relation development of good urban design.

In relation to test no. 2, the application site is located in a defended area with an existing flood defence scheme. The design and layout of development at ground floor level is such that no apartment units are within areas subject to Flood Zone A or B with the less vulnerable uses such as parking and commercial units located within these areas notwithstanding the fact the area is in a defended area. The proposed development includes measures to mitigate flood risk including, appropriate finished floor levels surface water drainage and attenuation proposals and use of permeable surfaces. Such measures are included regardless of the fact that application is within a defended site and deal with the issue of residual flood risk. As stated in earlier sections of this report the proposal is of good quality in terms of overall design, layout and urban design.

10.10.13 I am of the view that the proposed development passes the justification test for development of this type based on Box 5.1 of The Planning System and Flood Risk Management.

10.10.14 **CE Report Comments:** The Planning Authority note the submissions received in relation to the proposed development and specifically with comment on the potential for flooding of the site and surrounding area. The Wicklow County Council Water & Environmental Services did not report any objection to the development and the Planning Authority consider that the proposed development is acceptable subject to conditions.

10.10.11 Conclusion on Infrastructure and Flood Risk: The site is served by a public water supply and the public foul drainage network. Wastewater will be treated at the Shangangh Bray WWTP and having regard to the submitted information, there is no concern in relation to this facility been able to treat the foul water from this relatively modest development.

10.10.12 The submitted flood risk assessment and engineering report provides sufficient information to assess flood risk. I note the comments made by third parties in relation to flooding, however I am satisfied that the development can proceed without giving rise to flooding issues in the area. I have no reason to recommend a refusal of permission to the Board due to infrastructure and flood risk.

#### 10.11 **Ecological Impact:**

10.11.1 The applicant has engaged the services of Enviroguide, to prepare an Ecological Impact Assessment (EclA) for the subject site. I have had full regard to the contents of same.

10.11.2 Surveys include desk survey, and site visits for a habitat survey on the 07<sup>th</sup> May 2021, and a bat survey of the site between the 04<sup>th</sup> and 10<sup>th</sup> of June. A number of relevant data sources were consulted and are listed in Section 12 of the EclA. The

site situation is considered, and full details of the proposed development are provided.

10.11.3 The EclA has identified one site within the zone of influence as follows:

- Bray Head pNHA (Site Code 000714) – 1.7km from the site.

10.11.4 The Proposed Development site is comprised of a of brownfield

commercial/residential site with existing vacant structures. This mainly consists of building and artificial structures (BL3) with other habitats identified as being flower beds and borders (BC4), refuse and other waste (ED5), amenity grassland (GA2), scrub (WS1), hedgerow (WL1) and other artificial lakes and ponds (FL8).

10.11.5 Fauna: A Bat Assessment for site including surveys was carried out. The site has little suitable habitat for foraging and commuting bats and only a small day roost for common pipistrelle bats was recorded in one of the vacant residential properties, on site. There is potential for impact on bats during construction and operation phase through increased light spill onto a treeline adjacent the site. The removal of the day roost will require a derogation licence.

10.11.6 In relation to birds, there will be minor habitat loss due to loss of vegetation (mainly scrub) and structures on site. The surveys indicate no red list birds breeding on site. During the operational phase there is potential for collision with tall structures, however the site is not in a sensitive area in terms of flights paths or close to any SPA's.

10.11.7The proposal involves the removal of a small ornamental pond with potential impact on the common frog. The proposal has the potential to impact aquatic fauna in the River Dargle, Dargle Estuary and marine environment through surface water discharges during the construction and operational phase.

10.11.8 In relation to the impact on Bray Head pNHA it is noted that the development has the potential to increase footfall and visitor numbers, which could result in habitat loss/alteration/erosion. The Council has objectives in the County Development Plan to ensure the protection of this special amenity area with the impact of proposal deemed to be negligible on Bray head pNHA.

10.11.9 Two invasive plant species were identified on site in the form of Japanese Knotweed and Three-Cornered Leek. These will require specialist treatment prior to the commencement of development.

10.11.10 Assessment of Impacts: No significant impacts are anticipated with the application site being an urban brownfield site with limited ecological sensitivity and no habitats of high ecological value. Adequate construction management with the provision of construction management plan would be sufficient to prevent adverse impacts on existing surface water bodies or the aquatic environment. During the operational phase the proposal entails provision of surface water drainage management and discharge to the municipal wastewater treatment system In relation to bats, a derogation licence is required to remove a roosting site. In mitigation it is proposed to implement a bat box scheme as well provision of bat tubes (inserted in boundary walls. Measures to prevent light spill during the construction and operational phase are also proposed. No cumulative impacts are foreseen as a result of the proposed development.

10.11.11 **Conclusion on the EcIA:** I note the information and details provided in the EcIA and I am satisfied that the submitted information indicates that the proposed development will not impact on any designated or protected ecological sites. The development does not directly impact on any bats, birds, terrestrial mammals, or plant species.

10.12 Other Matters

10.12.1 Archaeological Impact: The application site is located with the zone of archaeological potential for Bray. The application was accompanied by an Archaeological Impact Assessment (AIA) prepared by Shanarc Archaeology. The assessment outline the background of the site and details desk based survey and test excavations carried out on site. There are two recorded monuments (a tower house and former location of a cross slab) within 30m of the site. The test excavations did not uncover any *in situ* remains of the recorded monuments on site. The remains of a structure was encountered in at least one trench however such was not considered to be a pre 1700 structure. In terms of later structures the only industrial heritage structure identified was a platform weigh scale, whose retention is worth consideration. The AIA recommends mitigation measures including preservation of boundary walls by record, retention of the platform weigh scale and carrying out of archaeological monitoring during construction.

