



An
Bord
Pleanála

Inspector's Report

ABP-314961-22

Development

Demolition of 4 light industrial/commercial buildings and construction of 2 blocks with a total of 54 apartments and all associated site development works. Natura Impact Statement submitted with application.

Location

Seapoint Road, Ravenswell, Bray, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

22188

Applicant(s)

Shankill Property Investment Ltd.

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Bryan Molloy

Observer(s)

Cathlong an Baile Mhóir

Ma. Lourdes Gernan

Bryan Glynn and Emer Woodfull

Date of Site Inspection

21st September 2023

Inspector

Ian Boyle

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1.0 Site Location and Description

- 1.1. The appeal site is a large infill site in the centre of Bray town centre, Co. Wicklow. It comprises a former industrial use (abattoir) and defunct warehouse buildings and has a stated area of roughly 0.42ha.
- 1.2. The lands are bound along its northern boundary by the River Dargle and its eastern, southern and western sides of, respectively, by existing residential housing. On the opposite side of the river, towards the north, is Castle Street Shopping Centre and Ravenswell Primary School. The Former Bray Golf Club lands are also on the northside of the river and are earmarked for significant future development, including retail, retail services, commercial and cultural / community uses. The northern boundary of the site is adjoined by a c. 2 tall boundary wall and riverside pathway. The riverbank is sloped and formed by large stones and rock armour to defend against storm surges and flooding.
- 1.3. Existing access to the appeal site is via a narrow laneway called Milton Terrace, which leads off Seapoint Road. The laneway also provides pedestrian access to the Dargle River walkway and Seapoint Court (housing estate), which is directly east. The property slopes sharply downwards from south (higher ground) towards the north in the direction of the river. Seapoint Road is therefore at a higher level than the appeal site and there is an embankment separating the rear gardens of Nos. 1-4 Seapoint Road. The rear of Nos. 14-16 Seapoint Road adjoin the southern boundary of the site whilst several houses in Seapoint Court are directly east.
- 1.4. The physical condition of the site is poor and there is evidence of neglect, defaced buildings, weeds and fly tipping with small amounts of discarded items strewn around the property. The structures onsite are primarily of concrete construction with a pebbledash and grey painted finish. The immediate surrounding area is characterised by mainly residential land uses which are a mix of different housing typologies. The prevailing building height in the immediate area ranges from one to three storeys.
- 1.5. There are a wide range of services and amenities in proximity and available in the town, including along Main Street, Herbert Road and Bray Seafront. The site is within a short walking distance of schools and bus stops including the services 45A, 84, 144 and 145. Bray DART station is to the east, roughly a 550m walk.

2.0 Proposed Development

- 2.1. The proposed development is for demolition of the existing industrial structures and construction of 54 no. apartments over two separate blocks. [Block A is for 31 apartments and Block B is for 23 apartments.] The blocks are arranged on a west to east axis and have a profiled form to respond to the topography of the site and its proximity to adjoining residential housing developments.
- 2.2. The proposed building heights rise from 2 storeys on the far eastern edge of the site (Block B) to 5 storeys at its central section before reducing again to 4 storeys at its western side (Block A). Therefore, the tallest parts of the proposed development are in the centre of the site.
- 2.3. The proposed public open space is positioned in the northeastern and northwestern corners of the site, respectively.
- 2.4. The proposed access is via the existing laneway (Milton Terrace), which is to be upgraded, and which would lead into the central part of the site between the two apartment blocks.
- 2.5. The Planning Authority requested further information on 20th April 2022, which can be summarised as follows:
 - Item 1: Redesign of scheme invited to address issues regarding potential overbearing and overlooking of neighbouring properties, including those at Seapoint Road and Milton Terrace.
 - Item 2: Details regarding proposed access arrangement, gradients, widths and parking.
 - Item 3: Measures to prevent silt and other waterborne pollutants discharging to the River Dargle, including consideration of SuDS into landscaping proposals.
 - Item 4: Address concerns regarding the structural stability of boundary retaining walls and their potential for failure from earthworks and vibration.
 - Item 5: An assessment of the public open space adjoining the rear of Block B in terms of its quality, existing boundaries and noise/light impacts on adjoining residential property.

- Item 6: To address concerns regarding an existing access to third party lands from the public road, to identify whether any existing third party access to an existing property exists and what impacts/mitigation measures are to be put in place in respect of this.
- Item 7: Section 6.8 of the Ground Investigation Report requires further details as the information appears to have been omitted.

2.6. The Applicant provided further information on 19th August 2022. The main design changes included:

- Reduction in gross floor area from c. 5,655sqm to 5,075sqm.
- Reduction in number of proposed apartments in Block A from 31 units to 26 units and Block B from 23 units to 20 units (total proposed number of apartments therefore revised from 54 to 46 no.).
- Design changes to address overlooking and overbearing concerns, including increased setbacks from site boundaries, decreased number and size of window openings, revised materials and finishes, provision of privacy screens and road access width increased to 6,5m.
- Revised red line boundary to better reflect landownership boundaries and changes to the proposed communal amenity space areas. [Revised quantum of communal amenity space down from 787sqm to 672sq m / 17% of the site area].
- The size of the application site reduced slightly to 0.397ha.
- Total proposed public open space remains at 361sqm.

2.7. The Planning Authority deemed the further information to be 'significant further information' on 25th August 2022 and required revised public notices.

2.8. The Applicant provided the revised public notices on 8th September 2022.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a Notification of Decision (NoD) to Grant Permission on 4th October 2022, subject to 17 no. conditions.

3.1.2. Notable conditions include:

- Condition 3: Security bond.
- Condition 5: Construction Management Plan (CMP).
- Condition 6: Construction and Demolition Waste Management Plan (CDWMP).
- Condition 11: Materials and finishes.
- Condition 14: Landscaping scheme.
- Condition 15: Taken in charge items and property management company.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It is considered that given the context of the site it can establish its own character, and that the modern apartment block development design concept would have a positive impact, in particular on views into the site from the Dargle River.
- The Bray Municipal District LAP (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. However, the Council may permit heights above this, where the specific context of the site and design of the building allows it (for example where additional storeys are setback from street frontage). The development would exceed this criterion, but it is considered such increased height could be considered.

- Seapoint Road is a mixture of older and newer development with different styles and finishes.
- The principle of redevelopment, and the modern design approach put forward by the applicant is considered appropriate.
- The modifications proposed as further information, particularly in respect to the impact on Seapoint Court, and Seapoint Road/Milton Terrace, are considered acceptable.
- The development has been revised to exclude the area to the southeast corner at the rear of Block B, which was previously a play area. The number of units proposed has been reduced from 54 to 46 no.
- The proposed density and plot ratio of 116 unit per hectare (uph) and 1.28, respectively, is considered acceptable in this context.
- The revisions submitted as further information have reduced the massing, and given the reduction in windows, and location of openings, it is considered that the development would not give rise to any significant negative impacts on residential amenity. In addition, the modifications to the south elevation and inclusion of white brick has modified the impact along Seapoint Road. The development is more effectively assimilated into the streetscape and would integrate into the urban vista at this point.
- The mix of apartments, dual aspect and provision of communal amenity space (672sqm) is considered acceptable, and the proposed development complies with the Apartment Guidelines.
- The updated daylight and sunlight assessment submitted as further information is noted and identifies that the revised scheme achieves more favourable results than that achieved in the original design.
- The details in relation to access, gradients, widths and parking are considered appropriate.
- The proposed SuDS measures, which would prevent silts or other waterborne pollutants discharging to the river and help remove pollutants from groundwater, particularly during first flush after a dry spell, are

acceptable. A petrol interceptor has been provided on the surface water network prior to outfall to the River Dargle.

- A comprehensive approach has been set out to ensure protection of existing boundaries during construction, and this is considered appropriate. Whilst concerns raised by adjoining residents are noted it is also considered the CMP will ensure the protection of adjoining properties and ensure adherence to vibration criteria.
- The revised approach to providing communal amenity space, which includes the omission of the area to the rear of Block B, is acceptable.
- The proposed construction and operational access arrangements are set out in the engineering document as part of further information are acceptable. Furthermore, the grant of permission does not infer any rights on the applicant and further legislative requirements may need to be met.
- The ground gas monitoring results submitted as part of Appendix D of the relevant report are noted and considered acceptable.
- Recommends permission should be granted.

[Note: The initial Planner's Report, dated 13th April 2022, recommended that permission for the proposed development be refused. However, a note from the Council's Senior Planner appended to the rear of the report (Page 22) states that the issues raised could potentially be addressed by way of requesting further information. The note states that potential solutions could be put forward (by the applicant) to deal with concerns in relation to overlooking and overbearance and also the other issues identified as part the Planner's assessment. The second Planner's Report, dated 22nd September 2022, recommended permission be granted, subject to conditions.]

3.2.2. **Other Technical Reports**

Roads Department: Further information requested regarding the proposed access arrangement, gradients, widths and parking. No objection, subject to receipt of further information.

Municipal Engineer (Bray): Further information requested regarding parking layout, road access width, footpaths, drainage information and SuDS.

Water and Environmental Services: No objection.

Waste Management Section: No objection, recommends that a site specific waste management plan be completed for the construction and demolition waste management plan be prepared and that this should detail the disposal of any asbestos on the site before the commencement of works.

Housing Department: No objection. Part V proposal considered acceptable.

Fire Officer: No objection, recommends standard conditions.

3.3. **Prescribed Bodies**

Uisce Éireann (formerly Irish Water): No objection, subject to standard conditions.

Development Applications Unit (Archaeology): No objection, subject to standard conditions regarding archaeological monitoring and testing.

