



An
Bord
Pleanála

Inspector's Report ABP-315017-22

Development

Demolition of the existing building on site, the construction of a two-storey children's amusement arcade. The proposed development includes a change of use from ground floor restaurant and upper floor residential to proposed children's amusement arcade and associated site works.

Location

1 Marlborough Terrace, Strand Road, Bray, Co. Wicklow.

Planning Authority

Wicklow County Council.

Planning Authority Reg. Ref.

22/232.

Applicant

Bentley Leisure Limited.

Type of Application

Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party v Grant of Permission

Appellant

Kevin and Deirdre Wolahan.

Observer(s)

None.

Date of Site Inspection

8th February 2023

Inspector

Enda Duignan

1.0 Site Location and Description

1.1. The address of the appeal site is No. 1 Marlborough Terrace, Strand Road, Bray, Co. Wicklow. The site is located on the corner of Strand Road and Albert Avenue and comprises a two storey, Victorian era building which is currently vacant. The building previously operated as a restaurant at ground floor level with residential units above. The site has a rectangular shape and occupies the majority of the site. A small service area and right-of-way is located to the rear (west) of the building and there is an existing vehicular entrance off Albert Avenue at the western end of the site's southern boundary. The building itself has a pitched roof form with a traditional shopfront facing Strand Road and 3 no. feature bay windows at first floor level above. The appeal site has a stated area of c. 0.04ha.

1.2. The appeal site is located within the Bray Seafront area and there is a two storey commercial building located to the immediate north, comprising an ice-cream shop at ground floor level. The Silver Strand Casino is located further to the north, with both premises being identified as being located within the Applicant's blue line boundary. A surface level car parking area is located to the west of the appeal site.

2.0 Proposed Development

2.1. The proposed development seeks planning consent for the demolition of the existing building on the appeal site and the construction of a new two storey building for use as a children's amusement arcade. The replacement building will have a gross floor area of c. 734sq.m. and will comprise an amusement area, reception and cash office at ground floor level and an amusement area with staff office and toilets at first floor level. The building includes 2 no. stairwells and lift access.

2.2. The proposed building has a contemporary architectural expression with a flat roof form and extensive glazing on its principal elevation (east) to Strand Road. Two (2) no. bay style windows are also proposed on the front elevation. Materials and finishes comprise a combination of white render, white and grey cladding and timber louvers for the front elevation and a combination of clear and frost glazed panels and timber louvered fins for the southern elevation to Albert Avenue.

- 2.3.** The building is proposed to be set back c. 1.8m from the site's western (rear) boundary and a right-of-way has been maintained, providing access to the rear of the property to the north.

3.0 Planning Authority Decision

3.1. Decision

Wicklow County Council granted planning permission for the development subject to compliance with a total of 15 no. standard conditions. Conditions of note included:

Condition No. 4

The proposed development shall be used solely as a family entertainment center as set out in the documents received and no change of use shall take place without the prior permission of the planning authority, whether or not such change of use would otherwise constitute exempted development as defined in the Planning and Development Acts, and associated Regulations.

Reason: In the interest of maintaining residential amenity, proper planning and sustainable development.

Condition No. 5

The premises shall be closed between the hours of 21.00 and 10.00.

Reason: in the interest of protecting the residential amenities of adjacent residential properties in this mixed commercial and residential area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Wicklow County Council Planning Reports form the basis of the decision. The First Report provides a description of the site and the subject proposal, it sets out the planning history of the site and surrounds, notes that pre-planning consultation was facilitated and provides an overview of the policy at local level that is relevant to the development proposal. The report also summaries the observations on file.

Within their assessment of the application, the Planning Authority refer to the planning history of the site and note that the principle of development has been established and is acceptable at this location and is consistent with the zoning objective of the site. However, further information was requested with respect to the following matters:

- Conservation credentials of the author of the submitted Conservation Report to be submitted and a justification for the demolition of the existing building.
- Revised proposals to address concerns with respect to finishes, imitation upper floor level projections etc.
- Additional details with respect to internal roller shutters and timber treatment.
- Proposals and details to demonstrate compliance with the design advice for amusement arcade as specified in Appendix 1 of the CDP.
- Details with respect to hours of operation.
- Proposals for waste storage, loading and parking requirements.
- Topographical survey and proposals for mitigating risk of flooding.
- Proposals to demonstrate the facility would not result in noise pollution.

Following the submission of additional information, the proposed development was deemed to be acceptable, and the Planning Authority recommended a grant of planning permission subject to compliance with 15 no. conditions.

3.2.2. Other Technical Reports

Bray Municipal District Engineer: Report received recommending additional information with respect to the following matters:

- Clarification on how loading, parking and waste storage is to be managed.
- The submission of drawings for foul and storm water drainage system.
- The submission of a topographical survey.

Roads: Report received stating no objection subject to compliance with conditions.

Water and Environmental Services: Report received stating no objection subject to compliance with conditions.

3.2.3. Prescribed Bodies

Irish Water. Report received stating no objection subject to compliance with conditions.

