



An
Bord
Pleanála

Inspector's Report

ABP-319474-24

Development

The proposed large scale residential development includes the demolition of a vacant manufacturing building, all associated site clearance and enabling works and the construction of 178 no. apartments and a childcare facility and all associated site works.

Location

Site at Vevay Road and Boghall Road (the former Dell site), Bray, County Wicklow.

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

24/46

Applicant(s)

Avonvard Limited

Type of Application

Large-scale Residential Development

Planning Authority Decision

Grant Permission with Conditions

Type of Appeal

First Party vs Condition

Third Party vs Decision

Appellant(s)

1. Avonvard Limited

Observer(s)

2. Jamie Brohan
1. Paul Christie
2. Bray Head Residents' Association
3. St. Andrew's National School

Date of Site Inspection

21st June 2024

Inspector

Phillippa Joyce

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1.0 Site Location and Description

- 1.1. The appeal site is located at the junction of Vevay Road (regional road, R716) and Boghall Road, Bray, County Wicklow. The site is located c.2km south of the town centre in an established suburban location. The site is rectangular in configuration and indicated as measuring 2.38ha. The site is part of a wider landholding under the control of the applicant (blue line boundary) which includes lands adjacent to the south. The site also includes sections of public roads/ footpaths on Vevay Road and Boghall Road.
- 1.2. The site comprises the former manufacturing premises for the Dell Computer company which closed in 2006. Within the site are the vacant manufacturing building, areas of hardstanding, surface car parking, several treelines, groups of trees, and hedges/ shrubs. The site also incorporates part of the Newcourt Stream, a minor watercourse, which primarily flows through the adjacent lands to the south.
- 1.3. The site is an infill, brownfield site within a wider developed suburban block. The surrounding area includes a mix of residential, educational, commercial, and light industrial land uses. The character of the area is divergent, predominantly with low rise, low density buildings of varying date and architectural styles, reflective of the range of land uses.
- 1.4. To the north of the site, on the opposite side of Boghall Road are 2 storey dwellings in Roselawn Park and Scott Park. To the east of the site, on the opposite side of Vevay Road are 2 storey dwellings in the Briar Wood estate. St. Andrew's National School is located to the east of the site, on the opposite side of Vevay Road. Adjacent to the west of the site are several commercial/ light industrial premises. Further to the south, adjacent to the wider landholding, are offices and a hotel.
- 1.5. The site occupies a prominent corner location on the southern side of the T junction formed by Vevay Road and Boghall Road. The site has street frontages with lengths of c.157m and c.109m along the roads respectively. Both roads are important thoroughfares in the town, with good quality footpaths, cycle lanes, and served by several bus routes.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing vacant manufacturing building on site (c.7,384sqm), site clearance and enabling works, and the construction of a residential development with a childcare facility, accommodated in three buildings with heights of 3 to 4 storeys over a basement level.
- 2.2. The proposed development is referred to as Phase 2 of the development of the wider landholding. Phase 1 coincides with extant permission, PA Ref. 22/823, on the adjacent lands to the south, and a future Phase 3 proposal is indicated for lands in the southwestern corner of the site.
- 2.3. The proposed development comprises 178 apartments, a childcare facility, two entrances (new entrance on Boghall Road and use of the existing from Vevay Road), internal access roads, totals of 178 car and 422 cycle parking at surface and basement levels, public and communal open spaces, hard and soft landscaping, boundary treatments, refuse stores and plant, and public realm/ road improvements.
- 2.4. The buildings, referred to as Blocks 1-3, accommodate a mix of 1, 2, and 3-bedroom apartments. The childcare facility is sited in the southern portion of the ground floor level of Block 1. The blocks are arranged as follows: Block 1 (3 storeys) is sited in the northwest corner addressing Boghall Road and an internal road, Block 2 (3 storeys) is in the northeastern corner addressing Boghall Road, Vevay Road and public open space, and Block 3 (4 storeys) occupies the southeastern corner addressing public open space, Vevay Road, and an internal road.
- 2.5. The development proposes a range of open spaces, including a central area of public open space to the south of Blocks 1 and 2 and to the north of Block 3, communal open spaces in the courtyard areas of Blocks 2 and 3, and private open spaces including a balcony or terrace for apartments.
- 2.6. Access to the proposal is from a new vehicular entrance on Boghall Road (northwest corner) and an existing entrance from the Vevay Road roundabout (southeast corner). The basement level is accessed via an entrance/ ramp at the ESB substation building located on the southern side of Block 1, in the mid-west of the site. The basement level comprises parking spaces (155 car spaces, 10 motorcycle spaces, 311 cycle spaces), storages spaces, and plant. At surface level are

interconnected access roads, a segregated set-down area for the childcare facility, 23 car spaces (visitor, accessible, and childcare facility use (latter is 12 spaces)), 111 cycle spaces (residential, visitor, and childcare facility (latter is 16 spaces)), waste management and plant areas.