3.4. **Third Party Observations**

The third party observations received by the Planning Authority raised the following main concerns:

- Negative overlooking of adjacent properties.
- Loss of daylight and sunlight for nearby and abutting residential properties.
- Excessive bulk and inappropriate scale.
- Impact on embankment and structural safety concerns due to vibrations by the construction phase.
- Traffic congestion and related impacts.
- Impact on right of way and access.
- Pollution to the River Dargle.
- Lack of EV charging cable ducting.
- Inadequate landscaping and screen planting.
- Risk of flooding due to runoff.

4.0 Planning History

Subject Site

Reg. Ref. 19/688: An application for the demolition of two existing 2-storey buildings general site clearance, site to be levelled and finished in compacted gravel hardstanding and associated site development works was deemed **withdrawn** in June 2019. [Included the eastern part of appeal site.]

Reg. Ref. 17/1392: The Planning Authority **granted permission** in February 2018 for the demolition of single storey buildings c 636 sqm, general site clearance, site to be levelled and finished in compacted gravel, associated site development works and provision of new palisade fencing. [Included the western part of appeal site.]

Reg. Ref. BTC PRR 13/13: The Planning Authority **granted retention permission** in 2013 for a change of use from light industrial to social and recreational use and retention permission and permission for minor site works, including infill link, fire escape stairs, additional mezzanine, alterations to elevations and ancillary works.

ABP Ref. PL 39.209519 (Reg. Ref. BTC PRR 04/126): The Board **granted permission** in March 2005 for the demolition of the existing onsite buildings and construction of 40 apartments, parking and associated site works.

ABP Ref. PL 39.203849 (Reg. Ref. 03/74): The Board **refused permission** in December 2003 for the demolition of the existing onsite buildings and construction of 36 apartments in two blocks and associated site works.

Surrounding Lands

ABP Ref. ABP-311181-21 (SHD): The Board made a **split decision** on a proposed development comprising 591 no. residential units (76 no. houses, 515 no. apartments), childcare facility and associated site works on a site known as the Former Bray Golf Club lands. The site is to the north of the appeal site, on the far side of the Dargle River, and the Board's decision was made in December 2021.

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.

Chapter 3 Residential Development

R1

All new housing developments shall be required to accord with the housing objectives and standards set out in the Wicklow County Development Plan.

R2

In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle. Lands zoned Residential – High Density will be expected to achieve a density of not less than 50 units / hectare.

Chapter 5 Town / Neighbourhood Centres & Retail

BT1

To promote Bray town centre as the primary retailing and commercial sector location in the town. Retailing will be promoted as the core function of the town centre. Bray Town Centre consists of the area of land which is zoned 'TC: Town Centre Uses', which extends in a north/south direction from the Dublin Road to Market Square, and in an easterly direction, encompassing Quinsborough Road, Florence Road, Bray Dart Station and part of Novara Avenue. It is the area of the town that provides a broad range of facilities and services and which fulfils a function as a focus for both the population of Bray and public transport.

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).

5.2. 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 5: Placemaking for Town and Village Centres

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.'

The following objectives are considered relevant:

CPO 5.6

To seek funding and focus new investment into the core of towns and villages in order to reverse decline, foster resilience and encourage new roles and functions for streets, buildings and sites within towns and villages.

CPO 5.8

To target development that will regenerate and revive town and village centres, address dereliction and vacancy and deliver sustainable reuse and quality placemaking outcomes.

CPO 5.9

To facilitate and support well-designed development that will contribute to regeneration and renewal, consolidation of the built environment and include interventions in the public realm and the provision of amenities.

CPO 5.12

To encourage the redevelopment of brownfield sites in order to maximise the sustainable regeneration of underutilised/vacant lands and/or buildings particularly in town and village centres.

Page 130 of the Development Plan includes ‘Town and Village Regeneration & Rejuvenation Priorities’. For Bray, the priority is to ‘harness the potential of the former Bray golf course, Bray harbour and key town centre development sites to deliver compact growth, prioritising sustainable mobility, expand employment opportunities and strengthen the viability and vibrancy of the town centre. There will be a strong focus on addressing dereliction and underutilised sites and delivering placemaking that will strengthen the town’s image and sense of place. Key projects include Bray Central (formerly known as the Florentine), Bray Public Transport Bridge and regeneration of the harbour. The redevelopment at Bray Central will help balance the footfall between the Main Street and the seafront. Regeneration of the harbour may include marine works, amenity and public realm improvements, provision of promenade board walk linking the promenade and the harbour, provision of a cycle bridge and relocation of boat storage to north of the harbour.’

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.

CPO 6.15

Higher density proposals should be designed to a high standard, incorporate a mix of housing types and sizes and deliver compact urban forms that enhance the local built environment and contribute towards a sustainable mix of housing options. Proposals should provide an appropriate design response to the site, be designed to a high quality and afford adequate protection for residential amenity of neighbouring properties.

CPO 6.16

To encourage and facilitate high quality well-designed infill and brownfield development that is sensitive to context, enables consolidation of the built environment and enhances the streetscape. Where necessary, performance criteria should be prioritised provided that the layout achieves well-designed high quality outcomes and public safety is not compromised and the environment is suitably protected.

Higher Densities

Section 6.3.5 of the Development Plan is in relation to 'Higher Densities'. It states that higher densities are encouraged to achieve an efficient use of land and create compact, vibrant and attractive settlements. The capacity of a site to absorb higher densities is influenced by a range of factors including the local setting, development context, neighbouring uses, access, topography etc. The preparation of a design statement, including a detailed contextual and site analysis, will help determine a site's capacity and the appropriate density. The potential of brownfield sites to consolidate the built form and deliver higher densities should be capitalised subject to protecting existing amenities and achieving high quality standards for future occupants.

Quality of Design in New Housing Development

Section 6.3.7 of the Development Plan is in relation to ‘Quality of Design in New Housing Development’. It states that the Planning Authority has to strike a careful balance between on the one hand enabling new housing development that meets housing demand while ensuring that highest standards of urban design, architectural quality and residential amenity. New housing development should be designed to respect its setting and provide for a strong connection with the character of the existing settlement. Particular attention should be paid to boundaries, public space and planting in order to achieve good quality. Permeability should inform the layout and design. New residential and mixed-use schemes should deliver attractive street-based traditional town environments that incorporate a good sense of enclosure, legible streets, squares and parks and a strong sense of place. Developments should include an effective mix of heights that integrates well with the existing urban structure and historical streetscapes.

Chapter 13 Water Services

Objective CPO 13.21

Ensure the implementation of Sustainable Urban Drainage Systems (SUDS) in accordance with the Wicklow County Council SuDS Policy to ensure surface water runoff is managed for maximum benefit. In particular to require proposed developments to meet the design criteria of each of the four pillars of SuDS design; Water Quality, Water Quantity, Amenity and Biodiversity.

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.

Other Relevant Chapters

Chapter 7: Community Development

Chapter 8: Built Heritage

Chapter 9: Economic Development

5.3. National and Regional Planning Policy

- *Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities, 2024 ('the Compact Settlement Guidelines')*¹
- *Sustainable Urban Housing: Design Standards for New Apartments, 2023 ('the Apartment Guidelines')*
- *Design Manual for Urban Roads and Streets, 2019*
- *Project Ireland 2040 National Planning Framework, 2018*
- *Urban Development and Building Height, Guidelines for Planning Authorities, 2018, (the 'Building Height Guidelines').*
- *BRE Guide 'Site layout Planning for Sunlight and Daylight', 2011*
- *The Planning System and Flood Risk Management, including the associated Technical Appendices, 2009 ('the Flood Risk Guidelines')*
- *Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007,*
- *Childcare Facilities: Guidelines for Planning Authorities, 2001, and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme, and*
- *Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019-2031*

5.4. Natural Heritage Designations

No designated European Sites apply directly to, or adjoin, the subject lands.

The nearest European Site is Bray Head SAC (Site Code: 000714), which is roughly 1.5km to the southeast.

¹ The Guidelines replace the 'Sustainable Residential Developments in Urban Areas- Guidelines for Planning Authorities, 2009'.

The distance and direction from the nearest European sites to the appeal site, including Special Areas of Conservation (SAC) and Special Protected Areas (SPAs), are set out below.

Table 5.1: European Sites

Site Code	Site Name	Distance (approx.)	Direction
<i>Special Area of Conservation (SAC)</i>			
000714	Bray Head	1.5km	southeast
000713	Ballyman Glen	2.4km	west
000725	Knocksink Wood	4.4km	west
003000	Rockabill to Dalkey Island	4.6km	north
002122	Wicklow Mountains	7.7km	west
000719	Glen of the Downs	7.0km	south
002249	The Murrough Wetlands	10.8km	southeast
000210	South Dublin Bay	10.4km	north
000716	Carriggower Bog	11.3km	south
<i>Special Protection Area (SPA)</i>			
004172	Dalkey Islands	7.0km	north
004040	Wicklow Mountains	7.9km	west
004186	The Murrough	8.6km	south
004024	South Dublin Bay and River Tolka Estuary	10.3km	north

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development, which is for of 46 apartments in an established urban and serviced area in Bray town centre, there is no real likelihood of significant effects on the environment arising from the proposed development.

- 5.5.2. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 5.5.3. See Appendix 1 of this report for further information (EIA Form 1: Pre-Screening and Form 2: EIA Preliminary Examination).

6.0 The Appeal

6.1. Grounds of Appeal

There is a single appeal on file, which is from Mr. Bryan Molloy (owner of a commercial unit at the rear of 14 Seapoint Road, Bray). The main issues raised are as follows:

- Discrepancies in the application documentation, including that the elevational drawings and 3D images fail to include windows in the northern elevation of the unit, and which would be c. 3m from a proposed living room and bedroom.
- The vehicular right-of-way is not accurately shown on the drawings. It is described as overgrown but is used by the Appellant's business.
- The CMP shows hoarding around the Appellant's property and severing access. No consent has been provided for this to happen.
- Extensive works are proposed to the public road and retaining walls are proposed without acknowledgement of the business needing to continue.
- The proposed alteration of road levels may render access to the Appellant's business impossible.
- A new concrete surface to the business lock-up is proposed. However, this was never discussed with the Appellant.
- There are concerns the proposed development may make it impossible for the Appellant to use his property during construction and when the development becomes operational.