10.12.2 I am satisfied that subject to appropriate conditions requiring archaeological monitoring during the construction phase, the proposal would be acceptable in regards archaeological impact. The Department of Housing, Local Government & Heritage have made submission recommending inclusion of a condition requiring archaeological monitoring in event of a grant of permission.

10.12.3 Ownership: The views of the elected members raise the issue of potential ownership outlining that there should be restriction preventing an investor fund acquiring the entire development and that all units should be available for sale to individual purchasers. The elected members make reference to provision for such a policy with the Draft Development Plan. Having inspected the recently adopted County Development Plan, I have not seen a policy that provides for this restriction. Notwithstanding such national policy under the Regulation of Commercial Institutional Investment in Housing May 2021 Guidelines for Planning Authorities in relation restriction on purchasing entire developments is only relevant in the case of houses and duplex units and not in the case of apartments.



### 10.13 Material Contravention

10.13.1 The applicant has submitted a 'Material Contravention Statement' (prepared by Simon Clear & Associates) of the Wicklow County Development Plan 2016 – 2022 and Bray Municipal District Local Area Plan 2018 – 2024 with the application. This forms part of the Planning Report prepared by McGill Planning. The public notices make specific reference to a statement being submitted indicating why permission should be granted having regard to the provisions s.37(2)(b). A new Development Plan, the Wicklow County Development Plan 2022-2026 has been adopted on the 23<sup>rd</sup> of October. A total of three (3) issues have been raised in the applicant's Material Contravention statement as follows:

- Building Height:
- Car Parking
- Public Open Space Provision

The report outlines the procedure and requirements in relation to Material Contravention. I have assessed these issue against the policies of the newly adopted Wicklow County Development plan 2022-2028.

10.13.2 **Building Height:** Objective OP2 of the BMDLAP sets out height criteria with a height density development of 3-4 storeys identified. The subject development ranges in height up to 7 storeys or circa 29 m and which exceeds the suggested building height of 3-4 storeys on the application site or the generally specified height of 4-storeys within town centre location under the Bray Municipal Local Area Plan.

10.13.3 The applicant refers to the Urban Development and Building Heights Guidelines (2018) and specifically to SPPR 4 which promotes increased density, a mix of housing types and building heights. The applicant considers that the proposed development meets the requirements of these guidelines. The proposed development has been designed to ensure it integrates with the surrounding area and does not impact negatively on existing residential amenity.

10.13.4 The Planning Authority through the CE report stated does not identify any explicit objection to the proposal and are generally positive regarding, principle, and design and layout. The Planning Authority did identify that the height proposed is contrary to the height levels specified in the LAP.

10.13.5 I have considered the issue raised in the applicant's submitted Material Contravention Statement and advise the Board to invoke the provisions of s.37(2)(b) of the 2000 Act (as amended).

10.13.6 I consider that the subject site is appropriate for increased height in light of guidance in the 'Urban Development and Building Heights - Guidelines for Planning Authorities' – (DoHPLG, 2018)'. Having fully considered the Development Management Criteria in section 3.2 of these guidelines relating to proximity to high quality public transport services, character of the location, compliance with flood risk management guidelines, daylight and sunlight considerations, alongside performance against BRE criteria. Specific assessments have also been provided to assist my evaluation of the proposal, specifically CGI visualisations and a Visual Impact Assessment.

10.13.8 Section 37(2)(a) of the Planning and Development Act 2000 (as amended), states that the Board may decide to grant planning permission even if the proposed development contravenes materially the development plan. Section 37(2)(b) (i)-(iv) lists the circumstances when the Board may grant permission in accordance with section 37(2)(a).

10.13.9 Under section 37(2)(b)(i) I consider the proposed development to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its

current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016; and (iii) I also consider that permission for the development should be granted having regard to guidelines under section 28 of the Act, specifically SPPR 3 of the Building Height Guidelines, national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35).

I am satisfied that a grant of permission, is justified in this instance. Regard being had to the foregoing, I am of the opinion, that provisions set out in Section 37 (2)(b) (i) and (iii) could be relied upon in this instance.

**10.13.10 Car Parking:** The proposed development provides for a parking standard of 0.42 space per unit or 59 spaces, with the Wicklow County Development Plan 2016-2022 requirement being 179 spaces (Volume 3, Appendix 1). The recently adopted Wicklow County Development Plan 2022-2028 states that “Car parking New / expanded developments shall be accompanied by appropriate car parking provision, including provision for electric vehicle charging points as set out in Table 2.3, with particular regard being taken of the potential to reduce private car use in locations where public transport and parking enforcement are available. At such locations, the car parking standards set out in Table 2.3 to follow shall be taken as maximum standards, and such a quantum of car parking will only be permitted where it can be justified”. Under the adopted Development Plan the maximum parking requirement for the development would be 206.

**10.13.11** The applicant is of the view that the proposal is consistent with the Sustainable Urban Housing: Design Standards for New Apartments which specifies that in urban locations served by public transport or close to town centre or employment area that housing developments with more than 45 units per hectare must consider a reduced overall car parking standard and apply appropriate maximum standards. In this case the development is a town centre location with excellent public transport links.

10.13.12 I am satisfied that the amount of car parking does not give rise to a material contravention of the Wicklow County Development Plan 2022-2028. The site is located in an area with good public transport in terms of frequency and capacity, a high provision of bicycle parking is indicated, and the site is located within walking distance of a number of services/ facilities in the local area. Development Plan policy allows for consideration of reduced parking levels to cater for development in accessible locations such as this with parking standards regarded as being maximum standards and not minimum standards.

10.13.13 I have considered the issue raised in the applicant's submitted Material Contravention Statement and I do not advise the Board to invoke the provisions of s.37(2)(b) of the 2000 Act (as amended) as I do not consider that the development contravenes the Wicklow County Development Plan 2022 - 2028 in relation to car parking provision.