2.7. The proposal includes all associated site and infrastructural works for water supply, wastewater and surface water drainage (connection to public systems), photovoltaic panels, hard and soft landscaping, boundary treatments, footpaths, public lighting, and electrical services. The surface water drainage system includes SuDS features (permeable paving, green roofs, swales, and silt traps). A temporary swale is proposed to drain surface water from the internal access road to Vevay Road roundabout (southern side of the access road) to the Newcourt Stream.

2.8. The following tables present a summary of the principal characteristics, features, and floor areas of the components of the proposed scheme. These are extrapolated from the application form, plans and particulars with the appeal, and where there have been discrepancies between documents, I have relied on the relevant plan(s) and aligning document.

Table 1: Key Statistics

Site Area	c.2.38ha (gross area) c.1.89ha (net developable area)
Floor Areas (gross)	Residential: c.16,079sqm Childcare: c.428sqm
Residential component	178 apartment units
Net Density	c.97dph
Building Height	Block 1: 3 storeys (principal height of c.10.49m) Block 2: 3 storeys (principal height of c.10.49m) Block 3: 4 storeys (principal heights of c.13.96m-14.64m)
Aspect	Dual Aspect: 89 (50%)
Open Space	Public: c.2,790sqm central area (c.15.3% of net site area) Communal: c.1,603sqm courtyards (c.8.8% of net site area)

	Private: gardens and balconies/ terraces of various sqm
Part V provision	Total: 35 units (20%)
Car Parking	Total: 178 spaces Basement level: 155 spaces for residential use Surface level: 11 spaces for residential use (accessible and visitor) and 12 spaces for childcare facility use
Cycle Parking	Total: 422 spaces (stands/ stores) Basement level: 311 spaces for residential use Surface level: 91 spaces for residential (visitor) use and 16 spaces for childcare facility use

Table 2: Summary of Residential Unit Mix

Unit Type	1 bed/ 2P	2 bed/ 4P	3 bed/ 5P	Total Units
Block 1	16	10	3	29
Block 2	20	29	8	57
Block 3	42	40	10	92
Total Units	78	79	21	178
% of Total Units	44%	44%	12%	100%
Total Bedspaces	156	316	105	577

2.9. The application includes a range of architectural, engineering, and landscaping drawings, and is accompanied by a range of reports and supporting documentation (full list in the applicant's Cover Letter, pgs. 7-8).

3.0 Planning Authority Opinion

3.1. A pre-application LRD meeting under section 32C of the Planning and Development Act 2000, as amended (2000 Act) took place on 7th December 2023 between the applicant and the planning authority regarding the proposed development.

- 3.2. The planning authority issued its LRD Opinion on 8th January 2024. The Opinion indicates that the documentation submitted, under section 32B of the 2000 Act as part of the pre-application meeting, would constitute a reasonable basis for an application for permission for the proposed LRD.
- 3.3. The applicant was notified that, in addition to the requirements of section 32D of the 2000 Act, the following information should be addressed/ submitted with any application for permission (in summary):
1. Phasing
 2. Design Strategy/ Visual/ Materials
 3. Protection of Residential Amenities
 4. Creche/ School
 5. Traffic and Transport
 6. Surface Water/ Streams/ Biodiversity
 7. Part V
 8. Environmental Impact Assessment and Appropriate Assessment.
- 3.4. The application includes a Statement of Response from the applicant on the LRD Opinion which includes specific responses to the points of information requested by the planning authority. For the Board's information, the details of the planning authority's LRD Opinion, and Section 247 pre planning consultations, are also included in the planner's report (pgs. 2-3).

4.0 Planning Authority Decision

4.1. Summary of Decision

- 4.1.1. The planning authority granted permission for the proposed development on 15th March 2024, subject to 22 conditions. This appeal includes a first party appeal against Condition 5 and a third party appeal against the planning authority's decision to grant permission.

4.1.2. The attached conditions are standard in nature (construction, operation, technical, procedural, and financial). Those of note or specific to the proposal or subject of the appeals include the following:

Condition 3: phasing of the development shall accord with the Phasing and Implementation Strategy, Traffic and Transport Assessment, and Landscape and Biodiversity Design Statement subject to Phase 1 being commenced in conjunction with Phase 2(b).

Condition 5:

(a) The first occupation of any residential unit shall be by individual purchasers or by those eligible for the occupation of social and/or affordable housing, including cost rental housing, and shall not be by a corporate entity.

(b) No occupation of any residential unit shall occur until confirmation from a solicitor with professional indemnity insurance has been submitted to and agreed in writing by the Planning Authority confirming that the dwellings have been sold in accordance with this condition.