6.2. Applicant Response

- The Appellant's property has two roll-up shutter doors only, which are on its northern and western elevations. It has no windows on its northern elevation.
- The separation distance between proposed Block B and the Appellant's property ranges from 3.97m to 6.11m. Therefore, there is ample breathing space between the buildings to protect future residential amenity.
- The proposed works will be carried out in cooperation with the local authority in accordance with their requirements and specifications, including the conditions of road works, as well as obtaining permits, licenses and/or legal agreements.
- There would be no hoarding placed around the Appellant's property.
- The CMP confirms that the existing local access to the third-party lockup shall be maintained in agreement with the existing building owner.
- The Applicant engaged and consulted with the Appellant in an attempt to provide a new concrete surface at the front of the property, which would tie in with the proposed development. However, a letter of consent could not be obtained. Therefore, the application boundary was pulled back to exclude any area within the Appellant's property.

6.3. Observations

6.3.1. The main concerns raised in the observations are as follows:

Design, Size and Scale

- Height, size and scale of the proposed development is excessive, particularly along its southern elevation.
- The balconies on the eastern elevation of Block A and southern elevation of Block B would impact on privacy and amenity.
- The Board's decision should be in line with the previous permission granted on the site under ABP Ref. PL 39.209519 (March 2005). In that decision

Block B had a lower ridge height and a greater setback distance (i.e., it was c. 3m lower than that currently proposed).

- The proposed landscaping scheme and boundary treatments require further attention to address security concerns and reduce overbearance on adjoining houses.
- Further details required of the proposed balcony screening methods are required to address amenity and noise concerns.
- A scale model should have been provided as part of the application to more clearly articulate the proposed development, particularly for older residents, many of whom live in Seapoint Court.

Ecology

- The proposed height poses a risk to swans as it is in their direct flight path.
- The area is currently dimly lit and therefore a refuge to bats. Insufficient mitigation measures are proposed in this regard.
- Badgers are active on the site and were not included in the NIS.
- There is protected rare plant on the site and a plan for its management and protection should be prepared.

Drainage

- The proposed SuDS measures are not adequate to protect the River Dargle as the main runoff would travel down the new access road unimpeded, towards the north, until it meet the river. Vegetation and rain gardens should be used along the length of the north wall, and green and blue roofs should be added to the overall scheme.
- No assessment has been undertaken of the reduced SuDS measures on migratory species in terms of water quality and temperature and the subsequent knock-on effects on Ballyman SAC and Knocksink Wood SAC.

Traffic and Transport

- The proposed means of universal access would result in additional travel time for those with restricted mobility to travel to Bray town centre.

- Road noise generated by passing vehicles.

Construction

- The proposed construction methodology is flawed (site working hours, noise and vibration, condition surveys, subsidence monitoring).
- The structural integrity of adjoining houses may be affected by vibration caused during the construction phase. Regular monitoring should be undertaken as part of the works phase.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Design, Height and Scale
- Access, Traffic and Transport
- Drainage
- Ecology
- Other Issues
- Appropriate Assessment

7.1. Design, Height and Scale

- 7.1.1. A key concern raised by third parties is in relation to the design, height, scale and proximity of the proposed development to adjoining residential properties. It is submitted that the proposal constitutes overdevelopment of the site and that the scale of the buildings would detract from the character of the surrounding vicinity and lead to unacceptable amenity and visual impacts arising.
- 7.1.2. The appeal site is zoned 'Town Centre' under the Bray LAP where the objective 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. I note that 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. The proposed development which is for residential apartment scheme is, therefore, acceptable in principle under the zoning. I also note that the Planning Authority in their assessment of the application concurred that the proposal would be acceptable in principle, particularly given the status of the site as a derelict brownfield property, in the centre of Bray, where its redevelopment would be positive for the town and its environs.

- 7.1.3. Furthermore, whilst Objective BT3 of the LAP 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, I note heights above this may be permitted where the specific context of the site and design of the building(s) allow it. Given the strategic location and setting of the property, I consider it an appropriate candidate for the consideration of increased height.
- 7.1.4. In having regard to the Council's Settlement Strategy, I note that as a Key Town Bray is identified as a large, economically active, services-driven town that provides employment for the surrounding areas, has high-quality transport links, and the capacity to complement other regional growth centres. The Development Plan states that such settlements *'have significant potential to deliver compact growth and regeneration in the established town centre and built-up area'* (emphasis added).
- 7.1.5. In terms of its physical context, the appeal site is a large infill site in the centre of Bray town centre. It comprises a former industrial use (abattoir) and vacant warehouse buildings. The existing structures are mainly of concrete construction with a pebbledash finish and painted mute grey. During my physical inspection of the site, it was evident the site is in poor condition, and has been for an extended period. There is evidence of neglect, defaced buildings, weeds, and fly tipping with small amounts of discarded items strewn around the property. The immediate surrounding area is characterised by mainly residential land uses which are a mix of different housing typologies. The prevailing building height ranges from one to three storeys.

- 7.1.6. The change in level across the subject site is significant with the property sloping sharply downwards from south (higher ground) towards the north in the direction of the river. Seapoint Road is therefore at a higher level than the appeal site. This topography facilitates the site in accommodating a denser and taller form of development when read in conjunction with its receiving environment. This is particularly the case for the houses on Seapoint Road, which are on elevated ground, and where the dropdown in height towards the site is most pronounced. I note that the dwellings in Seapoint Court would potentially be impacted more, however, as these houses are at a lower level and two storeys. Therefore, the variance in height posed by the proposed development – and, in particular, Block B – has led to concerns from residents in relation to future overlooking, visual impact and overbearance by the scheme.
- 7.1.7. It is clear to me that the site is an ideal candidate for redevelopment purposes. It would lead to positive urban regeneration and renewal outcomes and that, in principle, the property represents a good opportunity for infill residential use, subject to meeting the appropriate development management standards, and having regard to the character of the area and existing pattern of development. However, I also acknowledge, that a key consideration in deciding whether the height, scale and quantum of development sought is appropriate, is whether the scheme is proportionate to its receiving context, and if the design response submitted is sufficiently cognisant of sensitive receptors in the area. In this regard, I consider a key determinant is whether the proposal has successfully avoided and minimised potential negative impacts on adjoining, nearby residential properties in the vicinity.
- 7.1.8. Proposed Block A is in the western part of the site and Block B is to the east. The blocks have a profiled form to respond to the topography of the site and proximate housing. The scheme was amended as part of further information. The changes have led to a reduction in gross floor area (from c. 5,655sqm to 5,075sqm) and in the number of units for Block A (31 down to 26 no.) and Block B (23 down to 20 no.), which has resulted in the total number of apartments decreasing from 54 to 46 no.
- 7.1.9. The further information (FI) also comprised several design changes and building modifications to address concerns in relation to overlooking, overbearance and visual impact in the form of reduced building height, increased setbacks from site boundaries, decreased number and reduced size of window openings, higher grade

materials and finishes, and the provision of privacy screens around private amenity space. Overall, the proposal is of a contemporary, modern design with a palette of reasonably high-quality materials and finishes used throughout. The design of the scheme is generally in accordance with the evolving residential pattern and built form in this part of Bray, in my opinion, which has historically evolved through different periods of design and architecture and will continue to do so.

- 7.1.10. I note the proposed development would be visually apparent in the streetscape when viewed from the surrounding area, including along Seapoint Road and particularly from some rear gardens in Seapoint Court (towards the east). The development would also breach the roof level scale in this area from some wider views and be visually conspicuous from across the river, to the north. It would exceed the height of the existing warehouse and former light industrial buildings on the property, which are not insignificant in their own right, in terms of size, scale and height.
- 7.1.11. I have reviewed the plans and particulars accompanying the application. Having physically visited the site, and completed a visual inspection up close, and from the surrounding vicinity, I consider that the 3D images and information on file is an accurate description of how the proposed development would appear as though constructed. Whilst I note there is reference from an observer that a physical model should have been produced to help better inform the public and homeowners, including older residents in the area, there is no formal requirement to provide such a model under planning legislation.
- 7.1.12. I note that Block B has seen reduced building heights and increased separation distances to the adjoining residential estate to the east. The changes made at further information stage allow for a more appropriate and gradual downwards transition towards the shared eastern boundary with Seapoint Court, in my view. This tapering down in height can be clearly seen in the revised drawings submitted to WCC, and which are clearly articulated in the architect's updated design rationale. The nearest part of Block B Seapoint Court is setback roughly 16.4m whilst there is a c. 23m setback at the uppermost floor. I am satisfied that this interface would avoid having any overly negative residential amenity or visual impacts, particularly given the use of higher order finishes and materials and considered orientation of structures on the site.

