



An
Bord
Pleanála

Inspector's Report

ABP-314757-22

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| Development | Proposed amendment to previously permitted mixed use development to increase the total number of residential units from fifteen to eighteen |
| Location | 22 - 24 Main Street, Bray, Co. Wicklow, A98 FK66 |
| Planning Authority | Wicklow County Council |
| Planning Authority Reg. Ref. | 22796 |
| Applicant(s) | Cutbush Developments Limited |
| Type of Application | Permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party |
| Appellant(s) | Cutbush Developments Limited |
| Observer(s) | None |
| Date of Site Inspection | 25 th April 2023 |
| Inspector | Ian Boyle |

1.0 Site Location and Description

- 1.1. The appeal site comprises nos. 22 – 24 Main Street, Bray, Co. Wicklow. It is in Bray town centre and has frontage along its western boundary directly onto Main Street, which is the main thoroughfare and retail shopping street in the town. The northern boundary of the site faces onto Fatima Terrace, which is a narrow residential street accommodating mainly low-rise housing, bungalows and on-street car parking.
- 1.2. There are several commercial buildings present on the subject lands, outbuildings, sheds and ancillary yard space. During my inspection of the site most, and potentially all, of the onsite structures were unoccupied and in various states of disrepair. The unit at the front (western) part of the site most recently operated as a home accessories shop but is now closed.
- 1.3. The subject property is at a prominent corner location and therefore has a strong visual presence in the town centre, particularly on approaches from the north and south. It is within walking distance to many of the services and facilities available in the town. The surrounding area is mainly characterised by a mix of housing, commercial and retail development.
- 1.4. There are several bus stops within approx. 500m of the site. The two closest bus stops are directly opposite on the far side of Main Street and a short distance south (along Main Street), respectively. The bus services are frequent and include routes connecting Bray with Dublin City Centre and various other regional settlements and destinations. Bray Train and DART station is roughly 750m to the east of the site.
- 1.5. The site has a stated area of roughly 0.12ha.

2.0 Proposed Development

- 2.1. The proposed development seeks permission to amend a permitted mixed use scheme on the site which comprised the demolition of all onsite structures and construction of residential (15 no. units) and retail / commercial uses.
- 2.2. The current proposal seeks to construct an additional three units as part of the previously permitted scheme. The overall development would comprise a new total of 18 no. residential units, if permitted. It would result in the permitted scheme increasing in height by a single storey and modifications to its fourth floor – currently

a single apartment – to provide three apartment units in its place and for a new additional fifth floor (1 no. unit). The new scheme would therefore comprise six storeys overall.

- 2.3. In summary, the application is seeking to insert an additional level of three apartments beneath the top floor of the permitted scheme. The layout of the permitted groundfloor (retail and office use) would not change on foot of the proposal.

Revised Proposal at Appeal Stage

- 2.4. I note that the Applicant has provided an alternative design option as part of their first party appeal for the Board to consider. The revised option includes various design revisions and increased setbacks at upper levels, including from Main Street, to reduce the potential for visual impact and help ensure adequate protection of existing amenities. The revised design option is discussed further under Sections 6.0 and 7.0 below.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission on 7th September 2022 for 1 no. reason, which was that the proposed increase in scale of the development would:

- be out of context with the lower 2-storey units in the area,
- be disproportionate in scale when viewed from the residential area along Fatima Terrace,
- breach the roof level scale in wider views, and
- form a glaring variation for the area.

The proposed development would therefore be contrary to Objective BT3 of the 'Bray Municipal District Local Area Plan 2018', which is in relation to maintaining appropriate building heights in Bray town centre (i.e., mainly 4 storeys), and that it would impact on the residential and visual amenities of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

- The application seeks to amend a previously granted permission which was for the demolition of structures on the site and construction of a mixed use residential / commercial development providing for 15 residential units.
- The current proposal effectively seeks the insertion of an additional floor of 3 no. units below the permitted top floor.
- The main issues to consider are scale, context, visual impact and residential amenity.
- The proposed plot ratio of 1:155 is acceptable.
- The proposed apartments are in accordance with the development management standards set out in the Apartment Guidelines.
- The proposed development would result in an overall building height of 6 no. storeys. The main body of the 5th storey (4th floor) sits back 4m from Main Street, whilst the balcony is setback 1.7m. The main body of the 6th storey is setback c. 12.5m back from Main Street.
- Having regard to the surrounding context of the area, which is mainly two storeys, it is considered that the scale of the development would be excessive in this location. The proposed development would be disproportionate to Fatima Terrace, which is a residential street, and it would breach the roof level scale from wider views.
- There would be significant variance between the proposed development and the existing the street/roofscape, such that it would not be in accordance with Objective BT3 of the Bray LAP where a height of 4 storeys is generally considered appropriate in the Bray Town Centre Zone.
- It is considered acceptable that no additional parking is proposed given the proximity of public transport services.
- The surface water proposal is identical to previous and considered acceptable.