3.2.4. Third Party Observations

A total of four (4) no. observations were received from Third Parties. The issues raised within the observations can be summarised as follows:

- Concerns raised with respect to the nature of the proposed use. It is stated that there are three large gaming establishments in the vicinity of the site, and since gambling is a serious problem in Irish society, there is no requirement for additional establishments such as this proposal.
- The proposal for a children's amusement arcade seems inconsistent with the policy of the County Development Plan and Local Area Plan and concerns are raised with respect to the impact of the proposal on the health and well-being of children.
- It is stated that the proximity of a children's amusement arcade to adult gaming is not in the interests of the local community or those in the broader Bray area. As parents of young and teenage children living close to the proposed development, concerns are raised that the development in this area may encourage unhealthy engagement with gaming culture in young people.
- Concerns raised with respect to the potential for anti-social behaviour and loitering associated with the proposed development.
- Concerns raised with respect to the demolition of the existing building. It is stated that the Applicant cannot justify demolition due to their own past intervention and subsequent neglect of the building. It is stated that the existing building is located on a very prominent location and is part of a Protected View. The proposal, which is essentially a decorated concrete and glass box, does nothing to ameliorate this view, and does not complement the more sculpted form of the standalone aquarium building, or the public realm works to the front of the building. The proposed development and the demolition of a Victorian terrace in a historic setting of Bray seafront is contrary to all urban conservation ethics.

- It is stated that the demolition of residential accommodation and its replacement with a gaming facility is unacceptable in the context of the current housing crisis.

4.0 Planning History

4.1. Appeal Site

18/1188: Split decision issued by the Planning Authority. Planning permission granted in April 2019 for the change of use from restaurant to amusements. Permission refused for alterations to the East & South elevations at ground floor level. This element of the development was refused for the following 1 no. reason:

- Having regard to the location of the proposed development on the Bray Seafront, an area of high symbolic, cultural, social and economic importance the character of which is to be preserved to ensure that its amenity and economic value is safeguarded for existing and future generations, it is considered that the proposed alterations to the east and south elevations of these premises do not draw sufficient reference from or compliment the historic Victorian style of the area and would therefore compromise the area's unique character and setting. The proposed development would therefore be contrary to the objectives for Bray Seafront as set out under the Bray MD Plan 2018 and would be contrary to the proper planning and sustainable development of the area.

06/630117: Planning permission granted in October 2006 for a partial change of use from amusement arcade to coffee shop, deli and ice cream parlour. New facade treatments including windows and new shopfront and associated signage.

04/630100: Planning permission granted in August 2004 for a new shopfront to Nos. 1 and 2 Marlborough Terrace and No. 1 Ocean Villas.

01/630060 (ABP Ref. 39.125931): Planning permission refused by the Board for development comprising:

- a. replacement amusement arcade of reduced size at ground floor level, with ancillary facilities at first and second floor levels,

- b. Public bar and ancillary facilities at ground floor level,
- c. ESB substation and meter.

The application was refused for the following 1 no. reason:

- It is the policy of the Planning Authority, as set out in the current Development Plan for the area, 'to protect and enhance the character of the seafront area and to provide for the development and improvement of appropriate tourism uses, consistent with protection of residential amenity'. This policy is considered reasonable. It is considered that the proposed development, by reason of its sighting and scale, would be out of character with the existing 19th century seafront, would conflict with the architectural character of the area and would seriously injure the amenities of Bray seafront. The proposed development would, therefore, be contrary to the proper planning and development of the area.

5.0 Policy and Context

5.1. Wicklow County Development Plan, 2022-2028 (CDP)

Under the current CDP, Bray is identified as a Level 1 settlement (Metropolitan Area/Key Town) and is defined as a '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.'

Section 8.3 (Architectural Heritage) of the Plan acknowledges that Wicklow has a wealth of architectural heritage. The policy notes that architectural heritage makes a huge contribution to the distinctiveness of the towns and villages, examples being the characteristic Victorian seafront and terraces of Bray etc. Section 8.3.2 (Vernacular Heritage & Other Structures) also notes that throughout the countryside and within the towns and villages of Wicklow is an extensive stock of historic buildings and structures dating mainly from the 18th, 19th and early 20th century. While not all are included on the RPS, they are nonetheless of merit, making a positive contribution to the character of the landscape and to the distinctive character of a particular area. Damage to the vernacular building stock occurs through the loss of whole structures but can also be

as a result of the gradual erosion of architectural details such as the replacement of roof coverings and windows with modern materials, removal of external render, inappropriate repointing and the addition of unsuitable extensions. It is the policy of the Council to safeguard vernacular heritage, and encourages the rehabilitation and appropriate reuse of the vernacular building stock in recognition of the vital role it plays in the sustainable development of the County.

Architectural Heritage Objectives of the Plan include:

- **CPO 8.10** To protect, conserve and manage the built heritage of Wicklow and to encourage sensitive and sustainable development to ensure its preservation for future generations.
- **CPO 8.11** To support the work of the National Inventory of Architectural Heritage (NIAH) in collecting data relating to the architectural heritage, including the historic gardens and designed landscapes of the County, and in the making of this information widely accessible to the public and property owners.
- **CPO 8.12** To have regard to 'Architectural Heritage Protection: Guidelines for Planning Authorities' (Department of Arts, Heritage and the Gaeltacht, 2011) in the assessment of proposals affecting architectural heritage.

Other Structures & Vernacular Architecture Objectives include:

- **CPO 8.18** To seek (through the development management process) the retention, conservation, appropriate repair and reuse of vernacular buildings and features such as traditional dwellings and outbuildings, historic shopfronts, thatched roofs and historic features such as stonewalls and milestones. The demolition of vernacular buildings will be discouraged.
- **CPO 8.19** Development proposals affecting vernacular buildings and structures will be required to submit a detailed, true measured survey, photographic records and written analysis as part of the planning application process.
- **CPO 8.20** Where an item or a structure (or any feature of a structure) is considered to be of heritage merit (where not identified in the RPS), the Planning Authority reserves the right to refuse permission to remove or alter that structure / item, in the interests of the protection of the County's

architectural heritage.