- 7.1.13. Furthermore, the block has been reduced to 20 no. units (down from 23 no.) and the amended version of the scheme includes for the effective use of opaque glazing and screening to address concerns regarding overlooking. This is evident from viewing the elevational and plan details which show east facing windows are from internal corridors only, and not habitable rooms. I consider the inclusion of balconies on the eastern elevation of Block A and southern elevation of Block B acceptable as a means of providing private amenity space for the units, subject to the inclusion of privacy screens and opaque glazing balustrades (as shown on the drawing entitled 'Further Information Block B Elevations', drwg. no. 21019-OMP-BB-ZZ-DR-A-2001).
- 7.1.14. Notwithstanding the above, should the Board consider that Block B would still give rise to excessive bulk, scale and overdominance, the omission of the two units in the eastern section of the block, at second floor, could be given consideration. This modification would result in the removal of two apartment units (2 no. one-bedroom units / Type 1A) and provide a greater degree of relief to the residential properties at Seapoint Court and Seapoint Road. The units are shaded yellow on the relevant drawing and each have a balcony facing towards the north and south, respectively. (See drawing title 'Further information Second Floor Plan', drwg. no. 21019-OMP-ZZ-02-DR-A-1002).
- 7.1.15. In relation to the proposed landscaping detail, I note that a third party raises concerns in relation to security and residential amenity issues. This includes the requested omission of gabion baskets, provision of a 2m wall and further clarification of how the proposed boundary treatment(s) would prevent unlawful and undesirable access being gained to third party properties. I concur that these changes would be appropriate and consider they can be addressed under condition. [The items are referenced on Page 3 of the submission made by Glynn and Woodfull (dated 12th December 2022).]
- 7.1.16. In summary, given the vacant and derelict condition of the site, it is clear to me that activating these lands through the delivery of a residential scheme would result in developing a key landbank in the centre of an important Level 1 Metropolitan Key Town (i.e., Bray). This would take the form of a well-designed apartment scheme, which would contribute to the consolidation of the built environment, improve the public realm and lead to better use of centrally located lands in an accessible town centre location.

- 7.1.17. I consider that the proposal would not be out-of-scale or discordant with the surrounding area. I acknowledge that a noticeable transition in building height would be apparent, particularly against the backdrop of more traditional style, two-storey houses. However, the proposed scheme has been designed to a high standard, in my view, and would not be an overwhelming departure from the existing built form on the site currently (i.e., former abattoir facility). I consider that there would be appropriate contrast in architectural style compared with the wider vicinity and that the scheme would not present as an incongruous form of development.
- 7.1.18. In my opinion, the proposed development would also be consistent with the general aims of urban consolidation, as set out in Objectives CPO 5.8 and CPO 5.12 of the Development Plan, respectively, which are to target development that would regenerate and revive town centres, address dereliction and vacancy and deliver sustainable reuse and quality placemaking outcomes; and encourage the redevelopment of brownfield sites in order to maximise the sustainable regeneration of underutilised/vacant lands and/or buildings, particularly in town and village centres.
- 7.1.19. Moreover, the proposal is consistent with national and regional planning policy documents, including the National Planning Framework (2018) (NPF) and Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019) (RSES). In particular, I note that the NPF seeks to make better use of underutilised land and buildings, including infill, brownfield, and under-occupied buildings, with higher housing and jobs densities, better serviced by existing facilities and public transport. The NPF specifically targets a greater proportion (40%) of future housing development to be within and close to the existing 'footprint' of built-up areas.
- 7.1.20. Having regard to the above, the proposed development is acceptable in terms of design, height, scale and visual impact, which is consistent with local and national planning policy.

7.2. Access, Traffic and Transport

Access

- 7.2.1. The main concern raised by the Appellant is in relation to potential operational difficulties that would be caused by the proposed development to his existing commercial business. This includes disruption during the construction phase, potential closure of the existing laneway (means of access) and placement of hoarding around his property.
- 7.2.2. The Appellant states that the vehicular right-of-way (RoW) is not accurately shown on the relevant drawings. He states that it is used by his business and concerns have been raised that the RoW would be closed, or affected in some way, that it would not be possible to access his commercial operation in the future.
- 7.2.3. In this regard, I note that the Appellant's property is served by a public road which is currently taken in charge by Wicklow County Council (WCC). This information is shown in a specific drawing entitled 'proposed taking in charge extents' and shaded green (Drwg. No. 2119-DOB-XX-SI-DR-C-0180 refers). The section of land in blue is to be taken in charge by WCC as part of the proposed development.
- 7.2.4. The upgrade of the existing laneway is necessary to accommodate the proposed development. It would significantly improve the existing access arrangement and lead to an enhanced pedestrian environment post construction. Whilst the works would result in a certain amount of nuisance and inconvenience, such road improvements would typically require an application to be made to the Local Authority for a road opening licence and/or hoarding licence. The application would be accompanied by a traffic management plan, for agreement with the Council, in advance of commencing the works and with a view to including measures to minimise potential adverse impacts on the receiving environment. I consider that any further, more detailed items, can be addressed by way of completing additional survey and assessment work as part of the detailed design phase following planning.
- 7.2.5. Whilst I accept a temporary closure of the laneway may be required to facilitate the works, I consider the Applicant has shown a genuine commitment to retain the access to the commercial property through the submitted CMP. In this regard, Section 5.2.1.1 of the CMP clearly states that the existing local access lockup shall

be maintained in agreement with the existing business owner. I note also that the proposed improvements to the access road were discussed in consultation with the Planning Authority, including as part of pre-planning, and that no objection was raised by the Council's Roads Department.

- 7.2.6. In relation to the specific issue of hoarding, I note the Applicant states clearly as part of their response that no hoarding will take place around the Appellant's property. I also consider that any such requirement would not be likely given the property does not form part of the planning application, lies fully outside of the red line boundary and physically stands apart from the subject buildings, which are to be demolished. As a lockup facility, the main purpose of the building is for storage. I consider that any brief interruptions would not present the same degree of disruption as might be expected for a commercial business, which may need to accommodate employees, or customers / members of the public at short notice. However, even this should not arise, as the Applicant has made provision to avoid any such closures affecting the Appellant.
- 7.2.7. In conclusion, I acknowledge the concerns raised by the Appellant in relation to the potential operational difficulties that might be encountered by his existing business on foot of the development proposal (particularly during the construction phase). However, having regard to the above, I am satisfied that access to the property can still be maintained and that the matter has been properly addressed. I am also satisfied that the works would be controlled through adherence to road work conditions and specifications and other local authority requirements post-planning, such as a road opening licence.

Traffic and Transport

- 7.2.8. One of the observers raises a concern that excessive noise would be created by traffic generated by the proposal. It is also stated that people in the area with restricted mobility, traveling to Bray town centre, would take see journey times increased due to the proposed means of universal access.
- 7.2.9. In this regard, I note that the Applicant has prepared a Traffic and Transport Assessment (TTA), Mobility Management Plan (MMP) and Road Safety Audit (RSA). In addressing the first issue, I consider road noise from passing cars a normal feature of living in an urban environment. Its elimination is not a realistic

expectation, in my opinion, particularly in a town centre setting along a main street. Furthermore, given the central urban location of the site, it is likely vehicle speeds would be relatively lower, meaning noise levels generated by car engines, exhausts and tyres would also be less when compared with other, outer-urban locations.

7.2.10. I consider that the proposed enhancements to the public realm would improve pedestrian connectivity and help address challenges posed by the existing steep and narrow footpath currently serving the site (i.e., Milton Terrace). The Road Safety Audit (RSA Stages 1 and 2) prepared by the Applicant entails a comprehensive safety check, completed by an independent auditor. It sets out a series of final design recommendations, engineering solutions and modifications to help improve the public road network in this area. The RSA also identifies potential hazards for vulnerable users and how these can be overcome. The completion of a final RSA can be achieved under condition.

7.2.11. The issue of how universal access would be addressed by the proposal was examined by the Planning Authority. The Applicant submitted a full set of revised drawings as part of further information, which included longitudinal sections, gradients, vehicle containment measures, road markings and a wider access arrangement. I note that the Roads Section reviewed the information and were satisfied, subject to condition.

7.3. Drainage

7.3.1. The redevelopment of the site would result in the demolition of the existing industrial buildings, warehouses and hardstand. The site is brownfield and has a large amount of impermeable surface. The proposed development incorporates several Sustainable Urban Drainage Systems measures (SuDS), which are used to help manage stormwater runoff in urban areas in a more environmentally friendly and sustainable manner.

7.3.2. The SuDS measures proposed are clearly set out in the engineering services report submitted as further information (Section 8 of the report). I note that the Planning Authority (Engineering Section) was consulted, prior to making the submission, with a view to ensuring the proposed measures would be acceptable. The measures would avoid silt, sediment and other waterborne pollutants from discharging to the

adjacent River Dargle. I also note a petrol interceptor forms part of proposed surface water network. The interceptor is positioned before the outfall to the river and would filter out and contain any hydrocarbon pollutants from rainwater runoff.

- 7.3.3. Objective CPO 13.21 of the Development Plan is in relation to surface and storm water systems. It seeks to ensure the implementation of SuDS measures so that surface water runoff generated by new types of development is managed efficiently. In particular, the policy requires any new development to meet the design criteria of each of the four pillars of suds design, which are water quality, water quantity, amenity and biodiversity. The proposal is fully consistent with this objective, in my view. And, as well providing a more sustainable approach to urban water management, it would contribute to supporting more diverse plant and animal life and contribute to urban ecological resilience. The Applicant also gives a commitment to undertake surveys of existing drainage lines and outfalls – liaising with the Wicklow County Council, and Uisce Éireann, as necessary – to address and rectify any existing issues, which is also welcome.
- 7.3.4. In this regard, I consider the Applicant has satisfactorily explored the potential for utilising SuDS measures and nature-based drainage solutions as part of the scheme, including opportunities for urban greening. This includes sections of permeable paving, several green and landscaped sections throughout the site with planted trees and deep tree pits, permeable surfaces, and sedum green roofs (or seeded gravel blue roof systems) which would assist in collecting excess water and runoff generated during heavy events of rainfall. Further amenity and biodiversity benefits would also be derived, which is particularly welcome given the backdrop of the site alongside the riverside walkway.
- 7.3.5. However, in terms of further reducing the likelihood of runoff entering the river downslope, from across the centrally positioned shared surface, I consider there are opportunities to add further vegetation, or rain gardens, along the length of the northern boundary wall. Such features function well when designed with a gentle slope – as is the case in this instance – so that they can readily receive overland flows. Even small areas of rain gardens can therefore significantly enhance the ability of a site to capture and retain stormwater and result in a much-improved drainage solution overall. Therefore, I recommend that this option should be explored by the Applicant, which can be addressed under condition.