- It is recommended to refuse permission on grounds relating to excessive building height and that the proposal would be disproportionate in scale with the surrounding area, including Fatima Terrace, and therefore it would form a glaring variation in the area. The proposed development would also be contrary to Objective BT3 of the Bray LAP and impact on the residential and visual amenities of the area.

3.2.2. **Other Technical Reports**

Environmental Section: No objection, subject to standard conditions, including the requirement to prepare a Construction and Demolition Management Plan, restriction on site working hours, and measures to reduce and mitigate noise and vibration impacts on property in the vicinity during the construction phase.

Housing: No objection, Part V proposal is acceptable.

Water and Environmental Services: No objection, noting that the additional apartments would have no effect on the surface water design submitted as part of the previous application (Reg. Ref. 22/214).

MD Engineer (Bray Area): The proposed surface water connection to the public foul sewer and blanked surface water pipe on Fatima Terrace for a future public surface water extension is not acceptable. Attenuated surface water run-off from the site must be piped to Main Street and discharged to the public surface water system. As reported for previous applications, the development is not Part M compliant, particularly the WCs.

3.3. **Prescribed Bodies**

Irish Water: No objection, subject to standard conditions.

4.0 **Planning History**

Subject Site

Reg. Ref. 22/214: The Planning Authority **granted** permission in March 2022 for a mixed use development comprising 15 no. residential units, commercial / retail space at groundfloor and ancillary site works. [The Planner's Report notes that the

development is identical to that approved under Reg. Ref. 17/70 and subsequently amended under Reg. Refs. 20/625, 20/1269 and 21/1242.]

Reg. Ref. 21/1242: The Planning Authority **granted** permission in January 2022 for amendments to previously permitted developments Reg. Refs. 20/1269, 20/625 and 17/70 including increasing the number of residential units from 13 to 15.

Reg. Ref. 21/919: The Planning Authority **refused** permission in September 2021 for the removal of the communal roof terrace at 4th Floor and its replacement with 1 no. one-bedroom apartment including increasing the number of residential units from 13 to 16.

The reason for refusing permission was that the proposed development would result in the omission of the communal roof garden, the provision of north facing balconies for 9 of the 11 apartments, a low provision of dual aspect apartments, no additional secure bicycle parking or communal refuse storage and that there would be no other residential facilities to serve the development. The proposed development would, therefore, severely diminish the quality of residential development from that previously permitted and result in an unacceptable level of residential amenity for future residents.

Reg. Ref. 20/1269: The Planning Authority **granted** permission in April 2021 for amendments to previously permitted development on the site (Reg. Refs. 20/625 and 17/70) including increasing the number of residential units from 11 to 13.

Reg. Ref. 20/625: The Planning Authority **granted** permission in August 2020 for amendments to previously permitted development on the site (Reg. Ref. 17/70) including increasing the number of residential units from 5 to 11 and other design changes.

Surrounding Area

ABP Ref. ABP-311729-21 (Reg. Ref. 21/574): The Board **granted** permission in March 2022 for the demolition of garages/ancillary accommodation, subdivision of the site and construction of 2 no. 3-storey houses with carports, screened terraces and ancillary site works at the rear of Columcille, 8 Carlton Terrace, Novara Avenue, Bray.

5.0 Policy Context

5.1. Bray Municipal District Local Area Plan 2018-2024

Zoning

- 5.1.1. The site is zoned 'Town Centre' under the Bray Municipal District Local Area Plan 2018-2024 ('LAP / Local Area Plan').
- 5.1.2. The LAP states that the objective of this zoning is 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.
- 5.1.3. The zoning seeks to develop and consolidate existing town centres, to improve vibrancy and vitality with the densification of appropriate commercial and residential developments, ensuring a mix of commercial, recreational, civic, cultural, leisure, and residential uses, and urban streets, while delivering a quality urban environment which will enhance the quality of life for residents, visitors and workers alike. The zone will strengthen retail provision in accordance with the County Retail Strategy, emphasise town centre conservation, ensure priority for public transport, pedestrians and cyclists, while minimising the impact of private car-based traffic and enhance and develop the existing centres' fabric.

Bray Town Centre Specific Objective

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).