Reason: *To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.*

Condition 7: a bat specialist to carry out a bat survey prior to demolition of the manufacturing unit/ felling of trees. In the event of bat roosts being evident, mitigation measures to be advised by specialist/ Department of Heritage, undertaken, and implemented in full.

Conditions 8, 9, 10, 11 – relate to road safety audits, design and construction of roads/ footpaths, provision of 10% electric vehicle parking, and implementation of the Mobility Management Plan.

Condition 20 – noise mitigation measures identified in the Noise and Vibration Assessment shall be carried out prior to occupation.

Condition 21 – if archaeological remains are discovered the planning authority are to be informed and the Department of Heritage agree in writing recommencement of works.

4.2. Planning Authority Reports

4.2.1. Planning Report

The planner's report includes an assessment of the proposed development in respect of the following considerations:

- Principle of development.
- Core Strategy.
- Density/ Scale of Development.
- Phasing.
- Design Strategy/ Visual/ Materials.
- Apartment Guidelines.
- Housing Unit Mix.
- Protection of Residential Amenities.
- Communal/ Public Open Space.
- Landscaping.
- CEMP and Demolition.
- Archaeology.
- School/ Childcare Facilities.
- Traffic and Transport.
- Parking.
- Surface Water/ Streams.
- Flooding.
- Energy.
- Ecological Assessment.
- Appropriate Assessment.
- Environmental Impact Assessment.

The planning authority found the proposal to be acceptable under all headings (save for the phasing strategy), concluding that the proposed development complies with the national and local statutory context, is a quality residential development of a suitable density, and would not cause injury to the visual or residential amenities the area, to the environment, or to road users.

4.2.2. Other Technical Reports

Waste Management: no objection subject to condition.

Bray MD Engineer: no report received.

Roads: no objection subject to condition.

Housing: housing need for 1, 2, and 3-bedroom apartments in Bray. Proposals noted.

4.3. **Prescribed Bodies**

4.3.1. Submissions received from prescribed bodies as follows:

NTA: proposal broadly consistent with the land use planning principles of the Transport Strategy, recommends consideration given to the type of cycle parking proposed with a greater number of Sheffield stands for long-stay parking and an appropriate number of spaces for larger cycles.

DAU, Department of Housing, Local Government, and Heritage: comments on landscaping plan, bat survey, lighting plan, and archaeology remains. No objection subject to conditions.

4.4. **Third Party Observations**

4.4.1. The planning authority indicates that a number of submissions were received from third party observers during the assessment of the application, and summarises the objections, identifying five areas of key concern.

4.4.2. I have reviewed the submissions on file, and confirm the issues raised in the third party submissions continue to form the basis of the appeal (noncompliance with Bray LAP and Wicklow CDP, excessive density and scale of development, loss of existing residential amenity, overshadowing, overlooking, adverse visual impact, noise nuisance, excessive traffic in local road network), which are outlined in detail in Section 7.0 below.

5.0 Planning History

Appeal Site and Lands Adjacent to the South

ABP 316351-23, Residential Zoned Land Tax (RZLT)

Confirmation by An Bord Pleanála on the 9th October 2023 of the determination by Wicklow County Council (WW-RZLT-42) to include lands (3.75ha) under the applicant's control on the RZLT map.

PA Ref. 23/60043 (not implemented)

Permission granted to the applicant on the 17th August 2023 for the demolition of the existing vacant manufacturing building on the site, erection of temporary boundary fencing and gates, and all associated site works.

Part of the Appeal Site and Lands Adjacent to the South

PA Ref. 22/823 (not implemented)

Permission granted to the applicant on 20th October 2022 for construction of a first phase of development on the overall landholding consisting of the following:

- a) A three storey Nursing Home building, accommodating 144 no. bedrooms and ancillary resident and staff facilities, with a total GFA of 8,666sq.m. The proposal includes PV panels and a plant area at roof level, two signage zones, internal courtyards and terrace areas, an adjacent landscaped amenity space and a service yard area;
- b) A part three and part four storey office building, including plant area at roof level, with a total GFA of 3,354sq.m.;
- c) Internal access roads and parking, comprising 121 no. surface car parking spaces and 115 no. cycle spaces to serve both uses. Vehicular access will be via the existing entrance from Vevay Road;
- d) An ESB substation, all associated site and infrastructural works, including removal of existing hard surfacing, public lighting, landscaping and boundary treatments, bin storage, foul and surface water drainage, including attenuation tanks, all on a site

area of c. 1.66 ha. The proposals will supersede the development permitted under WCC Reg. Ref. 18/1181 / ABP Ref. 304425-19.

ABP 304425-19, PA Ref. 18/1181 (superseded by the above application)

Permission granted to the applicant on 24th October 2019 for a development similar in nature to the above application (nursing home and office building) but this application was greater in scale (higher gross floor areas, building heights, number of nursing home bedrooms, and with basement level parking and ground floor café in office building).