10.13.14 Public Open Space: The proposal provides form communal open space that is only accessible to the residents of the overall scheme and does not include public open space apart from a small area along the Castle Street frontage. The level of communal open space has been demonstrated as being consistent with both Development plan policy and The Sustainable Urban Housing: Design Standards for New Apartments.

10.13.15 The applicant point out that development plan policy (Wicklow County Development Plan 2016-2022) specifies that that requirements for public open space can be waived in town centres where public amenity spaces are in close proximity. The applicants also state that the development will greatly enhance the public realm along Castle Street with provision of a community facility being a planning gain.

10.13.16 In the recently adopted Wicklow County development plan 2022-2028 policy is largely similar to the previous plan with the requirements for public open space can be waived in town centres where public amenity spaces are in close proximity. I note

the comments of the applicant, however I am satisfied that there is no material contravention in this case. The Planning Authority through the CE Report did not raise concerns about overall quality and design of layout including provision of communal space or public open space, and were not of view the proposal was a material contravention of Development Plan policy in this regard. The application site is town centre location on which provision of communal space is of a good standard. The application site is in close proximity (walking distance) to existing amenity spaces in the town with the site 1km from the Bray Bay beach.

10.13.17 I have considered the issues raised in the applicant's submitted Material Contravention Statement and I do not advise the Board to invoke the provisions of s.37(2)(b) of the 2000 Act (as amended) as I do not consider that the development contravenes the Wicklow County Development Plan 2022 - 2028 in relation to open car parking or public open space provision.

## **11.0 Appropriate Assessment**

### **11.1 Stage 1 – Appropriate Assessment Screening**

11.1.1 The applicant has engaged the services of Enviroguide, to carry out an appropriate assessment screening. I have had regard to the contents of same.

11.1.2 The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and 177V of the Planning and Development Act 2000 as amended are considered fully in this section.

The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- Appropriate assessment of implications of the proposed development on the integrity of each European site

### **11.2 Compliance with Article 6(3) of the EU Habitats Directive**

11.2.1 The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

11.2.2 The subject site with a stated area of 1.06 hectares, is located at the northern end of Bray Town Centre. The site is accessed from Castle Street, which forms part of the R761. A total of 139 apartment units in the form of 33 one-bedroom, 91 two-bedroom units and 15 three-bedroom units. Access is via a new access onto Castle Street. The proposed development provides for open space, parking, services and all necessary site works. The surrounding area is a mix of residential and commercial use.

11.2.3 The site is not directly connected with, or necessary to the management of a Natura 2000 site. The zone of influence of the proposed project would be limited to the outline of the site during the construction phase. The proposed development is therefore subject to the provisions of Article 6(3).

11.2.4 A total of thirteen European Sites have been identified as located within the potential zone of influence and these are as follows:

Name	Site Code	Distance from Site
Bray Head SAC Conservation Objectives:	(000714)	1.7km

<p>To maintain and restore the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>		
<p>Ballyman Glen SAC</p> <p>Conservation Objectives:</p> <p>To restore the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p>	<p>(000713)</p> <p>Mislabelled in AA</p>	<p>2km</p>
<p>Knocksink Wood SAC</p> <p>Conservation Objective:</p> <p>To maintain and restore the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>	<p>(000725)</p>	<p>4.1km</p>
<p>Rockabil to Dalkey Island SAC</p>	<p>(003000)</p>	<p>4.6km</p>

<p>Conservation Objective:</p> <p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Reefs [1170]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p>		
<p>Glen of the Downs SAC</p> <p>Conservation Objective:</p> <p>To restore the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>		6.9km
<p>Wicklow Mountains SAC</p> <p>Conservation Objective:</p> <p>To maintain and restore the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the Violetalia calaminariae [6130]</p> <p>Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p>	(002122)	7.3km



<p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>		
<p>South Dublin Bay SAC</p> <p>Conservation Objective:</p> <p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p><i>Salicornia</i> and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	(000210)	10.2km
<p>The Murrough Wetlands SAC</p> <p>Conservation Objective:</p> <p>To restore the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Annual vegetation of drift lines [1210]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p>	(002249)	11km

Alkaline fens [7230]		
<p>Carriggower Bog SAC</p> <p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Transition mires and quaking bogs [7140]</p>	(000716)	11.3km
<p>Dalkey Islands SPA</p> <p>Conservation Objective:</p> <p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>	(004172)	7km
<p>Wicklow Mountain SPA</p> <p>The Murrough SPA</p> <p>Conservation Objective:</p> <p>To maintain the favourable conservation condition of the qualifying interests.</p> <p>Qualifying Interests</p> <p>Merlin (<i>Falco columbarius</i>) [A098]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p>	(004040)	7.8km
<p>South Dublin Bay and River Tolka Estuary SPA</p> <p>Conservation Objective:</p> <p>To maintain the favourable conservation condition of the qualifying interests.</p>	(004024)	10.1km

<p><b>Qualifying Interests</b></p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>		
<p><b>The Murrough SPA</b></p> <p><b>Conservation Objective:</b></p> <p>To maintain the favourable conservation condition of the qualifying interests.</p> <p><b>Qualifying Interests</b></p> <p>Red-throated Diver (<i>Gavia stellata</i>) [A001]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Little Tern (<i>Sterna albifrons</i>) [A195]</p> <p>Wetland and Waterbirds [A999]</p>	(004186)	12km

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### 11.3 Connectivity-Source-Pathway-Receptor:

11.3.1 The submitted AA Screening Report makes full consideration of the Connectivity-Source-Pathway-Receptor model for each of the thirteen identified sites. The following is found in summary:

Site	Connection	Comment
Bray head SAC	Yes	Land pathway between the site and SAC with proposed development resulting in increased footfall and visitors within the SAC.
Ballyman Glen SAC	No	No significant hydrological pathway or land pathway.  At operational stage, wastewater will be sent to the Wastewater Treatment Plan (WWTP) via the existing public network and will be treated at the WWTP.  Due to distance and the lack of any relevant ex-situ factors of significance to the listed species or habitats.
Rockabil to Dalkey SAC	Yes	Weak hydrological link between development site and designated site via surface water discharges.
Knocksink Wood SAC	No	No significant hydrological pathway or land pathway.  At operational stage, wastewater will be sent to the Wastewater Treatment Plan (WWTP) via the existing public network and will be treated at the WWTP.