7.4. Ecology

- 7.4.1. I note that the appeal site comprises a developed, brownfield landbank and that past works along the riverbank have been undertaken to install flood defences. The survey work confirms that the site is mainly vacant buildings and artificial surfaces which is, in effect, built land with a lower ecological value.
- 7.4.2. The Applicant has submitted a Natura Impact Statement (NIS) which addresses the requirements of the Habitats Directive in relation to the conservation of natural habitats, and fauna and flora, associated with designated European Sites. The NIS evaluates the potential impacts on the integrity of these areas and references various faunal surveys undertaken on the site. I note the studies included for bat species, otter and badger, as well as certain bird species, were undertaken at the optimal time of year.
- 7.4.3. In relation to bats, I note that that no bat roosts or signs of bats were recorded in any of the buildings associated with the appeal site. There were also no signs of bat droppings or staining within the interiors or exteriors of buildings, which can indicate bats conducting activities in proximity to the site. I note that there were two calls of Soprano Pipistrelle Bats recorded flying over the site. However, this would not be unusual close to a water body, such as the River Dargle, in my opinion, and likely indicates infrequent bat activity across the site, rather than bats using for site for roosting, breeding or foraging purposes. As the site is currently dimly lit, I consider a condition requiring a sensitive public lighting strategy be employed, should the Board decide to grant permission.
- 7.4.4. I note the images submitted by one the third parties suggesting badgers are active nearby, but outside, the appeal site. The observer also states that badgers are not referenced in the NIS. In this regard, I note that badgers are a strictly protected species and evidence of potential disturbance on them may require to be addressed by the Board. However, I do not consider that a single photograph, taken at an unknown (offsite) location, constitutes evidence of their potential disturbance. Even if the third party assertion is accepted, it does not constitute evidence, in my opinion, of any adverse impact on badgers – or their potential disturbance – by the proposed development. The NIS clearly states that no badger setts were recorded in the study

area as part of the formal survey work and that there is no potential for badgers on the site (due to site conditions).

- 7.4.5. Similarly, I note the concern raised that the proposal would, in some way, constitute an obstruction to existing swan flight paths. I note swans are recorded as present in Bray Harbour as part of the Irish Wetland Bird Survey (I-WeBS). However, there is no substantiate information to indicate the appeal site is within, or proximate, to an actual swan sensitive area. Furthermore, the proposed building heights, whilst taller than most other structures in the vicinity, are not unusual in this town centre setting, and there are many comparable such buildings already present in Bray.
- 7.4.6. I note that the faunal surveys show no otter holts or resting places for otters in the vicinity of the site. It also confirms that no other sign of otter activity was recorded, such as evidence of spraint. I note that otters are referenced in the NIS as a qualifying interesting associated with the Wicklow Mountains SAC, which is c. 7.6km west from the site. However, it is considered that the otter populations associated with this upstream SAC would not be affected by the proposed development given the long distance involved, and as the lower stretches of the Dargle River are outside the territorial range of this otter population.
- 7.4.7. A third party observation states a 'relatively rare plant' (Ivy Broomrape) has protected status in another planning jurisdiction (Northern Ireland). However, I do not consider this has a bearing on the subject proposal. Moreover, I note that according to the Red Data List of Irish Plants this species is 'not considered threatened in the Republic of Ireland'. There are also no invasive species within the site. The proposal also includes some bird boxes and insect hotels which would provide habitats by mimicking the natural environment and offering shelter for a range of birds and insect species.
- 7.4.8. In summary, I conclude that the proposed development would not have any significant negative impact in terms of ecology, or biodiversity, and that the proposed SuDs measures, as noted above, would assist in the sustainable management of drainage and stormwater runoff and result in improved amenity and biodiversity benefits.

7.5. Other Issues

Application Discrepancies

- 7.5.1. Article 23 of the Planning and Development Regulations deals with the requirements to provide particulars with a planning application. Specifically, I note that Article 23 (1) (d) requires that drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to the proposed structure if it were erected, whether on the application site or in the vicinity.
- 7.5.2. I have reviewed the plans and particulars submitted with the application as part of my assessment and consider that the drawings accurately show the features of contiguous structures and buildings in the area. I further note that the openings for the commercial unit at the rear of 14 Seapoint Road comprise two roller shutter doors and are not windows. I observed this to be the case as part of my physical inspection of the site. The photos included as part of the Applicant's response (page 3) also provide further useful information in this regard.

Separation Distance

- 7.5.3. In relation to the 3m setback distance cited by the Appellant between the commercial unit and proposed Block B, I have examined the Proposed Site Layout Plan (further information version) and note that the separation distance between the buildings range from between 4m and 6.1m (drwg no. 21019-OMP-ZZ01-DR-A1000 refers).
- 7.5.4. Furthermore, the separation distance between the existing (vacant) warehouse and this commercial unit stands at less than this (i.e., roughly 2m). Therefore, the positioning of Block B on the site would allow for a greater setback than what currently exists. I also note that the groundfloor apartment unit most affected in this case has a large west-facing window and balcony on its western elevation and that adequate daylight is afforded to the unit, as demonstrated in the sunlight and daylight analysis accompanying the application.
- 7.5.5. In summary, I consider that the proposed separation distance between Block B and the commercial unit in question would provide adequate privacy and residential amenity for future residents of the development.

Construction Phase (Methodology)

- 7.5.6. I consider issues relating to noise, vibration and general nuisance associated with the construction phase of the project can be addressed by the preparation of a detailed Construction Management Plan (CMP).
- 7.5.7. The CMP should be a comprehensive document outlining the strategies, procedures, and guidelines for the successful execution of the proposed development project. The plan would be prepared and submitted to the Planning Authority for their agreement, prior to the commencement of construction, and serve as a roadmap for coordinating various aspects of construction works, address potential challenges, ensure safety, and help minimise impacts on the surrounding area, including adjoining residential property.
- 7.5.8. The works would also be legally obliged to comply with the relevant industry standards in relation to control of noise and vibration, including surveys and monitoring, as required.
- 7.5.9. In terms of active site working hours, I consider that the times of between the hours of 0800 and 1800 (Mondays to Fridays inclusive), and 0800 and 1400 hours (Saturdays), and not on Sundays and public holidays, would be appropriate in this instance. Where deviation from these times is required, this should only be allowed in exceptional circumstances, and where written approval has first been received from Wicklow County Council.

Planning History / Previous Decisions

- 7.5.10. I confirm that I have had regard to the inspectors' reports, and decisions made by the Board, in relation to the previous apartment scheme applications made on the site.
- 7.5.11. While the Board should be cognisant of relevant planning history for the site, I note that previous decisions involving the property, made by the Board, are from March 2005 (ABP Ref. PL 39.209519) and December 2003 (ABP Ref. PL 39.203849), respectively. This is some time ago, and contemporary planning policy has moved on since then, including the adoption of a new County Development Plan and Local Area Plan, as well new national and regional policy guidance.
- 7.5.12. Therefore, I consider that the current appeal case should be assessed solely on its own individual merits, and specifics, and against the unique challenges and policy

considerations which are applicable to the subject development proposal at this current time.

7.6. **Appropriate Assessment**

Compliance with Article 6(3) of the Habitats Directive

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

Background on the Application

- 7.6.2. The application is accompanied by a Natura Impact Statement (dated February 2021). The project description is as per Section 1.1 of the report and the scope of study is under Section 2. The NIS outlines the methodology used for assessing potential impacts on the habitats and species within the European Sites identified and which have the potential to be affected by the proposed development under Section 3. The connectivity of the proposed project to European Sites is assessed under Section 4. Section 5, under Table 5.1, lists the European Sites, their distance from the subject site, their qualifying interests, and examines the potential for source-pathway-receptor connectivity.
- 7.6.3. The NIS reviews the potential impacts on the subject site and its surrounding area; and suggests mitigation measures, assesses in-combination effects with other plans and projects, and identifies any residual effects on the European sites and their conservation objectives. The report was prepared in line with current best practice guidance, provides a description of the proposed development and identifies European Sites within the possible zone of influence of the development proposed.
- 7.6.4. It is accompanied by several other reports and assessments, including a Planning Report, Design Statement, Operational Waste Management Plan, Utilities Report (Engineering Services), Infrastructure Design Report, Transportation Assessment, Site Specific Flood Risk Assessment, Construction Management Plan, Sustainability Report / Energy Statement, Building Life Cycle Report, Landscape Strategy, Ecological Impact Assessment and an Archaeological Impact Assessment.

- 7.6.5. The report assesses the potential for significant effects by the proposed development on Natura 2000 sites in the context of the specific qualifying features and conservation objectives pertaining to such sites. It also assesses the potential for in-combination effects with other plans and projects.
- 7.6.6. Having reviewed the NIS and the supporting documentation, including appendices, I am satisfied that it provides adequate information in respect of baseline conditions, clearly identifies potential impacts, and uses best scientific information and knowledge. I am also satisfied that the information is sufficient to allow for appropriate assessment of the proposed development.

Brief Description of the Proposal

Proposed Development

- 7.6.7. The NIS provides a description of the project on Page 5, which includes the main elements proposed, a description of the surface water management system, foul effluent proposal and potable water supply. Appendix A includes an indicative layout of the proposed development. Appendix B is the foul water drainage design.
- 7.6.8. In summary, the development proposed is for the demolition of the existing structures on the site and construction of 46 apartments (reduced from 51 no. as part of further information) over two separate blocks. The proposed public open space is positioned in the northeastern and northwestern corners of the site, respectively, and access is via the existing laneway (Milton Terrace), which is to be upgraded.