Lands to the North of the Appeal Site

ABP 319418-24, PA Ref. 23/60266 (under consideration by An Bord Pleanála)

Permission granted by the planning authority on 6th March 2024 to the Board of Management Loreto School Bray for the sequential demolition of existing buildings and the phased construction of a new 3 storey school building (GIFA c.11,300sqm) and all associated works at Loreto Secondary School on Vevay Road.

At the time of assessment, this permission is subject of a third party appeal and is currently under consideration by An Bord Pleanála.

6.0 Policy Context

6.1. National Planning Context

- 6.1.1. The national policy context guiding future growth in Bray town is determined by the National Planning Framework (NPF) and the requirements of several section 28 Ministerial Guidelines.
- 6.1.2. These require the compact growth of existing settlements through the delivery of new homes in the towns' existing built-up footprints, and for infill sites the consolidation of future residential development through increased densities and building heights.

National Planning Framework, Project Ireland 2040 (NPF)

- 6.1.3. While Bray town is located just outside of the designated 'Dublin City and Suburbs' area, the town is within the Dublin Metropolitan Area (policy context for which is expanded on in the RSES).
- 6.1.4. Accordingly, several national policy objectives are applicable to the proposed development. I direct the Board to the applicant's Planning Report and Statement of Consistency (pgs. 31-32) which cites several objectives.
- 6.1.5. I identify those objectives which support development in existing settlements such as Bray town, and those for future residential development in the metropolitan area (NPO 3a, NPO 4, NPO 13, and NPO 35) as being applicable to the proposed development.

Section 28 Ministerial Planning Guidelines

- 6.1.6. Several national planning guidelines are applicable to the proposed development (increased residential densities and building heights at certain types of locations, achievement of certain standards for apartment development). The relevant guidelines include the following (my abbreviation in brackets):
- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, (Sustainable Residential Development Guidelines). Applicable policy includes:
 - Section 3.3: contains Table 3.3 which defines categories of urban areas within 'Metropolitan Towns'. 'Metropolitan Towns – Suburban/ Urban Extension' is described as comprising low density car orientated residential areas constructed at the edge of the town, while urban extension refers to greenfield lands at the edge of the existing built-up footprint that are zoned for mixed-use (including residential) development. For such locations, the guidelines state that densities in the range of 35dph-50dph should be applied and that densities up to 100dph are to be open for consideration at 'accessible' Metropolitan Towns – Suburban/ Urban Extension locations.
 - Section 3.4: outlines a two-step density refining process, based firstly on a determination of accessibility (as per definitions in Table 3.8) and secondly on criteria (impacts on character, historic environment, protected habitats

and species, daylight/ sunlight of residential properties, and water services capacity).

- Section 3.4: contains Policy and Objective 3.1 which requires the recommended density ranges set out in Section 3.3 are applied in the consideration of individual planning applications, and that these density ranges are refined further, where appropriate, using the criteria set out in Section 3.4.
- Section 4.4: contains Policy and Objective 4.1 which requires the implementation of principles, approaches and standards in the Design Manual for Urban Roads and Streets, 2013, including updates (DMURS).
- Section 5.3: includes achievement of housing standards as follows:
 - **SPPR 1 – Separation Distances** which requires a minimum of 16m between opposing windows serving habitable rooms at the rear or side of apartment units above ground floor level.
 - **SPPR 2 – Minimum Private Open Space** (new standards for houses) private open space for apartments remains as per the Apartment Guidelines.
 - **Policy and Objective 5.1** which requires a public open space provision of between 10%-15% of net site area.
 - **SPPR 3 – Car Parking** which restricts the maximum rate of car parking provision for residential development in 'accessible' locations to 1.5 no. spaces per dwelling (exclusive of visitor spaces).
 - **SPPR 4 – Cycle Parking and Storage** which requires a general minimum standard of 1 no. cycle storage space per bedroom (plus visitor spaces), a mix of cycle parking types, and cycle storage facilities in a dedicated facility of permanent construction (within or adjoining the residences).
 - **Section 5.3.7 – Daylight** indicates that a detailed technical assessment is not required in all cases, regard should be had to

standards in the BRE 209 2022, a balance is required between poor performance and wider planning gains, and compensatory design solutions are not required.

- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, July 2023 (Apartment Guidelines).
Applicable policy includes:
 - Section 2.4 defines accessible urban locations as those within 5 minutes or 400m-500m walking distance to/ from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.
 - Section 2.4 identifies accessible urban locations as being suitable for large-scale high density apartment developments (no upper density range is specified, and the minimum density for the next lower tier is indicated as 45dph).
 - **SPPR 1** specifies that apartment schemes can contain up to 50% 1 bedroom apartments and no minimum % of 3 bedroom apartments unless otherwise indicated in a CDP HNDA.
 - Standards and requirements of **SPPR 3** (minimum floor, storage, private open space areas for 1-3 bedroom units), **SPPR 4** (33% to be dual aspect units in accessible urban areas), **SPPR 5** (minimum 2.7m requirement for ground level floor to ceiling height), and **SPPR 6** (maximum of 12 apartments per floor level per core).
- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines). Applicable to the proposed development includes:
 - Section 1.9 requires building heights of at least 3 to 4 storeys, coupled with appropriate density, in locations outside city and town centre areas to be supported in principle at development management level.
 - SPPR 4 requires:

It is a specific planning policy requirement that in planning the future development of ... edge of town...locations for housing purposes, planning authorities must secure:

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 ...;*
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.*

- Childcare Facilities, Guidelines for Planning Authorities, 2001 (Childcare Guidelines).
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines).
- Local Area Plans, Guidelines for Planning Authorities, 2013 (LAP Guidelines).
- Development Management, Guidelines for Planning Authorities, 2007 (Development Management Guidelines).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023 (Commercial Institutional Investment Guidelines).

6.2. Regional Planning Context

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

- 6.2.1. The RSES provides a development framework for the region, including a specific Metropolitan Area Strategic Plan (MASP) for Dublin City and its wider suburbs. Bray is located within the MASP, designated as a 'Key Town', and located on the North-South Strategic Development Corridor.

- 6.2.2. Accordingly, several regional policy objectives are applicable to the proposed development. I direct the Board to the applicant's Planning Report and Statement of Consistency (pg. 34) which cites several objectives.
- 6.2.3. I identify those objectives which support development in Bray town (RPO 4.37, 4.38, and 4.41) and future residential development in the MASP (RPO 5.3-5.5) as being applicable to the proposed development.

6.3. Local Planning Context

- 6.3.1. The local policy context guiding future growth in Bray town is determined by the Wicklow County Development Plan 2022-2028 and Bray Municipal Local Area Plan 2018-2024.

Wicklow County Development Plan 2022-2028

- 6.3.2. Wicklow County Development Plan 2022-2028 (CDP) contains policy in several chapters which establish the context for the proposal. I refer the Board to both the applicant's Planning Report and Statement of Consistency (pgs. 54-74) and/ or the planning officer's report (pgs. 3-6) which cite several objectives.
- 6.3.3. I identify the policy and objectives in Chapter 3 Core Strategy (housing targets for Bray during the CDP period), Chapter 4 Settlement Strategy (designation of Bray as a Metropolitan Key Town, policy for compact growth, increased densities, and building heights in CPO 4.1-4.3), Chapter 6 Housing (commercial institutional investment in CPO 6.2, qualitative and quantitative requirements in CPO 6.3-6.5, densification in CPO 6.14-6.17), Chapter 17 Biodiversity (protection and enhancement in CPO 17.14), and Appendix 1 Design Development Standards (several qualitative and quantitative requirements) as being applicable to the proposed development.

Bray Municipal District Local Area Plan 2018-2024

- 6.3.4. Bray Municipal District Local Area Plan 2018-2024 (LAP) is of most direct relevance to the proposed development. I identify the zoning objective, the specific local objective and policy on same as being applicable to the proposed development.
- 6.3.5. Due to their relevance to the appeal case, I cite these in full below:

Chapter 11 Zoning and Land Use:

- The site is zoned as 'MU: Mixed Use' which seeks '*To provide for mixed use development*', the nature of which as envisaged for any particular site is set out in the text of the plan (i.e., as per SLO4).

Chapter 10 Key Development Areas

- Specific Local Objectives (SLO):

The purpose of the SLO is to guide developers as to the aspirations of the plan regarding the development of certain lands where more than one land use is proposed or the lands are zoned for 'mixed use', in a manner similar to Action Areas, but with the exception that no masterplan will be required to be agreed prior to the submission of a planning application.

- Specific Local Objective 4 (SLO4):

This site was formerly occupied by computer company Dell and has been vacant for some years. The site is occupied by a large manufacturing building and surrounding grounds and car parking, measuring c. 3.75 ha. While there is a demand for additional housing in Bray, it is not considered appropriate that any and every vacant employment site should be considered for solely residential redevelopment as it is not sustainable to only deliver significant new housing at the expense of employment opportunities.