		Due to distance and the lack of any relevant ex-situ factors of significance to the listed species or habitats.
Glen of the Downs SAC	No	<p>No significant hydrological pathway or land pathway.</p> <p>At operational stage, wastewater will be sent to the Wastewater Treatment Plan (WWTP) via the existing public network and will be treated at the WWTP.</p> <p>Due to distance and the lack of any relevant ex-situ factors of significance to the listed species or habitats.</p>
Wicklow Mountains	No	<p>No hydrological pathway with SAC located upstream of development site.</p> <p>Due to distance and the lack of any relevant ex-situ factors of significance to the listed species or habitats.</p>
South Dublin Bay SAC	No	<p>No significant hydrological pathway.</p> <p>At operational stage, wastewater will be sent to the Wastewater Treatment Plan (WWTP) via the existing public network and will be treated at the WWTP.</p> <p>Due to distance and the lack of any relevant ex-situ factors of significance to the listed species or habitats.</p>
The Murrough Wetlands SAC		<p>No significant hydrological pathway or land pathway.</p> <p>At operational stage, wastewater will be sent to the Wastewater Treatment Plan (WWTP) via the existing public network and will be treated at the WWTP.</p>

		Due to distance and significant open marine buffer between site and the designated site and the lack of any relevant ex-situ factors of significance to the listed species or habitats.
Carriggower Bog SAC	No	<p>No significant hydrological pathway or land pathway.</p> <p>At operational stage, wastewater will be sent to the Wastewater Treatment Plan (WWTP) via the existing public network and will be treated at the WWTP.</p> <p>Due to distance and the lack of any relevant ex-situ factors of significance to the listed species or habitats.</p>
Dalkey Islands SPA	No	<p>No significant hydrological pathway.</p> <p>At operational stage, wastewater will be sent to the Wastewater Treatment Plan (WWTP) via the existing public network and will be treated at the WWTP.</p> <p>Due to distance and considerable open marine buffer between the site and designated site, the lack of any relevant ex-situ factors of significance to the listed species or habitats.</p>
Wicklow Mountains SPA	No	Due to distance and the lack of any relevant ex-situ factors of significance to the listed species or habitats.
South Dublin Bay and Tolka River Estuary SPA	No	<p>No significant hydrological pathway.</p> <p>At operational stage, wastewater will be sent to the Wastewater Treatment Plan</p>

		<p>(WWTP) via the existing public network and will be treated at the WWTP.</p> <p>Due to distance and considerable open marine buffer between the site and designated site, the lack of any relevant ex-situ factors of significance to the listed species or habitats.</p>
The Murrough SPA	No	<p>No significant hydrological pathway.</p> <p>At operational stage, wastewater will be sent to the Wastewater Treatment Plan (WWTP) via the existing public network and will be treated at the WWTP.</p> <p>Due to distance and considerable open marine buffer between the site and designated site, the lack of any relevant ex-situ factors of significance to the listed species or habitats.</p>

11.3.2 There are no ecological networks supporting the identified European sites and there are no other areas of conservation concern that would be affected by the proposed development.

#### 11. 4 Assessment of Likely Significant Effects:

11.4.1 The submitted AA Screening considers the potential impacts on European Sites from the proposed development. As reported, there are no direct connection between the site and European sites with only indirect connections identified in the form of wastewater from the development, which will be treated at the Shanganagh-Bray Wastewater Treatment Plan (WWTP) or discharges and such is only in the case of two sites...

Bray Head SAC (000714)

Rockabil to Dalkey Island SAC (003000)

The range of indicators for significant effects include

Habit loss or alteration

Habitat species/fragmentation

Disturbance and/or displacement of species

Changes in population density and

Changes in water quality and resource

#### 11.4.2 Potential significant effects could arise during the construction and operational phased

##### Construction Phase

Uncontrolled release of silt, sediments and/or other pollutants to the air during earth works.

Surface water run-off containing silt, sediments and/or other pollutants in nearby waterbodies and local groundwater.

Waste generation during construction phase comprising soils, construction and demolition wastes,

Increase noise, dust and/or vibrations as a result of construction activity and construction traffic.

Increase lighting in the vicinity as a result of construction activity.

##### Operational Phase

Surface water drainage from site.

Foul water from proposed development/increased loading on wastewater treatment plant.

Increased lighting in the vicinity emanating from the proposed development.

Increased human presence in the vicinity as a result of the proposed development.

#### 11.4.3 Habit loss or alteration:

No habitat loss or alteration as a result of the proposed development.



#### 11.4.4 Habitat/species fragmentation

No habitat/species fragmentation as a result of the proposed development.

#### 11.4.5 Changes in Water Quality and Resource

The proposal is to connect to the public surface water system with construction a new surface water pipe along Castle Street which will outfall to the River Dargle (connection to an existing surface water outfall). There is no hydrological connection to the Bray Head SAC with a weak hydrological connection to the Rockabil to Dalkey Island SAC via surface water discharge during both construction and operational phase. During the construction phase standard measures will be employed to address surface water run-off and the general management of liquid waste on site. These will be outlined in the adopted Construction Management Plan (outline Construction and Environmental Management Plan submitted) and any associated documentation.

11.4.6 During the operational phase of the development the surface water drainage design will have full regard to SUDs. The proposed surface water drainage system will ensure that the risk of pollutants entering the public surface water network is unlikely to occur with full details of surface water drainage proposals in the submitted Infrastructural Report. In addition there is considerable open marine water buffer between the site of the proposed development and the designated SAC with any potential discharges becoming diluted to non-discernible level.