Chapter 11 of the current CDP relates to 'Tourism & Recreation' and policies of note include:

- **CPO 11.1** To promote, encourage and facilitate the development of the tourism and recreation sectors in a sustainable manner.
- **CPO 11.2** To ensure that all tourism and recreation developments are designed to the highest quality and standards.
- **CPO 11.3** To generally require tourism and recreation related developments to locate within existing towns and villages, except where the nature of the activity proposed renders this unfeasible or undesirable. Within existing towns and villages, the Planning Authority will promote and facilitate the development of tourist related uses at appropriate sites. In all cases, the applicant must submit a robust assessment setting out the sustainability of any proposal with respect to economic, environmental and social sustainability, as defined herein.

Relevant Appendices

- Appendix 1: Development and Design Standards.

5.2. Bray Municipal District Local Area Plan 2018 – 2024 (LAP)

The site is zoned SF – Bray Seafront under the current LAP. The objective of which is to 'To provide for the development and improvement of appropriate seafront uses'. The description of this zoning is 'To protect and enhance the character of the seafront area and to provide for mixed-use development including appropriate tourism, retail, leisure, civic and residential uses. The LAP notes that the 'Seafront area shall be promoted as the primary tourist, recreational and leisure centre of Bray'.

The appeal site is located to the north of a row of existing Protected Structures (i.e. Nos. 1 - 12 Brennan's Terrace (Town Plan Ref. No. B87)). There are also Protected Views along the Bray seafront comprising the view of Bray Head and the Little Sugar Loaf from the town and the view from the south harbour along the Promenade and Strand Road.

As per Section 7.1 (Bray Seafront & Esplanade) of the LAP, the 'Seafront Area' is defined as the area included in the 'SF' and 'OS1' zones, which run parallel to Bray Beach. Bray Seafront is a locally distinctive and significant area in the town. It is rich in architectural and natural heritage, comprising the beach, the Esplanade and many fine architectural structures dating to Victorian times, many of which are listed in the Record of Protected Structures. The policy states that the area has huge symbolic, cultural, social and economic importance and as such, its character must be preserved to ensure that its amenity and economic value is safeguarded for existing and future generations. The vision for this area is for it to remain an inviting, animated and attractive seafront area, with a vibrant commercial leisure sector supervised by permanent residences, that functions as the primary tourist, recreational and leisure centre of the town.

In the SF zoned 'Seafront' area, a proposed development will only be permitted where it does not negatively impinge on:

1. The amenity and character of the area;
2. Its natural and built heritage;
3. Protected views and prospects; and
4. Protected structures.

While having regard to the above, the Council will consider permitting developments comprising modern, innovative designs, where the character and setting of historically important buildings is not compromised.

In the SF zone, the following objectives shall apply:

- The design of new buildings shall draw reference from and complement the historic Victorian style of the seafront; all applications shall be accompanied by a 'design statement' setting out how consideration of the historic character and style influenced the design of the development and how it complements and enhances the area;
- Generally new buildings shall not exceed the 4 storeys height; where a new

structure is proposed to exceed the height of immediately adjacent structures by more than 1 storey, detailed justification and assessment of impact (visual, overlooking, over shadowing etc) shall be required;

- New buildings will be expected to follow the established building line; where a set back from the road is prevalent, such spaces shall generally be laid out as amenity spaces / gardens rather than car parking, and all efforts shall be made to locate car parking underground or to the rear of new developments; where car parking to the front cannot be avoided, the quantum of spaces shall be minimised, the appearance of hard surfacing shall be ameliorated by use of innovative materials and significant landscaping shall be required;
- It is the overriding objective of the Council to promote the seafront area as the primary tourist, leisure and recreational centre of the town and the quality of residential amenity must be viewed in light of this objective and the long standing use of this area for leisure activities.

5.3. Natural Heritage Designations

The nearest designated site is the Bray Head SAC (Site Code: 000714), located c. 1km to the south of the appeal site.

5.4. EIA Screening

Having regard to the nature and scale the proposed development which consists of the demolition of the existing building and the construction of a two storey children's amusement arcade in a serviced and urban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A Third Party appeal has been prepared by Kevin and Deirdre Wolahan, with an address at Royal Marine Terrace, Bray, Co. Wicklow. The main grounds of appeal can be summarised as follows:

- The contents of the further information documents do not provide a convincing rationale to justify the demolition of a 162 year old Victorian terrace of three houses (Marlborough Terrace), which is an intrinsic element of the iconic image of Bray seafront. The proposed demolition on the basis of commercial unviability, is contrary to the culture of custodianship of historic buildings and the responsibility that that entails, whether they are protected or not. It is contended that this building, given its architectural context, is not suited to an amusement arcade use.
- It is inconceivable to propose that an entire building, which in this case is effectively an extension to an existing casino (run by the Applicants), can be dedicated to a use which nurtures children towards the now questionable culture of gaming machines and gambling arcades. It is stated that there are enough gambling arcades in the vicinity of this site, and the notion that the Local Area Plan still permits such developments, prompts the matter to be addressed in future Development Plans.
- Considering that Bray town is experiencing its worst crisis in housing availability, it is concerning that the Planning Authority would decide to grant permission for the demolition of 4 no. apartments. It is stated that this country is enduring a National Housing crisis, which is especially prevalent in Bray, and where there is a national urgency to refurbish vacant homes. It is stated that it would be a serious mistake to demolish these buildings.
- In response to the Applicant's Cover Letter, the following is noted:
 - The cover letter infers that to retain the current historic bay window structure, it would not be cost effective for the intended purpose of the building, which cannot be a premise for its demolition. It is evident that the existing building is not suited to an amusement arcade use and there is a misguided premise here that a modern building of cheap construction would satisfy the planning needs for the area. This is a terrace of Victorian houses where the front elevations have significance and are largely intact. Whereas the unstable South wall, which is probably not original and has experienced various interventions, may require attention. Notwithstanding this, the front facade, roofs and chimneys should be conserved.