Given that this site is surrounded by both residential and employment uses, it is considered that a mixed, high intensity employment and residential scheme would be suitable on these lands, in accordance with the following criteria:

- *The development shall be delivered a high density format and in particular, shall have a plot ratio of not less than 1:1. Development of up to 4 storeys may be considered on the western and southern parts of the site, with heights on the northern and eastern parts of the site being more consistent with and respecting the existing amenity of existing residential areas surrounding the site;*
- *The employment element shall be in a high employment intensity format and low density manufacturing / warehousing will not be considered; on the basis of achievement of a 1:1 plot ratio, a total employment floor space yield of at least 20,000sqm is desired;*

- *A nursing home and / or health care facility will be considered subject to such use not comprising more than 50% of the employment floorspace requirement on site and being delivered in conjunction with the remaining employment elements;*
- *Not more than 40% of total floor space shall be devoted to residential use; depending on the range of unit sizes and formats, at least 150 units is desired (c. 15,000sqm);*
- *Any planning application shall include a detailed phasing programme that ensures the timely delivery of all elements of the SLO. In order to ‘kick start’ the development, a first phase of housing, comprising not more than 50% of the total housing programme, may be developed as a ‘Phase 1’ of the overall development, strictly on the basis of the remaining housing being delivered in tandem with the employment element.*

6.4. Natural Heritage Designations

6.4.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA. There are several environmental and conservation designations which are in proximity of the site, in both inland and coastal locations.

6.4.2. The European site designations in proximity to the appeal site include (measured at closest proximity):

- Bray Head SAC (000714) is c.0.58km to the northeast.
- Ballyman Glen SAC (000713) is c.2.98km to the northwest.
- Knocksink Wood SAC (000725) is c.4.58km to the west.
- Glen of the Downs SAC (000719) is c.4.91km to the south.
- Rockabill to Dalkey Island SAC (003000) is c.6.61km to the north.
- The Murrough SPA (004186) is c.6.72km to the southeast.
- Wicklow Mountains SAC (002122) is c.7.93km to the west.
- Wicklow Mountains SPA (004040) is c.8.45km to the west.
- Dalkey Islands SPA (004172) is c.8.96km to the north.

- Murrough Wetlands SAC (002249) is c.8.99km to the southeast.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is c.12.45km to the northwest.
- South Dublin Bay SAC (site code 000210) is c.12.45km to the northwest.

6.4.3. There are pNHA designations that align/ crossover with European site designations above, including the:

- Bray Head pNHA (000714) is c.0.58km to the northeast.
- Dargle River Valley pNHA (001754) is c.2.75km to the west.
- Ballyman Glen pNHA (000713) is c.2.98km to the northwest.
- Kilmacanogue Marsh pNHA (000724) is c.3.11km to the southwest.
- Great Sugar Loaf pNHA (001769) is c.3.73km to the southwest.
- Powerscourt Woodland pNHA (001768) is c.4.34km to the west.
- Knocksink Wood pNHA (000725) is c.4.58km to the west.
- Glen of the Downs pNHA (000719) is c.4.91km to the south.

7.0 The Appeal

7.1. Grounds of Appeal

First Party Appeal

7.1.1. The first party appeal relates to Condition 5 (cited in section 4.0 above), which restricts the first occupation of the permitted apartments, and requests that the Board remove the condition.

7.1.2. The grounds of the appeal include:

- Restriction of first occupation of the permitted apartments to individual purchasers or persons eligible for social and/ or affordable housing, and not a corporate entity – incorrectly applied, contrary to planning guidelines.
- References to the Development Management Guidelines – nature of conditions.

- Reason for condition is vague, therefore the need for/ relevancy may be questionable as per guidelines.
- Refers to the Commercial Institutional Investment Guidelines and Circular Letter (NRUP 03/2021) – section 3 of the guidelines, restrictions only apply to ‘own door’ houses and duplexes, not apartments.
- Acknowledges Objective CPO 6.2 of Wicklow CDP (sale of all residential units to commercial institutional investment bodies shall be prohibited) but states the objective is contrary to national guidelines.
- Refers to legislation and the items a planning authority is restricted to considering in making a decision (section 34 2a) which includes the development plan and section 28 guidelines.
- Refers to ABP 310327 where same condition was applied and subsequently removed by Direction and a new Order.
- Refers to other Board Orders for apartment developments in County Wicklow which did not include a similar condition.
- Refers to legislation (section 139(2)) whereby Board can consider a condition and need not consider the application as if it had been made to it in the first instance. Asks the appeal to be assessed under same.

Third Party Appeal

7.1.3. The third party appeal is against the planning authority’s decision to grant permission. Appeal is made on behalf of owners of 1 & 2 Briar Wood to the east of the appeal site. Several grounds of appeal are cited, the key points of which can be summarised as follows:

- Premature – LAP is due to expire, development of Phase 3 has not been applied for, proposal should not be granted prior to formulation and implementation of a new LAP, the planning authority is legally required to prepare and implement a new LAP for the town.
- Zoning – site is zoned as mixed use and subject to SLO4 in the LAP, proposal not consistent with SLO4 due to height and siting of Block 3, quantum of office/ commercial floorspace and the proportion to residential floorspace

permitted to date is inconsistent and excessive, proposal material contravention of the LAP.