11.4.7 This wastewater plant has capacity to treat the wastewater from this development. Table 3 of the AA Screening Report considers likely significant effects at Construction and Operational stages. No significant effects are identified, and no mitigation measures are required. Best practice construction methods will be employed on site, but these are not necessary to ensure that effects on a European site can be avoided/ reduced.

11.4.8 In-combination effects are considered under Section 3.5.2.6 of the applicant's report and following the consideration of a number of planning applications in the

area, there is no potential for in-combination effects given the scale and location of the development.

11.5 AA Screening Report Conclusion: The AA Screening has concluded that the possibility of any significant effects on identified, designated European sites can be excluded. The following are noted:

- ‘1. The Proposed Development is not directly connected with, or necessary to the conservation management of the European sites considered in this assessment.
2. The Proposed Development is unlikely to either directly or indirectly significantly affect the Qualifying interests or Conservation Objectives of the European sites considered in this assessment.
3. The Proposed Development, alone or in combination with other projects, is not likely to have significant effects on the European sites considered in this assessment in view of their conservation objectives.
4. It is possible to conclude that significant effects can be excluded at the screening stage’.

There is no requirement to therefore prepare a Stage 2 – Appropriate Assessment.

## 11.6 Screening Assessment

11.6.1 In determining the Natura 2000 sites to be considered, I have had regard to the nature and scale of the development, the distance from the site to the designated Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site. The site is not directly connected with, or necessary to the management of a Natura 2000 sites. The impact area of the construction phase would be limited to the outline of the site.

11.6.2 In terms of the zone of influence, I would note that the site is not within or immediately adjacent to a European site and therefore there will be no loss or alteration of habitat, or habitat/ species fragmentation as a result of the proposed development.

11.6.3 There are no watercourses on site and the only connection between the site and the identified European sites would be an indirect linkage by way of the public wastewater system or potential discharges to surface water (River Dargle).

Considering the distance from the site to the nearest European site and the use of the existing public wastewater treatment, I am satisfied that there would be no significant effect on any identified site.

11.6.4 During the construction phase of development, standard measures will be employed to address surface water run-off and the general management of liquid waste on site. These will be outlined in the adopted Construction Management Plan and any associated documentation. Considering the site layout, location, and distance from the designated sites, there is no realistic likelihood of pollutants reaching the identified Natura 2000 sites.

11.6.5 During the operational phase of the development the surface water drainage design will have full regard to SUDs. The proposed surface water drainage system will ensure that the risk of pollutants entering the marine environment is unlikely to occur.

11.6.6 Foul drainage will be through the existing foul drainage system. Considering the distance from the site to designated sites, there is no significant risk of any pollutants from the development site impacting on any Natura 2000 sites.

11.6.7 I note in full the submitted AA Screening Report and supporting documentation. I note various measures proposed during the construction and operational phase of the development and I am satisfied that these are standard construction/ operational processes and cannot be considered as mitigation measures. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura

2000 sites in the Irish Sea/Dublin Bay, from surface water runoff, can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in the Irish Sea/Dublin Bay (dilution factor).

#### 11.6.8 Consideration of Impacts on Bray Head SAC (000714) and Rockabil to Dalkey Island SAC (003000).

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There are no surface water features within the site. During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system.
- During the operational phase of development, foul water will drain to the public system. The discharge from the proposed development would drain, via the public network, to the Shanganagh-Bray Treatment Plant for treatment and ultimately discharge to the Irish Sea. There is potential for an interrupted and distant hydrological connection between the site and sites in the Irish Sea/Dublin Bay due to the wastewater pathway. However, the discharge from the site is negligible in the context of the overall licenced discharge at Shanganagh-Bray Wastewater Treatment Plant, and thus its impact on the overall discharge would be negligible.

#### 11.7 In-Combination or Cumulative Effects

11.7.1 This project is taking place within the context of greater levels of built development and associated increases in residential density in the Bray area. This can act in a cumulative manner through increased volumes to the Shanganagh-Bray Wastewater Treatment Plant (WWTP). The expansion of Bray is catered for through land use planning by the various planning authorities in the Wicklow area, and in accordance with the requirements of the Wicklow County Development Plan and the Bray Municipal District Local Area Plan. This has been subject to AA by the

Planning Authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 sites. I note also the development is for an urban development in an established urban area, with an appropriate town centre (TC) zoning. As such the proposal will not generate significant demands on the existing public drainage network for foul water and surface water.

11.7.2 Having regard to the scale of development proposed, and likely time for occupation if permitted and constructed, it is considered that the development would result in an insignificant increase in the loading at the Shanganagh-Bray Wastewater Treatment Plant, which would in any event be subject to Irish Water consent and would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached.

11.7.3 Taking into consideration the average effluent discharge from the proposed development, the impacts arising from the cumulative effect of discharges to the Shanganagh-Bray WWTP generally, and the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to Natura 2000 Sites within the zone of influence of the proposed development.

## 11.8 AA Screening Conclusion:

11.8.1 It is reasonable to conclude that on the basis of the information provided on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Bray Head SAC (000714) and Rockabil to Dalkey Island SAC (003000), or any European site, in view of these sites' Conservation Objectives, and having regard to the nature and scale of the proposed development and the location of the site in an established, serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise. It is therefore not considered that the development would

be likely to give rise to a significant effect individually or in combination with other plans or projects on any European site.

In consideration of the above conclusion, there is no requirement therefore for a Stage 2 Appropriate Assessment (and for the submission of a Natura Impact Statement - NIS).