- Although design quality is a subjective matter, there are repetitive references to the fact that the concrete panel applique would somehow relate to the Victorian architectural characteristics, which simply does not hold.
 - More concerning is the assertion that the Applicant does not consider this development as an overconcentration of this use type. The site for the proposed development is almost beside the existing Silver Strand Casino and c. 100m from Jackpots Casino on Albert Avenue. This constitutes an intensification of an existing use.
 - There is no evidence that there is any demand for another amusement arcade or its ilk on the seafront, especially one targeting children. Although the Applicant stresses that the proposed development does not constitute a gaming or gambling establishment, there is no case made that such an installation with over 100 amusement machines would not initiate a child to gaming culture.
- In response to the Applicant's Design Statement, the following is noted:
- In terms of the vacant building, it is stated that the building is vacant and internally derelict by virtue of the fact that the owner allowed this condition to evolve.
 - In terms of the building line setback of Brennan's Terrace, the Applicant's solution for this is virtually a large blank rectangular wall with alternating vertical concrete panels and opaque glass. It is stated that this is hardly an architectural solution for the space it occupies, as it is dictated by the intended use of the interior, an artificially lit amusement arcade. The prominence of this elevation on Bray seafront and promenade clearly demands a better treatment that would be more in line with human scale, seafront usage and with Victorian references. It is clear from this feature alone that this building is not suited to an amusement arcade use and the site dictates a use that is compatible with the architectural context.
 - In terms of place and function in the urban fabric, it cannot be accepted that an amusement arcade together with an existing casino can contribute, or be equated with, a busy ice cream shop with an outdoor seating area and the thriving sea life complex with gastropub and coffee

shop with outdoor terraces. The existing Silver Strand Casino is a dark, single storey 'shed like' structure, artificially lit with permanently blanked windows and closed doors. This is the nature of such arcades. It is a sterile, stark and sad fortress like establishment, and it does not give to the street or contribute to a commercial nucleus.

- The proposed children's amusement arcade will be similar to the casino, albeit with roller shutters on the front windows, but with a fully blank façade to the prominent southern elevation.
- The change of use to an amusement arcade cannot be conceived as an overall gain in terms of increased mixed-use. It would certainly be an increase of the amusement arcade use in this block, which constitutes intensification, and it would contribute to a deterioration in public amenity, by virtue of the fact that it replaces a once thriving restaurant combined with overhead residential units. Again, it is stated that the proposed development would negatively impinge on the amenity and character of the area.
- The scale and massing of the proposed development makes no effort to refer to the Victorian style or the rhythm of the surrounding architecture. It is simply a flat roofed concrete cubiform, embellished with flat concrete panel applique and predominantly opaque windows. By nature of its intended use, it would be a dark, stark and inward looking structure that would be better served as a supermarket or car showroom on the outskirts of the town.
- The proposed development will consist of four walls, a flat roof, with stuck on concrete decoration, opaque windows and grill cleared windows. This low budget approach will in essence, result in a two-storey 'shed like' shell and core structure that would be more suitable in an industrial complex.
- In terms of the proposed demolition, the reports on the structural instability of the south wall, indicate that it may warrant attention. This is not a premise for wholesale demolition. The Protected View from the promenade looking obliquely at the site, shows how prominent this elevation is. It should be sensibly designed to address the street, make best use of the prospect to Bray Head, and complement the visual impact

from the promenade. The Protected View would therefore be compromised in this proposed development, which would contravene the requirements of the Local Area Plan.

- The Victorian architecture and built heritage of Bray seafront is about opening out onto and celebrating the buildings relationship to the sea, but on a human scale. This is done by addressing the streetscape and scale of the buildings to human interaction into terraces with modelled window openings, doorways, steps and railings. The proposed development in this application fails to address any of these basic tenets. Modern infill can be successful, but only if it's contextual, proportional to its neighbors, and it only replaces long lost buildings. In Marlborough Terrace the remaining principal facades of three houses of an already depleted terrace still exist and must be retained as such. Although it is not a Protected Structure, it is an intrinsic part of the built heritage of Bray seafront and forms an important link between the adjacent Protected Structures in that it preserves the rhythm of the Victorian model terraces, and should continue to do so. There is no such rhythm prevalent in the proposed development and the proposed scheme does not in any way draw reference from, or complement the historic Victorian style of the seafront.
- In response to the Conservation Report, the following is noted:
 - It is stated that Marlborough Terrace is in fact of great value to the architecture of Bray seafront. It is also contended that the front bay window derivation together with the roofscape and chimneys, lend a valuable link between the Protected Structures, and it should be conserved. The photographs in the report depicting the utter dereliction of the interior spaces is testimony to the owner's intervention and neglect, and not a justification for demolition. There are also references to the challenge of retrofitting and the associated costs of this which again does not justify demolition of this historic urban building.
 - There is a clear case in this instance for the conservation of the front historic facade, roof and chimneys, even if it is the case that the south wall and internal structures need attention. If modern intervention were to

be incorporated into the current side wall, as stated above, it should be sensitively designed to make best use of its relationship to the street and the prospect to Bray Head, with minimal visual impact from the promenade perspective.