- Overlooking – Block 3 (4 storey apartment block) causes severe overlooking and loss of privacy to 1 & 2 Briar Wood, compounded by change in topography (site higher) and removal of mature trees/ hedgerow screening from within site on eastern boundary. The 16m separation distance in SPPR1 of the Compact Settlement Guidelines is insufficient and more is required.
- Photomontages and CGIs – objects to the selection of viewpoints, should have included a viewpoint from 1 & 2 Briar Wood.
- Appropriate Assessment Screening – in combination effects not fully considered (PA Ref. 23/60266 (demolition works and construction of a new school building at Loreto Secondary School on Vevay Road)), and proposal not in compliance with SLO4 of the LAP.
- Ecological Impact Assessment – bat surveys out of date (between 19-31 months prior to application being lodged), up to date bat survey required by Dept Housing prior to a decision being made on the proposal, bat boxes as mitigation measure is insufficient.
- Environmental Impact Assessment – disputes the findings (e.g., positive impacts for visual and environment), in combination effects not fully considered (PA Ref. 23/60266 not included).
- Site lighting – number, heights, and siting of public lights will cause nuisance and light pollution.
- Concurrent/ conflicting applications – refers to PA Ref. 22/823 (permitted nursing home and office development) with condition to culvert Newcourt Stream (southeast of site) (unimplemented permission which the proposal relies upon), and PA Ref. 23/60043 (permitted demolition of factory on-site) with different tree removal proposals and conditions.
- Statement of Response to LRD Opinion – disputes position that the proposal is acceptable in terms of design, siting, residential amenity, and visual impact.

- Watercourse – refers to Eastern CFRAM Study which identifies a potential flood risk associated with Newcourt Stream (southeast of site), disputes comments made in/ findings of the Site-Specific Flood Risk Assessment (SSFRA) and Ecological Impact Assessment (EIA) with regard to flooding, pollution, culverting, fisheries value, future maintenance.
- Architectural Design Statement – disputes positive comments on scheme under SPPR 3 of the Building Height Guidelines, finding it will not be in keeping, not make a positive contribution, and will be monolithic with long uninterrupted walls.
- Daylight and Sunlight Report – several criticisms made, including front gardens omitted from analysis, no data after 17.00, no data for 6 months from June to December, no data for the evening sun of summer months when 1 & 2 Briar Wood will be severely affected by Block 3, disputes effectiveness of compensatory measures, large areas of individual units not meeting targets, majority of units only gaining minimum sunlight exposure.
- Building Life Cycle report – disputes comments on wellbeing due to daylight/ sunlight ingress for same as above.
- Deficient Car Parking – shortfall in on-site parking (178 spaces provided), requirement of c.240 spaces for the apartments and childcare facility.
- Drainage/ Flooding – insufficient information on maintenance of surface water drainage system, compounded by removal of mature trees from the site, soakaway tests indicate poor site drainage conditions, scant information on how detention ponds/ swales to be maintained, as such pose a safety risk for children/ users of open spaces.
- Orientation of Development – disputes position that 50% of apartments are dual aspect and none are north facing from review of the layout plans, layout of Block 3 compounds issue as north facing apartments face onto the other wing of Block 3, other orientation issues result in poor sunlight access.
- Storage Space – some units are not provided with minimum storage space, instead provided in general area at basement level.

- Density – proposed density of 97dph is far too high, unnecessarily exceeds provision for Bray in Core Strategy of Wicklow CDP (allocation calculated based on density of 40dph), severe negative impacts.
- Inappropriate Mix of Units – insufficient number of 3 bedroom units (c.12%).
- No Suitable ‘Vision for the Area’ – proposal lacks vision for the area as referred to in the Wicklow CDP.
- Visual Impact Statement – misleading as does not fully highlight the negative effect of Block 3 on 1 & 2 Briar Wood, disputes the accuracy of Viewpoint 6 in particular (where taken from), View 4 indicates more accurately the impact from the loss of trees.
- Insufficient Green/ Amenity Area – 15.3% being provided should be higher due to density of the scheme.
- Phasing – inappropriate phasing provisions, e.g., nursing home prior to apartments, recommended archaeology condition different from that attached.
- Planning Conditions – attached conditions not as stipulated by the prescribed bodies (Department of Housing, HSE), e.g., in respect of archaeology, bat surveys, and hours of operation.
- Engineering Service Report – occupancy rate used for water demand far too low for housing mix proposed.
- Social and Community Infrastructure Audit – disputes omission of 1 bedroom apartments for estimating childcare facility demand, and severe shortages in services (e.g., doctors) to serve the increased population from the proposal.

7.2. Planning Authority Response

- 7.2.1. No response was received from the planning authority in respect of the first or third party appeals.

7.3. Applicant’s Response

- 7.3.1. The applicant made a response to the third party appeal in respect of the following items:

- Premature in advance of a new LAP.