- 5.1.4. The site is within a Zone of Archaeological Potential (Map H3 'Heritage Objectives').

5.2. Wicklow County Development Plan 2022-2028

The Wicklow County Development Plan 2022-2028 ('County Development Plan') took effect on 23rd October 2022.

Chapter 4: Settlement Strategy

- Bray is a Level 1 Metropolitan Key Town as per the County Wicklow Settlement Strategy.
- It 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'.
- There is significant potential to deliver compact growth and regeneration in the established town centre and built-up area.

The following objectives are considered relevant:

CPO 4.2

To secure compact growth through the delivery of at least 30% of all new homes within the built-up footprint of existing settlements by prioritising development on infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.

CPO 4.3

Increase the density in existing settlements through a range of measures including bringing vacant properties back into use, reusing existing buildings, infill development schemes, brownfield regeneration, increased building height where appropriate, encouraging living over the shop and securing higher densities for new development.

CPO 4.13

To require that the design, scale and layout of all new residential development is proportionate to the existing settlement, respects the character, strengthens identity and creates a strong sense of place.

Chapter 6: Housing

CPO 6.1

New housing development shall be required to locate on suitably zoned or designated land in settlements and will only be considered in the open countryside when it is for the provision of a rural dwelling for those with a demonstrable housing social or economic need to live in the open countryside.

CPO 6.3

New housing development shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

Placemaking for Town and Village Centres (Chapter 5)

- Section 5.4.2 of the Development Plan is in relation to ‘Infill & Brownfield Development’. It states that:

‘The redevelopment of infill and brownfield lands within town and village centres presents a significant opportunity to consolidate the town and village centres.’

Development & Design Standards (Appendix 1)

- Appendix 1 sets out the Planning Authority’s requirements with respect to development and design standards.
- The standards and guidance contained within set out the principal factors to be considered in the design of new development.

5.3. National Policy

- *National Planning Framework; Ireland 2040 Our Plan (NPF).*
- *Design Manual for Urban Roads and Streets (2019).*
- *Urban Development and Building Heights Guidelines for Planning Authorities (2018) (‘Building Height Guidelines’)*

5.4. Natural Heritage Designations

No natural heritage designations apply to the subject site or are within its immediate vicinity.

- The closest European Site is Bray Head SAC (Site Code: 000714), which is approximately 1.5km to the southeast. The site is also a designated pNHA (Site Code: 000714).
- The Ballyman Glen SAC and pNHA (Site Code: 000713) is roughly 2.2km to the west.
- The Knocksink SAC (Site Code: 000725) is roughly 4.2km to the west.
- The Wicklow Mountains SAC (Site Code: 002122) and SPA (Site Code: 004040) are roughly 8km to the west, respectively.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and relative small scale of the proposed development in an established urban and serviced area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A First Party Appeal has been made by Hughes Planning and Development Consultants (HPDC) on behalf of the Applicant.
- 6.1.2. I note for the attention of the Board that the appeal includes an alternative design option, which seeks to address the concerns and reason for refusal cited by the Planning Authority in their Decision to Refuse Permission. A revised set of drawings were received with the appeal submission and are on the file.
- 6.1.3. The setback distances at the western and northern elevations of the proposed development have been increased which has the effect of pushing the building back

further off Main Street and Fatima Terrace at its upper levels. The amended design is discussed further under Section 7.0.

6.1.4. The main grounds of appeal can be summarised as follows:

- The proposal is in accordance with Objective BT3 of the Bray LAP, which states that a height of over 4 storeys for land zoned 'town centre' may be appropriate, where the specific context of the site and the design of building allow for it (for example, where additional storeys are setback from street frontage).
- The proposed development has been revised – at appeal stage – to provide for increased setbacks off the front (western) elevation. This increase complies with Objective BT3 (as per above).
- However, it is submitted that the original scheme lodged at application stage already reflects an appropriate setback from Main Street and that this would ensure adequate protection of amenities. Therefore, the Board is requested to consider the revised scheme only where it is completely necessary.
- The proposal would set an appropriate precedent for redeveloping similar sites fronting Main Street and the consolidation of underutilised but centrally located sites.
- The proposed development complies with national policy as it is for increased efficiency of serviced land within a developed urban area. It strikes an appropriate balance between the need to protect the visual amenity of the immediate and wider streetscape.
- The Board is requested to grant permission.