- It is stated that the loss of Marlborough Terrace would be a serious loss to the Victorian character of Bray seafront, and it is considered that the proposed new building does not satisfy the requirements of the Local Area Plan.

6.2. Planning Authority Response

None.

6.3. First Party Response

A First Party response to the Third Party appeal was received on 2nd December 2022 and prepared on behalf of the Applicant. The matters raised within the response can be summarised as follows:

Built Heritage & Design

- It is stated that the appellants, one of whom is a Grade III Qualified Conservation Architect, has not provided a convincing argument for the retention of the existing building, nor have they demonstrated how such a preservation could be accomplished without radically altering the structure both inside and out.
- It is suggested that the contribution of this particular building has not been established clearly by the appellants, who have acknowledged and accepted the findings of the reports included with the application, including the Conservation and Building Condition Report. These reports conclude that much of the historic fabric of the building, both inside and out, has been lost over the years. It is the Applicant's view that the mere location of the short block of Victorian architecture in the broader context of the seafront, does not establish the historic merit.
- It is highlighted by the Applicant that no protection has been afforded to the

existing structure and Wicklow County Council have not considered the building worthy of addition to the Record of Protected Structures or inclusion in an Architectural Conservation Area. Equally, the building was not considered worthy of addition to the National Inventory of Architectural Heritage NIAH.

- The Applicant's Building Condition Report demonstrate that the south wall of the building has undergone interventions and may require full replacement. The report also raises serious concerns with the existing roof structure which would require significant intervention and it is stated that the extent of structural works that would be required to preserve the existing property would result in a substantive rebuild with only limited features such as the chimneys and timber shop fronts being retained.
- From a structural point of view, the existing building requires extensive interventions to deal with multiple identified problems as outlined in the building condition report and any comprehensive repair would effectively amount to a rebuilding of the structure.
- In terms of the appellant's comments with regard to the loss of historic buildings in Bray over the decades, it is stated that this is a rather sweeping statement that they have failed to qualify with specific examples and is largely irrelevant to the current proposal at hand.

Design at Further Information Stage

- It is stated that the proposal as amended at additional information stage was carefully considered by the project architects in response to the concerns raised by the Planning Authority. In response to these concerns, the design of the proposal was updated and the upper floor projections were omitted as it was deemed that a contemporary replacement building should be exactly that, and should avoid incorporating any elements that could be seen as pastiche.
- The originally proposed timber louvered panels were omitted from the revised design which instead included an attractive materials including grey and white cement cladding panels, opaque glass and a dark grey plinth, all of which provide for a contemporary facade that is more appropriate to the seafront setting and would be more optimal in terms of maintenance.

- In relation to the extent of proposed glazing, the revised design sought to consolidate and minimise the extent of same while incorporating additional surface materials and providing a more varied massing on both elevations. The appellant's contention that the revised proposals submitted at additional information stage were largely the same as the original proposal is therefore incorrect.

Appropriateness of Children's Arcade Use

- The Applicant notes that they have already been granted permission for a change of use to a children's arcade at ground floor level and the principle of development at this location has therefore already been established. Ensuring the vibrancy of any tourism reliance settlements such as Bray is dependent on providing a diverse mix of land uses that are inclusive and accessible to all. The Applicant's proposals aim to invest in the area through replacing a disused and substandard building with a modern and adaptable structure that will ensure active uses will be maintained along the seafront. It also stated that the proposed development would be located in close proximity to a number of complementary uses such as the Bray Sealife Aquarium on the opposite side of Strand Road and the adjacent ice cream parlour.
- Following the extremely challenging trading conditions of recent years, it is considered that the Applicant's proposals are a welcome positive addition to the area in the context of restored vibrancy of this and other urban centres.
- It is highlighted that there are clear distinctions between a gaming casino and a family amusement arcade, such as that being proposed. The Applicants wish to refute the claim that the proposed arcade is an extension of the existing Silver Strand Casino, as alluded to by the appellants. While the Applicants are owners and operators of the Silver Strand, this is an entirely different type of establishment, and is not intended to be connected to the proposed amusement arcade. It is highlighted that the operation of amusement and gambling establishments are regulated by the Revenue Commissioners and there are important distinctions between each, which should be clarified for the purposes of this appeal response.

Housing Availability

- In response to the appellant's claims that the demolition of the existing building should not be permitted in the context of the ongoing National Housing Crisis, it is highlighted that the existing structure would require extensive interventions in order to make it suitable for modern use of any type, including residential. It is stated that the existing apartments located at the first floor level are in a poor condition and do not conform to current building regulation standards in respect of building fabric, heating, ventilation and access. The retrofitting of these units, required for residential use, would be substantial, not least due to the need to remedy the structural deficiencies of the building due to the absence of foundations along the south wall. In addition, a significant portion of the roof requires replacement and moisture ingress and damp throughout are likely to have caused rot.
- The existing living quarters in Marlborough Terrace are deficient in many respects and from an interior perspective, there is little or no discernible evidence of their history context due to extensive alterations that have taken place over the years. It is therefore considered that to retain these units and upgrade them will serve no benefit from either a historical or residential amenity perspective.
- It is highlighted that these units have not been occupied for several years and have not contributed to the availability of housing in Bray in recent years. Whilst the proposed development would result in the demolition of spatial accommodation, there is no loss of dwellings suited to long term habitation. It is also considered that the permitted ground floor use is incompatible with the upper floor use as residential and would provide for a poor level of amenity to potential residents.