## **12.0 Environmental Impact Assessment Screening**

12.1. This application was submitted to the Board after the 1st of September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

12.2 The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report (Prepared by Enviroguide Consulting – Dated April 2022) and I have had regard to same. The report considers that the development is below the thresholds for mandatory EIAR having regard to Schedule 5 of the Planning and Development Regulations 2001, due to the site size, number of residential units (139 dwelling units) and the fact that the proposal is unlikely to give rise to significant environment effects, a formal EIAR is not required. In addition, detailed and comprehensive assessments have been undertaken to assess/address all potential planning and environmental issues relating to the development.

12.3 Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended, and section 172(1)(a) of the Planning and Development Act 2000 as amended provides that an EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings.
- Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. A business district is defined as ‘a district

within a city or town in which the predominant land use is retail or commercial use’.

- 12.4 Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 as amended provides that an EIA is required for: “Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”
- 12.5 The proposed development is for a mixed use residential/commercial development consisting of 2 no. retail units, a childcare facility and 139 apartment units with associated site works. The site is mainly a vacant commercial site in addition to two vacant dwellings and is located in the town centre of Bray. The site is within an area that could be classified as business district based on existing uses on site, the intervening area and the zoning of the site, the, however the appeal site is 1.06 hectares in area. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 as amended, in that it is less than 500 units and is below the 2 hectares (that would be the applicable threshold for this site, being a site less than 2 hectares in a business district).
- 12.6 Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

12.7 The applicant submitted an EIA Screening Statement with the application, and this document provides the information deemed necessary for the purposes of screening sub-threshold development for an Environmental Impact Assessment.

12.8 The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Architectural Design Statement (Henry J Lyons)
- Planning Context Report (Simon Clear and Associates)
- Landscape and Visual Impact Assessment (Arc)
- Verified Views and CGI (Renderare)
- Engineering Services Report (Corrigan Hodnett Consulting)
- Site Specific Flood Risk Assessment (Corrigan Hodnett Consulting)
- Transport Assessment Report (NRB Consulting Engineers)
- Ecological Impact Assessment (Enviroguide)
- Appropriate Assessment Screening Report (Enviroguide)
- Outline Construction & Demolition Waste management Plan (Corrigan Hodnett Consulting)

12.9 In addition, noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact



Assessment Directive have been taken into account and are listed in Section 6 of the EIA screening report. The documents are summarised as follows:

<b>Document:</b>	<b>Comment:</b>	<b>Relevant Directives:</b>
Ecological Impact Assessment prepared by Enviroguide.		Directive 92/43/EEC, The Habitats Directive
Appropriate Assessment Screening prepared by Enviroguide.		Directive 92/43/EEC, The Habitats Directive Directive 2000/60/EC, EU Water Framework Directive
Engineering Services report prepared by Corrigan Hodnett Consulting Site Specific Flood Risk Assessment prepared by Corrigan Hodnett Consulting		Directive 92/43/EEC, The Habitats Directive Directive 2000/60/EC, EU Water Framework Directive Directive 2007/60/EC on the assessment and management of flood risks
Planning Context Report prepared by Simon Clear and Associates which includes a Statement of Consistency. Material Contravention Statement prepared Simon Clear and Associates		Directive 2001/42/EC, SEA Directive

Outline Construction Management Plan prepared by Corrigan Hodnett Consulting Outline Construction Environmental Management Plan prepared by Enviroguide		Directive 2002/49/EC, Environmental Noise Directive  Directive 2008/50/EC on ambient air quality and cleaner air for Europe
Transport Assessment Report prepared by NRB Consulting Engineers		Directive 2008/50/EC on ambient air quality and cleaner air for Europe
Outline Construction Management Plan prepared by Corrigan Hodnett Consulting Outline Construction Environmental Management Plan prepared by Enviroguide		Directive 2008/50/EC on ambient air quality and cleaner air for Europe
Engineering Services Report prepared by Corrigan Hodnett Consulting Site Specific Flood Risk Assessment prepared by Corrigan Hodnett Consulting		Directive 2007/60/EC on the assessment and management of flood risks
Site Specific Flood Risk Assessment prepared by		Directive 2007/60/EC on the assessment and

Corrigan Hodnett Consulting		management of flood risks
N/A	No Seveso sites in the area.	SEVESO DIRECTIVE 82/501/EEC, SEVESO II DIRECTIVE 96/82/EC, SEVESO III DIRECTIVE 2012/18/EU

- 12.10 The EIA screening report prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR.
- 12.10 I have completed an EIA screening assessment as set out in Appendix A of this report.
- 12.11 I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.
- 12.12 I am overall satisfied that the information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted.
- 12.13 A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

## 13.0 Recommendation

Section 9(4) of the Act provides that the Board may decide to:

- (a) grant permission for the proposed development.
  - (b) grant permission for the proposed development subject to such modifications to the proposed development as it specifies in its decision,
  - (c) grant permission, in part only, for the proposed development, with or without any other modifications as it may specify in its decision, or
  - (d) refuse to grant permission for the proposed development,
- and may attach to a permission under paragraph (a), (b) or (c) such conditions it considers appropriate.

In conclusion, I consider the principle of development as proposed to be acceptable on this site. The site is suitably zoned for a mixed use commercial and residential development, is a serviced site, where public transport, social, educational and commercial services are available. The proposed development is of a suitably high quality and provides an acceptable level and quality communal open space.

I do not foresee that the development will negatively impact on the existing residential/adjoining amenities and visual amenities of the area. Suitable pedestrian, cycling and public transport is available to serve the development. The development is generally in accordance with National Guidance and Local Policy and is in accordance with the proper planning and sustainable development of the area.

Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied, and that permission is **GRANTED** for the development, for the reasons and considerations and subject to the conditions set out below.