Subject Site

- 7.6.9. The NIS provides a detailed description of the appeal site, its existing environment and receiving context. In summary, the site is recognised as having a former light commercial / industrial purpose (abattoir) with vacant warehouse buildings still present.
- 7.6.10. The property is brownfield site and there are no greenfield areas or semi natural habitats within the proposed project site boundary. The project site is bordered to the south, west and east by existing urban development. To the north of the project site the River Dargle flows in an easterly direction and outfalls to Bray Harbour c. 300m downstream from the site. The watercourse is c. 10m from the northern boundary of the site and separated by a c. 2m high boundary wall (which will be left in situ as part

of the proposal), a pedestrian footpath and the sloped artificial riverbank formed of large stone / rock armour.

- 7.6.11. The site is located within the Dargle sub-catchment (ID 10-5). The river is detailed by the EPA as having 'good water quality status' (2013-2018) and 'not at risk' of failing to meet the relevant Water Framework Directive (WFD) objectives by 2027.
- 7.6.12. The main channel of the River Dargle is designated as Salmonid Waters under the European Communities (Quality of Salmonid Waters) Regulations, 1988 (S I No 293/1988) The river is within the Eastern River Basin District and Inland Fisheries Ireland undertake fish stock surveys within this district along the River Dargle catchment (incorporating River Dargle, Glenree River, Killough River and Glencullen River). IFI survey reporting during the period 2017 and 2018 detail the River Dargle catchment as having Brown trout (*Salmo trutta*), Salmon (*Salmo salar*), European eel (*Anguilla anguilla*) and Stone loach (*Barbatula barbatula*) with trout being the most abundant species captured during surveys. IFI reporting states the river is one of Ireland's best sea trout rivers and also gets a small run of salmon (grilse)'.
- 7.6.13. The River Dargle provides for foraging habitat for local otter populations with sightings of otter recorded within the main channel in 2017. Local otter populations in the stretches of the River Dargle adjacent to the site are associated with otter populations within the Wicklow Mountain SAC. This is because the lower stretches of the River Dargle, near Bray town, are outside of the territorial range of the otter populations of the SAC. In the vicinity of the project site, and throughout Bray town, the River Dargle has been subject to flood alleviation works and the banks of the river have been recently developed into a formalised promenade and public amenity space. The riverbank along the site is entirely artificial – they are either vertical walls (flood walls) or shallow reinforced slopes (rock armour). In context of the project site, there are no ditches or surface water features connecting the project site to the River Dargle.
- 7.6.14. A review of groundwater vulnerability datasets identifies the site in an area of 'low' groundwater vulnerability.
- 7.6.15. The site is close to the coast and Bray Harbour (c. 300m east). The lower stretches of the Dargle River, and the coastal waters, are subject to the Irish Wetland Bird

Survey (I-WeBS). The Bray Harbour I-WeBS wintering waterbird count site includes recorded sightings of bird species within its coastal waters, but not on land or within the site. Bird Watch Ireland datasets show the annual peak count for each species of waterbird recorded within the coastal waters 300m downstream of the site for the winter periods of 2017/18 and 2018/19. This information is outlined in Table 4.1 of the NIS, and I note the most common peak counts include Mallard, Turnstone, Black-head Gull and Herring Gull species.

- 7.6.16. The habitat within the appeal site comprises mainly buildings and artificial surfaces. Section 4.2 of the NIS lists the common species recorded onsite and states that no invasive species were recorded.
- 7.6.17. The faunal surveys informing the NIS (undertaken in June 2021) included for mammals, including bat species, otter, and badger. No bat roosts or signs of bats were recorded in any of the buildings. There were no signs of bat droppings or staining inside of outside of the buildings. There were two calls of Soprano Pipistrelle Bats recorded flying over the site. No badger setts were noted in the study area, and I note that the NIS states there is no potential for badgers on the site. No otter holts, or resting places for otters, were noted in the vicinity of the site and no signs of otters were recorded.
- 7.6.18. No designated European Sites apply directly to, or adjoin, the subject lands. However, the NIS reviews and identifies other Natura 2000 Sites, both SPAs and SACs, which are within the potential zone of influence (Zol) and have been considered in terms of their ecological pathways and functional links in relation to the subject site.

Stage 1 (Screening)

- 7.6.19. The NIS identifies 13 European sites within the Zol of the proposed development project; 9 no SAC's and 4 no SPA's. The sites are identified in Table 5-1 of the NIS. I note that the closest designated sites are Bray Head SAC (Site Code: 000714) and Ballyman Glen SAC (Site Code: 000713), which are roughly 1.5km and 2.4km to the southeast and west of the site, respectively. A full list of the nearest European sites, including their distance and direction from the appeal site, is included in Table 5.1 of my report above. [I note that this assessment includes Ballyman SAC and

Knocksink Wood SAC, which are sites referenced by a third party as being at risk due to the development proposal.]

- 7.6.20. The River Dargle is not a designated site and there are no European sites hydrologically connected to the subject site, including, for example, via an existing ditch or surface water feature (or any other type of vector). Therefore, there is no potential for likely significant adverse effects on any European sites arising from ecological pathways or functional links.
- 7.6.21. The Applicant has carried out Screening for Appropriate Assessment under Section 5 of their NIS. They have considered the potential impacts and effects of the proposed development on the habitats listed as qualifying interests for the European Sites identified, having regard to the nature and scale of the development, their location relative to the site and any ecological or landscape connectivity. The European Sites within the potential zone of influence are shown on maps under Figures 5-1 and 5-2.
- 7.6.22. The NIS screened out 12 of the 13 European Sites for further consideration. This is on the basis there would be no significant adverse effects due to their distance from the site, the intervening lands, lack of any potential impact pathways or ecological connections, and absence of connectivity via surface water features, drainage ditches, or by other vectors. Measures intended to reduce or avoid significant effects have not been considered in the screening process.
- 7.6.23. However, when examining the zone of influence, consideration should be given to species which may occur at a distance from the SAC or SPA, and which is a Qualifying interest (QI). I note that Harbour porpoise is a QI of Rockabill to Dalkey Island SAC and this species can cover a significant distance along the Irish coastline. The assessment, therefore, screened in the Rockabill to Dalkey Island SAC for further consideration and a Stage 2 (NIS) Appropriate Assessment was deemed required.

Table 7.1: AA Screening Summary Matrix

Site Code	European Site	Approx. Distance / Source-Pathway Receptor	Summary of possible effects alone	In-combination effects	Screening Conclusion
SAC Sites					
000714	Bray Head	1.5km	<p>Bray Head SAC is designated for the conservation of cliff and heath habitats.</p> <p>There is no direct overlap between the development site and this SAC.</p> <p>The proposed development once completed may lead to an increase in public footfall within the Bray Head SAC. However, there are formalised and managed pathways through Bray Head.</p> <p>Potential indirect impacts from the proposed project via the hydrological pathway of the Irish Sea on terrestrial heath habitats located on top of the headland are precluded given the lack of possible connectivity, however.</p>	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
000713	Ballyman Glen	2.4km	There is no direct overlap between the development site and this SAC. The project site is downstream of Ballyman Glen and as such cannot influence the features of interest of this SAC.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

000725	Knocksink Wood	4.4km	Knocksink Wood SAC is designated for woodland and natural spring habitats. There is no direct overlap between the subject site and this SAC, and nor do these habitats occur within, or in proximity, to the site. There is no indirect connectivity.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
003000	Rockabill to Dalkey Island	4.6km	<p>This marine SAC is designated for reef habitat and for the conservation of Harbour porpoise (a marine mammal)</p> <p>There is no direct overlap between the development site and this SAC. The QI habitats and species are marine in nature and therefore do not occur within the site. However, the site includes adjoining coastal waters with recent records of Harbour porpoise.</p> <p>Proposed construction activities include small scale works on the banks of the River Dargle and drainage from the proposed project site will ultimately outfall to the River Dargle and Irish Sea via discharged treated waters from the WWTP at Shanganagh.</p> <p>Therefore, the proposed project has potential indirect connectivity with one of the QI's of this SAC (i.e., the Harbour porpoise).</p>	No possibility of in-combination effects.	<p>Possible significant effects cannot be ruled out without further analysis and assessment, including the application of mitigation measures.</p> <p>Appropriate Assessment required.</p>
002122	Wicklow Mountains	7.7km	This mountainous SAC is designated for a range of habitats and for the conservation of otters found in the rivers of the Wicklow Mountains.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

			<p>There is no direct overlap between the development site and this SAC, nor do any of these habitats occur within or in proximity to the subject site.</p> <p>There is no indirect connectivity from the project to this SAC.</p> <p>It is considered that the lower stretches of the River Dargle in Bray town are outside of the territorial range of the otter populations of Wicklow Mountains SAC given the distance involved.</p>		
000719	Glen of the Downs	7.0km	<p>This SAC is designated for oak woodland habitats.</p> <p>There is no direct overlap between the site and this SAC, nor do these habitats occur within or in proximity to the subject site.</p> <p>There is no indirect connectivity from the project to this SAC.</p>	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
002249	The Murrough Wetlands	10.8km	<p>This SAC is designated for coastal and wetland habitats.</p> <p>There is no direct overlap between the site and this SAC, nor do protected coastal or wetland habitats occur within or in the immediate proximity of the site.</p> <p>Indirect connectivity exists to this SAC via the Irish Sea. However, given the dilution and dispersal that would occur over the c. 11km distance, this is not considered a viable pathway through which there could be impacts on the QI habitats of the SAC.</p>	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

000210	South Dublin Bay	10.4km	<p>This SAC is designated for a range of coastal and estuarine habitats.</p> <p>There is no direct overlap between the subject site and this SAC, nor do any protected coastal or estuarine habitats occur within or in immediate proximity to the site.</p> <p>Indirect connectivity exists to this SAC via a c. 10km distance through the Irish Sea. However, given the dilution and dispersal that would occur this is not considered a viable pathway.</p>	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
000716	Carriggower Bog	11.3km	<p>This SAC is designated for wetland habitats.</p> <p>No possibility of effects due to the separation distance from the development and absence of any ecological connections.</p>	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
SPA Sites					
004172	Dalkey Islands	7.0km	<p>This SPA is designated for the conservation of breeding tern species.</p> <p>There is no direct overlap between the subject site and this SPA. The site does not have habitat that would provide for suitable nesting sites for terns. Terns feed within the marine environment on aquatic species and do not feed in terrestrial sites. The site is made up of buildings and artificial surfaces (carpark) and, as</p>	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