Other Matters

- In terms of demand for a use of this nature, it is stated that the Applicant successfully operates amusement arcades at other locations and are arguably more informed than the appellants about the potential demand for these uses.

As successful business operators, it is stated that they would not be proposing the use in this area if they considered that there will be no demand. It is highlighted that the proposal will bring an active tourism and leisure base used to a currently vacant property and will complement existing uses in the surrounding vicinity of the site.

- In terms of the Appellant's claim of negative impacts on the recently upgraded public realm area to the east of the site, it is contended by the Applicant that this proposal will only serve to enhance and complement that investment by Wicklow County Council through the replacement of the existing vacant and unsightly building with an actively used building of high-quality modern construction.
- In terms of the potential impacts on existing Protected Views, it is considered that the Protected View extends in the opposite direction towards Bray Head and the Little Sugar Loaf, contrary to the claims of the appellants. It is therefore not considered that the view towards Marlborough Terrace from the Esplanade are Protected and the appellant's claim that the proposal will impact on views in this area is refuted given the scale of the replacement structure. It is contended that the proposal will represent a visual improvement to the streetscape, given that it will introduce a modern structure with high quality neutral materials.

Included as part of the Applicant's response is the Building Condition Report and Conservation Report which was submitted at application and additional information stage respectively.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

The main issues are those raised in the Third Party's grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development & Use
- Demolition, Built Heritage, Visual Impact & Design
- Appropriate Assessment

7.1. Principle of Development & Use

7.1.1. The proposal seeks planning consent for the demolition of the existing building and the construction a new two storey building for use as a children's amusement arcade. The Applicant confirms that the existing building has been vacant since 2016 and was formerly in use as a restaurant at ground floor level with 4 no. apartments at first floor level. It is confirmed in the covering letter in support of the application that the Applicant are the owners of the existing Silver Strand Casino on Marlborough Terrace which currently employees 20 full time and 10 part time staff. It is stated that it is envisaged that the proposed children's amusements arcade would provide for similar employment, and it is confirmed that the Applicant operates successful children's amusements arcades in Tramore and Buncrana.

7.1.2. The appeal site is located on lands zoned SF under the Bray LAP, the objective of which is 'To provide for the development and improvement of appropriate seafront uses'. The vision for SF zoned lands is to protect and enhance the character of the seafront area and to provide for mixed-use development including appropriate tourism, retail, leisure, civic and residential uses. In addition, the Seafront area shall be promoted as the primary tourist, recreational and leisure centre of Bray. Further to this, Section 7.1 (Bray Seafront and Esplanade) of the LAP notes that the vision for this area is for it to remain an inviting, animated and attractive seafront area, with a vibrant commercial leisure sector supervised by permanent residences, that functions as the primary tourist, recreational and leisure centre of the town. I note that planning permission was previously granted on the appeal site under Ref. 18/1188 for the

change of use of the ground floor of the existing building, from restaurant to amusements use. In terms of their assessment of the application, the Planning Authority refer to the extant permission on the appeal site and they form the view that that the nature of the proposed development is one that is consistent with the SF zoning objective. I note that works on foot of this permission have not commenced on site.

- 7.1.3. Under the current Bray LAP, I note that there is no specific zoning matrix table, which clearly identifies either permitted in principle, open for consideration or not permitted uses. Individual applications are therefore assessed on their merit having regard to the objective and vision of the relevant zoning objective. Given the vision seeks to promote the Seafront area as the primary tourist, recreational and leisure centre of Bray, I am satisfied that the use of the proposed structure as a children's amusement arcade is a compatible use with this zoning objective and is one that can contribute to and complement the mix of uses in the area. Whilst a more traditional retail offering or a restaurant/café use may arguably provide a greater level of animation within the streetscape, this is not reason by itself to refuse the proposed development. Significant concerns have been raised within the original observations and the Third Party appeal with respect to the nature and suitability of the proposed use at this location, which they consider may encourage unhealthy engagement with gaming culture in young people. In addition, it was considered that the proposed development would result in an intensification of uses of this nature in the area when taken in conjunction with the existing casinos within the site's vicinity. I again note that the vision for the seafront area is for it to remain an inviting, animated and attractive seafront area, with a vibrant commercial leisure sector supervised by permanent residences. I would fully concur with the commentary of the appellant with respect to existing casino to the north of the appeal site. In essence, this building turns its back on the street with its blank frontage and does nothing to contribute to the vibrancy or character of the existing streetscape. It is my view that development of this nature at a prominent location such as this, is inappropriate and should be avoided as it detracts from the overall amenity of the area. Notwithstanding this, a clear distinction can be made between the established use to the north of the appeal site and the subject proposal. The proposed development has

been clearly identified as a children's amusement arcade and the building has been designed to provide active frontages which will provide a level of animation within the streetscape. The Planning Authority have also included a condition of permission stipulating that no change of use shall take place without prior approval, whether or not such change of use would otherwise constitute exempted development as defined in the Planning and Development Acts, and associated Regulations. Therefore, I am satisfied that the proposed use is acceptable at this location and is in accordance with the objective and vision for SF zoned land and is compatible with the surrounding land uses. The proposed development is therefore considered to be acceptable having regard to the proper planning and sustainable development of the area.