## 14.0 Reasons and Considerations

Having regard to

(i) the site's location on lands with a zoning objective for a mixed use residential and commercial development and the policy and objective provisions in the Wicklow County Development Plan 2022 – 2028 and the Bray Municipal District Local Area Plan 2018 - 2024 in respect of residential development and commercial development,

(ii) the nature, scale and design of the proposed development which is consistent with the provisions of the Wicklow County Development Plan 2022 – 2028 and the Bray Municipal District Local Area Plan 2018 - 2024 and appendices contained therein,

(iii) to the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,

(iv) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,

(v) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2020,

(vi) Housing for All, issued by the Department of the Housing, Local Government and Heritage, September 2021,

(vii) the availability in the area of a wide range of social and transport infrastructure,

(viii) to the pattern of existing and permitted development in the area, and

(ix) Chief Executive's Report and supporting technical reports of Wicklow County Council,

(x) the comments made at the Elected Members of Bray Municipal District meeting,

(xi) to the submissions and observations received,

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 be acceptable in terms of urban design, height and quantum of development 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.

## **15.0 Recommended Draft Order**

15.1. Application: for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 28<sup>th</sup> April 2022 by Silverbow Limited.

### **15.2. Proposed Development:**

- The provision of 2 no. commercial units, 139 no. apartment units comprising 33 one-bed units, 91 two-bed units and 15 no. two-bed units within five blocks in two blocks, and a single-storey community building. 59 no. car parking spaces are provided throughout the site and parking for 330 bicycles is also provided throughout the site.
- Vehicular access is via a new access onto Castle Street. Communal open space is provided throughout the site.
- The application contains a statement setting out how the proposal will be consistent with the objectives of the Wicklow County Development plan 2016-2022 and the Bray Municipal District Local Area Plan 2018-2024. It is submitted that the proposed apartments have been designed to fully accord with the Sustainable Urban Housing: Design Standards for New Apartments 2018 (these are superseded by the 2020 Guidelines). A full Housing Quality Assessment is submitted which provides details on compliance with all relevant standards including private open space, room sizes, storage and residential amenity areas.
- The proposed development is accompanied with a Material Contravention Statement which sets out justification for the proposed development.
- The Bray Municipal District Local Area Plan 2018-2024 identifies building heights for the town centre of four-storeys with scope for higher depending on context

with the designation of the site as OP2 including identifying a development of 3-4 storeys being appropriate. The proposed development includes a section which has a height of seven-storeys circa 29m.

- The heights of the blocks that comprise the proposed development exceed the heights referred to in the Local Area Plan, and therefore it is considered that this materially contravenes the provisions of Objective OP2, Section 5.5 Bray Opportunity Sites of the Local Area Plan.

**Decision:**

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

**15.3. Matters Considered:**

15.3.1 In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

15.3.2 In coming to its decision, the Board had regard to the following:

- (i) the site's location on lands with a zoning objective for a mixed use commercial/residential development and the policy and objective provisions in the Wicklow County Development Plan 2022 - 2028 in respect of mixed-use development,
- (ii) the nature, scale and design of the proposed development which is consistent with the provisions of the Wicklow County Development Plan 2022 – 2028 and appendices contained therein,
- (iii) to the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (iv) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice

Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,

(v) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2020,

(vi) the availability in the area of a wide range of social and transport infrastructure,

(vii) to the pattern of existing and permitted development in the area, and

(viii) Chief Executive's Report and supporting technical reports of Wicklow County Council,

(ix) the comments made at the elected member of the Bray Municipal District meeting,

(x) to the submissions and observations received,

(xi) the Inspectors report

#### **15.4 Appropriate Assessment (AA):**

15.4.1 The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a suitably zoned and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the application, the Inspector's Report, and submissions on file.

15.4.2 In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites.

#### **15.4.3 Environmental Impact Assessment (EIA):**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment



Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

#### 15.5.1 Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- The location of the site on lands governed by zoning objective “TC”, Town Centre with an objective “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” and “R-HD”, residential High Density with a zoning objective “to protect, provide and improve residential amenities in a high density format” in the Bray Municipal District Local Area Plan 2018-2024, and the results of the strategic environmental assessment of the Wicklow County Development Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- The existing use on the site and pattern of development in surrounding area,
- The planning history relating to the site,
- The availability of mains water and wastewater services to serve the proposed development,
- The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Management Plan.

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

## **15.6 Conclusions on Proper Planning and Sustainable Development:**

15.6.1 The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

15.6.2 The Board considered that the proposed development is, apart from the building height parameters, broadly compliant with the current Wicklow County Development Plan 2022 - 2028 and would therefore be in accordance with the proper planning and sustainable development of the area.

15.6.3 The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the Bray Municipal District Local Area Plan with respect to building height limits for the site. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Bray

Municipal District Local Area Plan 2018-2024 would be justified for the following reasons and considerations:

- With regard to S.37(2)(b)(i), the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and delivers on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.
- With regard to S.37(2)(b)(iii), the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35, and is in compliance with the Urban Development and Building Height Guidelines, in particular SP3

## 16.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The use of the 2 no. units at ground floor level described in the public notices as retail/non-retail service/restaurant units shall be agreed with the Planning Authority in writing prior to the occupation.

**Reason:** In the interests of clarity.

3. The number of residential units permitted by this grant of permission is 139 no. units in the form of 33 no. one bedroom units, 91 no. two bedroom units and 15 no. three bedroom units.

**Reason:** In the interests of clarity.

4. a) All elevations shall be finished in brick or similar material but shall not include the use of self-coloured or coloured render.  
b) Details of the materials, colours and textures of all the external finishes to the proposed building shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

5. 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 residential amenities of property in the vicinity and the visual amenities of the area.

6. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all such names and

numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartment unit.

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

8. 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.

**Reason:** In the interests of visual and residential amenity.

9. The road network serving the proposed development, including turning bays, junction with the public road, parking areas, footpaths and kerbs, access road to service areas and the undercroft car park shall be in accordance with the detailed construction standards of the Planning Authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

- 10.(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently

for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose.