			<p>such, it does not provide suitable conditions for tern foraging habitats.</p> <p>The project site is sufficiently remote (c. 7km) to negate disturbance related impacts on any potential tern populations within the SPA. The proposed development would not impact on migratory flight paths nor restrict mobility between wetland sites.</p>		
004040	Wicklow Mountains	7.9km	<p>This SPA is designated for the conservation of merlin and peregrine falcon. There is no direct overlap between the subject site and this SPA, nor does the site accommodate habitat that would provide for suitable nesting sites for these species.</p> <p>The project site is sufficiently remote so as to negate disturbance related impacts on nesting birds accommodated within the SPA.</p> <p>While during the winter months both merlin and peregrine falcon can move to coastal wetlands to hunt, the buildings and artificial surfaces forming the appeal site do not provide suitable foraging conditions or habitat for either of these species. The proposed development would not have an impact on ex-situ hunting for either species.</p>	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
004186	The Murrough	8.6km	<p>This SPA is designated for a wide range of wintering waterbirds and wetland habitats which host the bird species. There is no direct overlap between the subject site and the SPA.</p>	No possibility of in-	Screened out for need for

			<p>The project site is sufficiently remote so that there is no risk of disturbance to waders and wildfowl using the SPA.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites.</p> <p>Indirect connectivity exists via the Irish Sea. However, given the dilution and dispersal that would occur within c. 10km of the Irish Sea, this is not considered a viable pathway through which surface water runoff could impact the SPA.</p>	combination effects.	appropriate assessment.
004024	South Dublin Bay and River Tolka Estuary	10.3km	<p>This SPA is designated for a wide range of wintering waterbirds as well as the wetland habitats which host the bird species.</p> <p>There is no direct overlap between the site and this SPA. The site is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA.</p> <p>The proposed project will not impact upon the migratory flight paths of SPA species nor restrict their mobility between wetland sites.</p> <p>Several species utilise terrestrial lands / fields in the wider landscape, away from the SPA or coastal waters. However, the subject site is made up of buildings and artificial surfaces</p>	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

			<p>(carpark) and, as such, it does not provide for any foraging or roosting habitats for waterbird species.</p> <p>Light-bellied Brent Geese, Curlew, Black-tailed Godwit and Oystercatcher which utilise terrestrial lands Gull species may utilise the project site. However, gulls are accustomed to human presence and urban activities and, as such, will not likely be affected by the proposed development.</p> <p>Indirect connectivity exists to this SPA via the Irish Sea. However, given the dilution and dispersal that would occur this is not considered a viable pathway.</p>		
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Stage 2 (Natura Impact Statement)

Introduction

7.6.24. The Rockabill to Dalkey Island SAC (Site Code: 003000) is situated roughly 4.6km to the north of the appeal site.

7.6.25. The SAC is designated for Reef habitats [1170] and Harbour porpoise [1351]. However, due to the distance, location and marine nature of the SAC, only Harbour porpoise is within the applicable Zone of Influence.

Test of Likely Effects and Mitigation Measures

7.6.26. Taking account of the characteristics of the proposed development, including in terms of its location and the scale of works, the following issues are considered relevant in terms of assessing the likely significant effects on European sites:

- Direct Impacts: The proposed development does not occur within or directly adjacent to the Rockabill to Dalkey Island SAC. Therefore, there would be no direct impacts on this SAC (i.e., displacement of species or permanent removal of habitat / ecological features associated with the designated site).
- Indirect Impacts potentially include:
 - surface water runoff during the construction phase,
 - works during the construction phase via a groundwater or hydrogeological pathway,
 - discharge of treated foul effluent during the operational phase, and
 - discharge of stormwater or surface water during the operational phase,

[A further description of the above potential indirect impacts is set out under Section 6.1.2 of the NIS. This includes the occurrence of wet conditions which might allow sediment to mobilise in the form of overground runoff during site excavations, the movement of heavy machinery and equipment through the site, excavation works interacting with groundwater to expose it to contamination from concrete, hydrocarbons, and other chemicals potentially used during site works, and treated effluent from the proposed development going to the public WWTP at Shanganagh, and then onwards to the Irish Sea.]

7.6.27. The NIS sets out measures to mitigate potential negative impacts on the European Site. The measures proposed are extensive and are referenced in the CMP accompanying the application. The measures are outlined in Section 6.2.1 of the NIS for the construction phase of the project, and Section 6.2.2 for its operational stage. They would help ensure there would be no adverse effects on the surface water quality of the River Dargle, coastal waters, or any aquatic species.

In-Combination Effects

7.6.28. The NIS under Section 6.3 addresses the potential for 'in combination impacts'. It provides a review of granted developments and submitted applications. The exercise was completed using online planning authority planning search functions. The purpose of this was to ascertain if there are any developments within the vicinity of the site which could act in-combination, with the subject development, to give rise to cumulative impacts.

7.6.29. The search identified that the majority of developments are small in scale, such as single residential properties, extension works and minor works for retention. Larger projects within the vicinity of the proposed are set out over Pages 39 to 40 of the NIS.

Conclusion of NIS

7.6.30. The NIS concludes that there would be no significant effects on the integrity of the designated sites, and states that the mitigation measures outlined in the report, if fully implemented, would be sufficient to prevent any impacts on the qualifying interests of the identified European Site. It is considered that there would be no adverse effects on the integrity of the Natura 2000 network as a result of the proposed development for this reason.

7.6.31. Having reviewed the NIS and supporting documentation, I am satisfied that the information allows for a complete assessment of any adverse effects of the proposed development on the conservation objectives of the abovementioned European sites alone, or in combination with other plans or projects.

Appropriate Assessment of implications of the proposed development

7.6.32. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European Site referenced

above using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are examined. I have considered and assessed the mitigation measures designed to avoid or reduce any significant adverse effects.

Potential Impact on identified European Site(s) at risk of effects

7.6.33. Rockabill to Dalkey Island SAC (Site Code: 003000) is subject to Appropriate Assessment and referenced in Table 7.2 below. A description of the site and its Qualifying Interests (QI's) is also summarised.

7.6.34. I have also examined the relevant Natura 2000 data forms and Conservation Objectives for these sites, which are available on the NPWS website. The relevant NPWS Site Documents have also been reviewed.

Table 7.2: *Qualifying Interests of European Site considered for Stage 2 Appropriate Assessment (NIS)*

Site Name / Site Code	Qualifying Interests
Rockabill to Dalkey Island SAC (003000) [NPWS: Version 1, 7 th May 2013]	Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351]

7.6.35. The conservation objectives for Rockabill to Dalkey Island SAC for the purposes of Appropriate Assessment (i.e., Stage 2) can be summarised as follows:

- 'To maintain the favourable conservation condition of Reefs and Harbour porpoise in Rockabill to Dalkey Island SAC, which is defined by a specific list of attributes, measures and targets, and for which the Natura 2000 Site has been selected'.²

7.6.36. As noted above, the main aspects of the proposed development which could adversely affect the conservation objectives of the identified European Site include

² The full reports for the conservation objectives for the listed SACs and SPAs are available on the NPWS website.

overground sediment runoff during site excavations, the movement and operation of heavy machinery through the site and excavation works interacting with groundwater and, therefore, potentially exposing groundwater to contamination from concrete, hydrocarbons, and other chemicals used during works, and treated effluent from the proposed development going to the public WWTP at Shanganagh and then onwards into the Irish Sea.

7.6.37. The NIS includes specific mitigation measures to protect surface and groundwater in the vicinity of the subject site. They mainly relate to preventing and controlling potential adverse impacts to *Phocoena phocoena* (Harbour Porpoise) [1351] which can cover significant distances along the Irish coastline, outside the SAC, as it is a highly mobile species.

7.6.38. The project will comprise regular monitoring of water quality, procedures to ensure any spillages will be immediately contained, minimisation of dust generation, storing stockpiles of earthworks and construction material on impermeable surfaces, placement of silt traps in road gullies (to capture access silt from runoff), and the preparation of a plan to respond to emergencies to deal with potential pollution incidents. I note also that the works involved in the installation of the surface water outfall precast headwall will be monitored by a qualified Ecological Clerk of Works and that extensive SuDS measures are proposed as part of the development to provide interception and primary treatment / storage at source.

7.6.39. I consider that the NIS contains complete, precise and definitive findings. My conclusion is that no reasonable scientific doubt remains as to the absence of any potential detrimental effects on the designated sites having regard to their conservation objectives.

In-Combination Effects

7.6.40. Cumulative effects can result from individually insignificant, but collectively significant, actions taking place over a period of time, or if they are concentrated in a particular location at once. Cumulative effects can make habitats and species more vulnerable or sensitive to change. The NIS (under Section 6.3) references other plans and projects considered for their potential to act in-combination with the proposed development

- 7.6.41. I consider that the NIS satisfactorily addresses the potential for ‘in combination impacts’. It provides a review of granted developments and submitted applications. The exercise was completed using online planning authority planning search functions. The purpose of this is to ascertain if there are any developments within the vicinity of the site which could act in-combination, with the subject development, to give rise to cumulative impacts.
- 7.6.42. The search identified that the majority of developments are small in scale, such as single residential properties, extension works and minor works for retention. Larger projects within the vicinity of the proposed are set out over Pages 39 to 40 of the NIS.
- 7.6.43. I note that the main project of significant relates to a previous development proposal situated on the far side of the Dargle River on the former Bray Golf Club lands. The application was made via the SHD process and comprised 591 no. residential units (76 no. houses, 515 no. apartments), childcare facility and associated site works. I note that the Board made a split decision on this application in December 2021 refusing elements of the proposal, including Blocks A and B.
- 7.6.44. I am satisfied that the proposed development, either alone or in-combination with other plans or projects, would not adversely affect the integrity of the screened-in European Site given the:
- localised nature of the proposed works,
 - distance separating the subject lands from the European Site (screened-in),
 - dilution factor between the Site and European Sites and the settling out over a significant distance,
 - developed nature and setting of the site’s receiving environment, which comprises vacant buildings and artificial surfaces,
 - mitigation measures that will be put in place
 - best practice guidelines, which will be implemented during both the construction and operational phases of the project.