7.2. Demolition, Built Heritage, Visual Impact & Design

- 7.2.1. As noted, the proposal seeks planning consent for the demolition of the existing building and the construction of a new double storey structure with a flat roof form and a contemporary architectural expression. The Third Party appellant has highlighted that the existing building provides an important contribution to architectural character of the seafront area and significant concerns are raised with respect to the loss of this building fabric to facilitate a development of this nature. Although it is acknowledged by the appellant that remedial works are required to restore this building, they contend that every effort should be made to preserve the features of interest. Within their initial assessment of the application, the Planning Authority was not satisfied that the Applicant had provided sufficient information to justify the demolition of this historic building, having regard to the specific objectives set out in the Bray MD LAP for the protection of Victorian built heritage in this seafront area. The Applicant was therefore requested to submit a Conservation Report which assessed the heritage values of the existing building and detail the character and features of special interest, including the impact of demolition on the heritage value of this area. Further to this, the Planning Authority requested the Applicant to clearly detail all alterations to the building that have taken place over time. Following the submission of additional information, the Planning Authority was satisfied that the principle of the building's demolition was acceptable having regard to the submitted Conservation and Structural Reports, the existing vacant and derelict condition of the building, the overall lack of heritage value

of the building and the proposal to redevelop the site for an active leisure use in keeping with the zoning objective.

7.2.2. As per Section 7.1 (Bray Seafront & Esplanade) of the Bray LAP, a proposed development in the SF zoned 'Seafront' area will only be permitted where it does not negatively impinge on the amenity and character of the area, the area's natural and built heritage, protected views and prospects and protected structures. In terms of the principle of the building's demolition, I note that the existing building is not a Protected Structure nor is it listed on the NIAH. Further to this, the appeal site is not located within an Architectural Conservation Area. Notwithstanding this, the building was likely constructed within the same period as the nearby Protected Structures and I am conscious of, and have had regard to Objective CPO 8.20 of the current CDP which states that 'where an item or a structure (or any feature of a structure) is considered to be of heritage merit (where not identified in the RPS), the Planning Authority reserves the right to refuse permission to remove or alter that structure / item, in the interests of the protection of the County's architectural heritage.' From inspecting the appeal site and examining the submitted Building Condition Report, it is evident that internally, the building is devoid of heritage value. I note that the remaining elements of historical interest associated with the subject building are primarily the 3 no. feature bay windows on the principal façade and the building's roof. However, the Building Condition Report recommends the replacement of the roof given its current condition. In terms of the bay windows, I would concur with the Applicant's Conservation Architect, where they state that these elements do not have the strength of architectural character of the adjacent Victorian terraces, as they occur only at the first floor level with a traditional shopfront provided at ground floor level. There is currently an imbalance and lack of uniformity within this section of the streetscape which I acknowledge is largely owing to the form and massing of the more recently constructed buildings to the site's immediate north. Whilst I accept that the proposal will result in the loss of this historic building, the building itself is somewhat isolated in the context of the intact terraces to the site's north and south along Strand Road. Therefore, having regard to the condition of the existing building, the limited remaining features of architectural interest and the nature of the proposed use which is

encouraged at this location by local planning policy, I am satisfied that the principle of the building's demolition is acceptable in this instance and its demolition will not adversely impact or detract from the architectural character of buildings within the surrounding area.

- 7.2.3. The appellant has raised significant concerns with respect to the design and form of the replacement building. It is contended within their appeal submission that the scale and massing of the proposed development makes no effort to refer to the Victorian style or the rhythm of the surrounding architecture. The appellant notes that the building is simply a flat roofed concrete cubiform, embellished with flat concrete panel applique and predominantly opaque windows. By nature of its intended use, it is considered that the building would form a dark, stark and inward looking structure. The appeal site is located to the north and set forward of Brennan's Terrace, a row of Victorian era buildings designated as Protected Structures under the current CDP. To the north of the appeal site is Fitzwilliam Terrace, whilst not Protected Structures, the terrace of eight four-bay two storey over basement buildings are included on the NIAH and provide a valuable contribution to the existing streetscape context.
- 7.2.4. I note that the Applicant originally sought to draw reference from the Victorian style of the seafront and the existing building by incorporating bay style projections within the front façade at first floor level, in line with the objectives of the LAP as set out in Section 7.2. However, following concerns raised by the Planning Authority at additional information stage, the design was amended and simplified to provide a distinctively contemporary architectural response through the omission of any elements that could be seen as pastiche. The proposed building has a two storey height and is subservient in scale to the terrace of buildings to the north and south of the appeal site. I note that the building will utilise a palette of high quality materials and finishes and the design seeks to provide for an activation of the principal elevation to Strand Road through the incorporation of extensive glazing. Given the siting of the building, the elevation to Albert Avenue is exposed when viewed from the south and has been highly articulated through the uses of varying materials which in my view will provide visual interest. I am satisfied on the basis of the information on file and having inspected the appeal

site and surrounds, that a contemporary design is acceptable in this instance and the proposed development will not detract from or negatively impact on the character of existing Protected Structures within the site’s vicinity (i.e. Brennan’s Terrace). The existing building line has been maintained and the scale of the structure provides an appropriate graduation in height within the block itself and is a form that is sympathetic to the scale and massing of the buildings of architectural interest within the site’s vicinity. In this regard, I am satisfied that proposed development accords with the pertinent policy of both the LAP and CDP and is a design response which can enhance and animate the current streetscape context. Notwithstanding the concerns of the appellant, I am also satisfied that the proposal does not impinge on any views or prospects along this section of Strand Road, given its overall scale and form and the adopted building line which ensures that the rhythm of the existing streetscape is maintained. For these reasons, I am satisfied that the design of the proposed development is acceptable having regard to the visual amenity of the site and surrounds and the proposal is therefore in accordance with the proper planning and sustainable development of the area.