(b) Two of the car parking spaces shall be reserved solely for the use by a car sharing club. The developer shall notify the Planning Authority of any change in the status of this car sharing club.

(c) Provision shall be made for some dedicated motorcycle parking on site.

Amended plans detailing the above amendment shall be submitted and agreed in writing with the planning authority prior to the commencement of the development.

(d) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the Planning Authority.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

11. A minimum of 10% of all car parking spaces should be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development. The car parking spaces for sole use of the car sharing club shall also be provided with functioning EV charging stations/ points.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

12. A total of 330 no. bicycle parking spaces and room for four cargo bicycles shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

13. 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 and surface water management

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

**Reason:** In the interest of public health.

15. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development.

**Reason:** In the interest of residential and visual amenity.

16. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally

constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

18. 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.

19. 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:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority.

**Reason:** In the interest of amenities, public health and safety.

20. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

21. 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.

22. The recommendation of the Bat Survey report shall be carried out on the site in accordance with the details submitted to the planning authority on the 28<sup>th</sup> day of April 2022.

**Reason:** In the interest of wildlife protection.

23. The two no. invasive species identified on site in the form of Japanese Knotweed and Three-Cornered Leek shall be given specialist treatment prior to the commencement of development. Details of shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.

**Reason:** In the interests of prevention of the spread of invasive species.

24. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the Planning Authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption

certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

25. 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

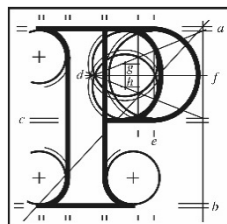
subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine 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.

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Colin McBride  
Senior Planning Inspector

07<sup>th</sup> November 2022



An  
Bord  
Pleanála

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>		<b>ABP-313043-22</b>
<b>Development Summary</b>		The development of 2 no. commercial units, 239 apartment units in the form of 33 one-bedroom units, 91 two-bedroom units and 15 three-bedroom units in two blocks with a spate single-storey community building, and all associated car parking, open space and necessary infrastructure.
	<b>Yes / No / N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	Yes	An EIA Screening Report and a Stage 1 AA Screening Report was submitted with the application
<b>2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	No	
<b>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b>	Yes	SEA undertaken in respect of the Wicklow County Development Plan 2022 - 2028 and the results of the Strategic Environmental Assessment of the plan. See also Section 12.9 of the Inspectors Report for details of other relevant assessments.

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	<b>Is this likely to result in significant effects on the environment?</b>  <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?	Yes	The development comprises the construction of commercial/residential units on zoned lands. Two blocks which vary from three to seven floors are proposed in an area predominantly characterised by two storey units.	No
<b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposed development is located on a	No.

		brownfield/ infill site within Bray.	
<b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of such an urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.	No.
<b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels, hydraulic oils and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential	No.



		impacts. No operational impacts in this regard are anticipated.	
<b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan.</p>	No.

		Significant operational impacts are not anticipated.	
<b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No	No significant risk identified. Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services within the site. No significant emissions during operation are anticipated.	No.
<b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of	No.

		a Construction Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.	
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	No	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.	No.
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be	No.

		<p>localised and temporary in nature.</p> <p>The site is not at risk of flooding.</p> <p>There are no Seveso / COMAH sites in the vicinity of this location.</p>	
<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	Yes	<p>Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses, primarily characterised by residential development.</p>	No.
<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	No.	<p>No, the application proposal is a standalone proposal.</p>	No.
<p><b>2. Location of proposed development</b></p>			
<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the</p>	No	<p>No European sites located on the site.</p>	No.

<p>potential to impact on any of the following:</p> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> <li>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ol>		<p>An Appropriate Assessment accompanied the application which concluded the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of any designated European sites.</p>	
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	No	<p>No such species use the site and no impacts on such species are anticipated.</p>	No.
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	No	<p>The site is not within or adjacent to any such sites.</p>	No.
<p><b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	No.	<p>There are no such features arise in this urban location.</p>	No.
<p><b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	No.	<p>There are no direct connections to watercourses in the area. The development will implement SUDS</p>	No.

		measures to control surface water run-off. The site is not at risk of flooding. Potential indirect impacts are considered with regard to surface water, however, no likely significant effects are anticipated.	
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No.	Site is located in a built-up urban location where such impacts are not foreseen.	No.
<b>2.7</b> Are there any key transport routes (e.g. National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No.	The site is served by a local urban road network. There are sustainable transport options available to future residents. No significant contribution to traffic congestion is anticipated.	No.
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	None adjacent to the subject site.	No.

### 3. Any other factors that should be considered which could lead to environmental impacts

<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development	No.	No developments have been identified	No.
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result in cumulative effects during the construction/operation phase?		in the vicinity which would give rise to significant cumulative environmental effects. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No.	No trans-boundary effects arise.	No.
<b>3.3</b> Are there any other relevant considerations?	No.	No.	No.
<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	Yes	EIAR Not Required	EIAR Not Required.
<b>Real likelihood of significant effects on the environment.</b>		Refuse to deal with the application pursuant to section 8(3)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended)	
<b>D. MAIN REASONS AND CONSIDERATIONS</b>			
<p>Having regard to: -</p> <p>a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,</p>			

b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

c) the location of the site on lands governed by zoning objective Z1 'To protect, provide and improve residential amenities' in the Dublin City Development Plan 2016 - 2022,

d) The existing use on the site and pattern of development in surrounding area,

e) The planning history relating to the site,

f) The availability of mains water and wastewater services to serve the proposed development,

g) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),

h) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),

i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 as amended, and

j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Outline Construction & Demolition Waste Management Plan (CDWMP) and Outline Construction Management Plan (CMP),

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: \_\_\_\_\_

Date: 07<sup>th</sup>

November

2022