- 7.6.45. With the inclusion of the proposed mitigation measures, I consider that the proposed development would not result in negative impacts on any of the features of interest for the Rockabill to Dalkey Island SAC, or any other European Site.
- 7.6.46. In summary, I also do not consider that there are any specific in-combination effects that would likely arise from the proposed development in conjunction with other plans or projects.

Conclusion

- 7.6.47. The proposed development, which comprises the demolition of existing industrial structures on the site and construction of a new apartment scheme over two separate blocks, has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000, as amended.
- 7.6.48. Having carried out screening for Appropriate Assessment of the project, I have concluded that having regard to best scientific evidence, it could potentially have a significant effect on Rockabill to Dalkey Island SAC (Site Code: 003000), which is roughly 4.6km to the north of the site. This is because one of its QI's is a highly mobile species which can travel large distances outside the defined boundaries of the SAC.
- 7.6.49. Consequently, an Appropriate Assessment was required of the potential implications of the project on the qualifying interests/special conservation interests of this site in light of its conservation objectives.
- 7.6.50. Following a Stage 2 Appropriate Assessment, I have ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of this European Site, or any other European site, in view of the Conservation Objectives. My conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.
- 7.6.51. In summary, this conclusion is based on:
- a full and detailed assessment of all aspects of the proposed project, including proposed mitigation measures and environmental monitoring in relation to the Conservation Objectives of the European Site referenced above,

- an assessment of in-combination effects with other plans and projects including historical projects, current proposals and future plans, and
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of these European sites.

8.0 Recommendation

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

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Wicklow County Development Plan 2022-2028, and the Bray Municipal District Local Area Plan 2018-2024, including the zoning objective for the site ('Town Centre'); it is considered that, subject to compliance with the conditions set out below, the proposed development would assist in delivering compact growth, regeneration, revitalisation and consolidation of an urban infill site at an appropriate scale, would provide an acceptable standard of amenity for future residents, and would not seriously injure the visual or residential amenities of the area, or endanger public safety by reason of traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 19 th August 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the
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	<p>agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>a) Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>b) All opaque glazing and privacy screens as identified in the drawings and associated reports submitted on the 19th August 2022 shall be installed prior to the occupation of any apartment unit. Removal of any of the installed obscure windows or screens or replacement of finish for a clear finish shall not take place without a prior receipt of planning permission.</p> <p>c) Details of a 2m high solid capped wall on the eastern and southern boundaries of the subject site (alongside Block B) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of residential and visual amenity.</p>
3.	<p>a) All mitigation measures outlined in the Natura Impact Statement and Outline Construction Management Plan shall be carried out as specified.</p> <p>b) An Ecological Clerk of Works (ECoW) with suitable experience shall be appointed to ensure all mitigation shall be carried out. The Ecological Clerk of Works shall submit quarterly to the planning authority demonstrating compliance with mitigation measures and ecological considerations until such time the construction phase is complete.</p> <p>Reason: In the interest of clarity and to mitigate potential environmental effects.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction 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 provide details of intended construction</p>

	<p>practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
5.	<p>a) Details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.</p> <p>b) The applicant shall arrange for the modification of lighting levels and beam direction in accordance with any requirement of the planning authority.</p> <p>Reason: In the interest of residential amenity and to avoid disturbance to bats.</p>
6.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of sustainable waste management.</p>
7.	<p>a) A Road Safety Audit (Stages 1 and 2) shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development, in order to demonstrate that appropriate consideration has been giving to all relevant aspects of the development including in accordance with the road design standards of Transport Infrastructure Ireland.</p>

	<p>b) The measures recommended by the Auditor shall be undertaken, unless the Planning Authority approves any departure in writing. A detailed drawing(s) showing all accepted proposals and a feedback report should also be submitted.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
8.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall:</p> <p>Include a plan to scale of not less than 1:500 showing –</p> <ul style="list-style-type: none"> a) Existing trees, hedgerows, shrubs, stone walls, etc., specifying which are proposed for retention as features of the site landscaping. b) The measures to be put in place for the protection of these landscape features during the construction period. c) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder. d) Details of boundary planting. e) Details of any roadside/street planting. f) Hard landscaping works, specifying surfacing materials, SuDS measures, furniture, and finished levels. g) Full details of play equipment and seating within the play area. h) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment. i) Rain gardens and/or SuDS planters along the northern boundary of the site. j) Provision of a 2m high solid capped wall along the eastern and southern boundaries of the site (alongside Block B).

	<p>k) No stepped gabion stone baskets to be placed along the eastern or southern boundaries of the site.</p> <p>The landscaping measures must be carried out within the first planting season following substantial completion of external construction works.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
9.	<p>Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p>Reason: In the interest of encouraging the use of sustainable modes of transport.</p>
10.	<p>The developer shall comply with all requirements of the planning authority in relation to roads, access and parking arrangements. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	<p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
12.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
13.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Éireann.</p> <p>Reason: In the interest of public health.</p>
14.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
15.	<p>Communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points.</p> <p>Reason: In the interest of sustainable transportation.</p>
16.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p style="padding-left: 40px;">a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and</p>

	<p>geotechnical investigations) relating to the proposed development, and</p> <p>b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the nature and location of archaeological material on the site and the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
17.	<p>10.1. 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.</p> <p>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.</p>
18.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays.</p>

	<p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
19.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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.</p> <p>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.</p>
20.	<p>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.</p>

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

6th March 2024

Appendix 1 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	314961		
Proposed Development Summary	Demolition of 4 light industrial/commercial buildings and construction of 2 blocks with a total of 54 apartments and all associated site development works. Natura Impact Statement submitted with application.		
Development Address	Seapoint Road, Ravenswell, Bray, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	✓	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	✓		
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No			No EIAR or Preliminary

				Examination required
Yes	✓	<p>10. Infrastructure Projects</p> <p>(b)(i) Construction of more than 500 dwelling units.</p> <p>(iv) 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.</p>		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	314961	
Proposed Development Summary	Demolition of 4 light industrial/commercial buildings and construction of 2 blocks with a total of 54 apartments and all associated site development works. Natura Impact Statement submitted with application.	
Development Address	Seapoint Road, Ravenswell, Bray, Co. Wicklow	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The nature of the proposed development is not exceptional in the context of the existing environment.</p> <p>The appeal site is a large infill site in the centre of Bray town centre, Co. Wicklow. It comprises a former industrial use (abattoir) and defunct warehouse buildings. It is roughly 0.4ha.</p> <p>The immediate surrounding area is characterised by residential land uses which are a mix of different housing typologies. The prevailing building height ranges from one to three storeys.</p> <p>Bray is a Level 1 Metropolitan Key Town as per the County Wicklow Settlement Strategy. Such settlements 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'</p>	No

	<p>During the construction phase the proposed development will create demolition waste from the removal of onsite structures, areas of hardstand and related infrastructure.</p> <p>Given the moderate size of the proposed development, I do not consider that the demolition waste arising would be significant in a local, regional or national context.</p> <p>No significant waste, emissions or pollutants would arise during the operational phase due to the nature of the proposal, which is a residential land use.</p>	
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The size of the proposed development is not exceptional in the context of the existing environment.</p> <p>The site has access to the public services network in terms of water supply and foul water disposal. It is in Bray town centre.</p> <p>Given its central location in the town and character of the surrounding area, which is mainly residential and commercial in nature, I do not consider there is potential for significant cumulative impacts.</p>	No
<p>Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The site is not within, or immediately adjoining, any protected area(s). There are no waterbodies on the site and there are no hydrological links between the subject site and any European designated site. The site is bound to the north by the Dargle River and the riverside walkway.</p> <p>The nearest European Site is Bray Head SAC (Site Code: 000714), which is roughly 1.5km to the southeast. A full list of the nearest European sites,</p>	No

	<p>including their distance and direction from the appeal site, is included in Table 5.1 of my report above.</p> <p>The River Dargle is not a designated site and there are no European sites hydrologically connected to the subject site, including, for example, via an existing ditch or surface water feature (or any other type of vector). Therefore, there is no potential for likely significant adverse effects on any European sites arising from ecological pathways or functional links, subject to mitigations measures.</p> <p>However, when examining the zone of influence, consideration should be given to species which may occur at a distance from the SAC or SPA, and which is a Qualifying interest (QI). I note that Harbour porpoise is a QI of Rockabill to Dalkey Island SAC and this species can cover a significant distance along the Irish coastline. The NIS has, therefore, screened in the Rockabill to Dalkey Island SAC for further consideration.</p> <p>However, there would be no direct or indirect impacts by the proposed development due to the mitigation measures included in the NIS, and which would rule out any significant adverse effects on the European Site.</p> <p>Therefore, having regard to the above, there is no potential for significant ecological impacts as a result of the proposed development.</p> <p>The site is located within a serviced urban area. I do not consider that there is potential for the</p>	
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	proposed development to negatively affect other significant environmental sensitivities in the area.	
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required. ✓</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p>	<p>There is a real likelihood of significant effects on the environment.</p>

Inspector: Ian Boyle

Date: 6th March 2024

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)