7.0 **Assessment**

The main planning considerations relevant to this appeal case are:

- Scale, Height and Massing
- Appropriate Assessment

7.1. Scale, Height and Massing

- 7.1.1. The Planning Authority's reason for refusal is in relation to the proposed scale, height and massing of the proposed development and that it would be out of context with the lower 2 storey units on Main Street and existing houses on Fatima Terrace. The Decision also states that the proposed development would breach the roof level scale in wider views and be a glaring variation in the streetscape. The proposal would therefore be contrary to Objective BT3 of the Bray LAP and negatively impact on the residential and visual amenities of the area.
- 7.1.2. Objective BT3 states that generally a height of 4 storeys (including ground floor) will be considered appropriate in the Bray 'town centre' zone, irrespective of adjoining property heights...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). The main issue requiring assessment is therefore centred on the proposed additional height being sought and the potential residential amenity and visual impacts that would arise as a result.
- 7.1.3. The proposed development seeks a building height of 6 storeys with its upper floors setback from its western (front) and northern (side) elevations. The grounds of appeal, in brief terms, argues that the additional height proposed is justified given the central location of the site, that it is appropriately zoned and serviced, and as generous setbacks at upper levels have been incorporated into the scheme design which is in accordance with Objective BT3.
- 7.1.4. The Planning Authority granted permission for the construction of a mixed use scheme on the site in June 2022 (Reg. Ref. 22/214). The permission comprises 15 no. apartments with commercial / retail uses at ground floor level, car parking and ancillary works. The current proposal is to add an additional floor to this permitted scheme, which would result in the number of apartments increasing from 15 no. to 18 no. This would involve inserting an additional level below the top floor of the permitted development. The new scheme would comprise six storeys in total (or five floors over groundfloor) and the layout of the permitted groundfloor comprising retail and office uses would remain the same.
- 7.1.5. The Applicant has submitted an amended design as part of their appeal submission. This revised design reduces the scale and volume of the proposed development by

further setting back the upper levels of the proposed scheme. I note that the Applicant states that the scheme lodged at application stage already reflects an appropriate setback from Main Street, such that the proposal would not unduly impact the amenities of the area. Therefore, the Applicant has requested the Board to only consider the revised scheme where it is considered necessary.

Original Scheme

- 7.1.6. The original scheme, lodged at application stage, is articulated in the drawings, plans and particulars submitted to the Planning Authority. I note that no visual impact assessment, photomontages, or detailed design statement was included providing an analysis of the potential visual impacts that would arise. Notwithstanding this, I have carried out a physical inspection of the site, and its surrounding vicinity, and viewed the technical drawings on file for both the original scheme and its amended version.
- 7.1.7. The site is in a prominent location in Bray town centre. It has direct frontage along its western boundary onto Main Street, which is the main thoroughfare and retail shopping street in the town. The northern boundary of the site faces onto Fatima Terrace. Fatima Terrace is a quiet residential street accommodating mainly low-rise housing and on-street car parking. Most of the onsite structures on the subject property are unoccupied and in various states of disrepair. The unit at the front (western) part of the site most recently operated as a home accessories shop but is now closed. Other buildings appear to have been used for various commercial purposes. The result is a vacant tract of land in a prime location on the main thoroughfare of Bray town centre.
- 7.1.8. The need to secure more compact forms of development in urban and service areas is referenced at both national, regional and local policy level, and increased building height is recognised as a measure in which to achieve this. Policy SPPR1 of the Building Height Guidelines states that it is government policy to support increased building height and density in locations with good public transport and accessibility, particularly in town/city cores. The site is centrally located within a short walking distance of the town centre (the main commercial shopping district) and has good access to several public transport services, including Dublin Bus routes and Bray train station. The site is also in an area which has a changing and emerging urban

character and has the capacity to absorb a building taller than those directly adjoining it.

- 7.1.9. Given the vacant, rundown and dilapidated condition of the appeal site, it is clear to me that activating these lands through the delivery of a mixed use scheme would result in significant planning gain and allow for the consolidation and regeneration of a site in the centre of an important Level 1 Metropolitan Key Town. In this regard, the Applicant states that it is their intention to provide a development with a high quality of residential accommodation which reflects the serviced and zoned status of the site.
- 7.1.10. During my physical inspection of the site, I observed that the context of the surrounding area comprised buildings generally ranging in height between one and three storeys, but most buildings were two storeys. The northern boundary of the site is onto Fatima Terrace, which is a narrow, residential cul-de-sac with low-rise housing and on-street car parking. The street runs east - west and I note that several houses on its northern side are bungalows with pitched roofs. The units on the east side of Main Street are mainly two storeys in height. There are some taller three-storey units intermittently along the western side of the street. However, these are few and so the prevailing height of the surrounding area can be accurately described as two storeys.
- 7.1.11. The subject property is at a prominent corner location and, therefore, has a strong visual presence in the town centre, particularly on approaches from the north and south. Having regard to this, a key consideration is whether the proposed redevelopment of the site employs a high-quality, sensitive design that is cognisant of the town centre skyline and established character of the surrounding vicinity. The decision, in essence, comes down to the appropriateness of the building height, including its massing, appearance and design quality, whilst also acknowledging the highly accessible location of the site.
- 7.1.12. The height of a proposed structure should not, in of itself, render a development proposal unacceptable, particularly if the new building is of a high-quality design. However, I note that the receiving environment is characterised by an existing urban grain and appropriate building heights for the area can make an important contribution to the character of the town centre, and its surrounds, and this should be