7.3. Appropriate Assessment

- 7.3.1. In support of the application, the Applicant has submitted a screening report for Appropriate Assessment (AA), which identifies a total of 14 no. designated sites (Special Protection Areas and Special Areas of Conservation) within a 15km radius of the appeal site. The nearest designated site is the Bray Head SAC (Site Code: 000714), located c. 1km to the south of the appeal site.

European Site	Qualifying Interest	Conservation Objectives
Bray Head SAC (000714)	Vegetated sea cliffs of the Atlantic and Baltic coasts (1230)	To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts in Bray Head SAC.

	European dry heaths (4030)	To restore the favourable conservation condition of European dry heaths in Bray Head SAC.
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7.3.2. Having regard to the nature and scale of the proposed development, i.e. the demolition of an existing building and its replacement with a building of a similar form, the Applicant’s AA screening report and to the nature of the receiving environment, removed from and with no direct hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site. The requirement to proceed to Stage 2 of the Appropriate Assessment process and the requirement to prepare a Natura Impact Statement (NIS) is not required.

8.0 Recommendation

8.1. Grant of permission is recommended.

9.0 Reasons and Considerations

9.1. Having regard to policies and objectives of the Wicklow County Development Plan, 2022-2028 and the Bray Municipal District Local Area Plan, 2018–2024, including the ‘SF’ (Bray Seafront) zoning objective for the lands, the specific characteristics of the site and the pattern of development in the surrounding area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely impact or erode the architectural character of the site and surrounding area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would comprise an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The proposed development shall comply with the plans and particulars
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	<p>lodged with the application submitted and as amended by Further Information received on 13/09/2022, 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 agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be used solely as a family entertainment centre as set out in the documents received and no change of use shall take place without the prior permission of the Planning Authority, whether or not such change of use would otherwise constitute exempted development as defined in the Planning and Development Acts, and associated Regulations.</p> <p>Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.</p>
3.	<p>Prior to commencement of development, the Applicant shall enter into water and waste water connection agreement(s) with Irish Water and adhere to the standards and conditions set out in that agreement. All development shall be carried out in compliance with the Irish Water Standards codes and practices.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
5.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of proper planning and development and amenity.</p> <p>Reason: In the interest of proper planning and sustainable development of the area.</p>

6.	<p>Details/samples of all materials and finishes of the proposed building shall be submitted to the planning authority for written agreement prior to the commencement of development. Details and drawings of any shutter blinds to be installed including colour of same shall also be agreed in writing with the Planning Authority prior to occupation of the development. Any roller shutter blind installed shall have an open grille and shall be located internally.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>No alterations or additions (such as roller shutters, canopies, signage, lighting etc.) shall be made to the shop front or the exterior of this premises without a prior grant of planning permission from the Planning Authority. In addition, no adhesive material, stickers, posters or other such material shall be affixed to the glazing.</p> <p>Reason: In the interests of visual amenity.</p>
8.	<p>a. The noise level arising from the development shall not exceed 55 dB(A) Leq (1 hour) with a maximum peak of 65 dB(A) between 0800 to 1800 hours, Monday to Sunday inclusive, when measured at the nearest residential dwelling. At all other times the noise level shall not exceed 45 dB(A) Leq (1 hour) measured at the same locations. No pure tones should be audible at any time.</p> <p>b. As and when required by the Planning Authority, a survey of noise levels at monitoring stations on adjacent properties (to be agreed with the Planning Authority) shall be undertaken by an agreed professional (at the expense of the developer) and the results submitted to the Planning Authority within one month of such a request. The results of such surveys shall include, inter alia:</p> <ul style="list-style-type: none"> i. Type of monitoring, equipment used, sensitivity or calibration evidence, and the methodology of the survey. ii. Prevailing climatic conditions at the time of the survey. iii. The time interval over which the survey was conducted. iv. What machinery was operating at the time of the survey. <p>The results should be submitted to the Planning Authority within 2 weeks of the survey date in each case. If the noise survey has not been carried out,</p>

	<p>or the results not submitted to the Planning Authority within one month, the Planning Authority shall arrange to have such a survey carried out and the cost of the survey shall be recouped from the developer.</p> <p>Reason: In the interest of residential amenity.</p>
6.	<p>Prior to commencement of development. the developer shall submit a Project Construction and Demolition Waste Management Plan to be agreed in writing with the Planning Authority. This plan shall include inter alia, information recommended in section 3 of the 'Best practice Guidelines on the Preparation of Waste Management Plans for construction and Demolition Projects' published by the DOEHLG.</p> <p>Reason: In the interest of proper planning and sustainable development of the area.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 8am to 6pm Mondays to Fridays inclusive, between 9am to 2pm 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 amenities of property in the vicinity.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that</p>

	a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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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.

Enda Duignan
Planning Inspector

26/07/2023