given careful consideration. The proposal seeks to use a relatively standard palette of materials. There is a general absence of higher grade materials and the primary finishes to be used as part the building façade include painted render and a select polymer roof finish.

7.1.13. As noted above, the proposed development is for five floors of residential apartments over a groundfloor comprising retail and commercial uses. Therefore, it comprises six storeys overall. I consider that a building of this scale would be a significant intervention in the skyline of Bray Town Centre, notwithstanding the setbacks proposed. It is likely, in my opinion, that the building would be very visually apparent from several further afield settings, some potentially well outside the main town centre core, and not just from Main Street, Fatima Terrace, and other immediate locations.

7.1.14. I consider that the original version of the scheme (i.e., the version submitted at application stage) would jar and present as an incongruous form of development with its receiving context. The scale of development proposed is excessive, in my opinion, and would be overly dominant from a visual impact perspective. The proposed development would also likely have a negative domineering presence over Fatima Terrace, in particular, and I am not satisfied that it would integrate well with its setting, or the character of its surrounding environment, which is characterised by lower two storey buildings.

Revised Scheme (submitted at appeal stage)

7.1.15. The fourth and fifth floor plans have been modified to provide increased setbacks compared with the original, application version of the scheme. The setbacks at the front (western) and side (northern) elevations of the proposed development have been further pushed back to help reduce the potential for visual impact and lessen the physical presence of the structure on its receiving environment.

7.1.16. I have scaled the measurements from the drawings on file. A summary of the main changes is as follows:

- The application version has c. 4m and 0.9m setbacks from its western and northern boundaries, respectively, at fourth floor level. The amended 'appeal' scheme has increased the setback along the western boundary to 6.2m.

- The application version has c. 10.6m and 3m setbacks from its western and northern boundaries, respectively, at fifth floor level. The amended 'appeal' scheme has maintained similar setbacks. However, the communal roof garden has been reduced in size (from 66sqm to 42sqm).

7.1.17. In terms of making a comparison between the two design options (i.e., application vrs appeal versions), I consider the section drawings submitted as part of the appeal, including Section AA on Drwg. No. XT-498B-018, particularly useful. The information clearly illustrates the level of change between the two design options and how the scheme would be stepped back at its upper fourth and fifth floor levels.

7.1.18. I acknowledge that the Applicant has shown a genuine attempt to reduce the scale and massing of the proposed development by submitting these design changes. However, in my opinion, the proposal would still have a significant and unacceptable visual impact and be out of scale with its surrounding area. The transition in scale would be abrupt. The proposed structure would therefore be a discordant feature in the town and the additional height proposed under this amendment application would be highly visible from both closeup and potentially longer distance views.

7.1.19. I note that the land use zoning for the site states that heights exceeding 4 storeys may be considered appropriate in the Bray town centre zone, but only 'where the specific context of the site' allows for this. I conclude that the context of the subject site does not lend itself to accommodate the form of development proposed in this instance and that it should be refused permission for this reason.

7.2. **Appropriate Assessment**

Having regard to the nature and relatively small scale of the proposed development, which is a mixed use scheme (apartments and retail / commercial uses), within an urban and serviced area, and the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the:

- i) existing context, built form and prevailing height of the surrounding area,
- ii) amendments proposed under this application, and
- iii) Bray Municipal District Local Area Plan 2018-2024, Objective BT3, which is that generally a height of 4 storeys (including ground floor) will be considered appropriate in the Bray 'town centre' zone...where the specific context of the site and the design of the building allow it,

it is considered that the proposed development would be incongruous, disproportionate and out of character with its surrounding context in terms of its height, scale and massing and would have a negative dominant impact upon Main Street and Fatima Terrace. The proposed development would, therefore, be contrary to the provisions of the Bray Municipal District Local Area Plan 2018-2024 (Objective BT3), seriously injure the visual and residential amenities of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

[I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.]

Ian Boyle
Senior Planning Inspector

16th June 2023