- Land Use Zoning and Objective 4.
- Residential Amenity Concerns.
- Density and Building Height.
- Mix of Units.
- Daylight and Sunlight.
- Visual Impact.
- Ecological Impact Assessment.
- Appropriate Assessment Screening.
- Newcourt Stream.
- Drainage/ Flooding.
- Screening for Environmental Impact Assessment.
- Concurrent/ Conflicting Applications.
- Social and Community Infrastructure Audit.
- Other Points (car parking, aspect and orientation, storage, large expansion areas, public open space, site lighting, planning conditions).

7.4. **Observations**

7.4.1. Three observations have been made on the appeal, each citing opposition to the proposal. Some issues are similar to those in the appeal grounds (excessive building height out of keeping with adjacent houses, causing overlooking and a loss of amenity), while others particular to the observations include:

- Congestion on Vevay Road and associated roads during peak traffic times, more likely due to recently permitted developments (Bray Head, Southern Cross, Kilruddery).
- Area represented by Bray Head Residents' Association (BHRA) suffers from 'rat running' of motorists avoiding Vevay Road to get to town centre, seafront, and DART.

- Significant development planned/ permitted in the area since 2022 (table provided, includes the proposal) totals 883 units, an increase of 16.3% on housing stock in Bray No.s 1-2 EDs.
- Inclusion of 1 car parking space per unit will inescapably increase the traffic movements in the area including increasing rat-running through the BHRA area.
- Traffic congestion throughout Bray and outer M50/ M11 network, an integrated traffic management plan is required.
- Excessive building height of and potential overlooking from Blocks 2 and 3 of St. Andrew's National School (school grounds, playing field, buildings).
- Cross sections indicate the elevated nature of the proposal relative to the school with windows and balconies on each floor level of the western elevations affording views over the school playing field closest to the Vevay Road.
- Pupils' privacy is of the utmost importance and must be maintained.
- School not assessed for loss of daylight/ sunlight, any loss of light to the playing field represents a loss in the quality of the existing school's amenities.
- Proposal will add further to traffic congestion problems in Bray town and to the local road network, pedestrian and cycling infrastructure is poor, with concerns for students' safety travelling to and from school.
- Proposal will result in 'rat running' along Newcourt Road as motorists avoid Vevay Road (Newcourt Road should be restricted to local access/ school access only).

7.5. Further Responses

7.5.1. No further responses have been received on the appeals.

8.0 Assessment

8.1. Introduction

8.1.1. Having examined the appeals and all other documentation on the case file, inspected the site, and had regard to the relevant national, regional, and local policies and guidance, I consider that the main issues in the appeal to be as follows:

- Policy Context
- Planning History
- Residential Density
- Height, Scale and Massing
- Residential Amenity
- Biodiversity
- Traffic, Access, and Parking
- Water Services and Utilities
- Planning Conditions

I propose to address each item in turn below.

8.1.2. In respect of the proposed development, I have carried out a screening determination for Appropriate Assessment (AA) and a screening determination for Environmental Impact Assessment (EIA) which are presented in sections 9.0 and 10.0 below.

8.2. **Policy Context**

8.2.1. From the outset, the policy context under which the Board is to determine this appeal case is of relevance as questions arise over the applicability of the current LAP and the extent of the proposal's compliance with the objectives of same.

Duration of the Bray Municipal District Local Area Plan

8.2.2. The third party submits that the proposal should not be permitted as the LAP is due to expire and the proposal is premature pending the preparation of a new LAP. Further, the appellant states that development of 'Phase 3' is outstanding having not been applied for/ permitted, that the CDP postdates the LAP, and that the planning authority is legally required to prepare and implement a new LAP for the town.

- 8.2.3. The applicant submits that the application can be decided upon as the LAP is still in force (calculates an expiry date of 27th September 2024), that the proposal accords with the applicable MU: Mixed Use zoning objective and Specific Local Objective 4 (SLO4) of the LAP, does not materially contravene the CDP, and Phase 3 will be subject of a future application.
- 8.2.4. There is no response from the planning authority indicating a position on the matter.
- 8.2.5. In considering this item, I have reviewed the LAP, CDP, Wicklow County Council website, planning legislation, LAP Guidelines, and information from the Department. I note and find the following:
- The LAP was adopted on the 14th May 2018, came into effect on 10th June 2018, and has a stated duration of 6 years (pgs. 1, 14).
 - The CDP indicates that a new LAP will be prepared for Bray Municipal District between 2022-2024 (identified as the 5th settlement in order of priority, pg. 56).
 - At time of assessment, regarding the status of a LAP for the town, Wicklow County Council website states: *'Pre Draft Public Consultation Stage: Work has commenced on the review of the Bray Municipal District Local Area Plan and the preparation of the new plan. The pre-draft public consultation will commence in Q3 2024.*
 - Section 18(3)(a) of the Planning and Development Act 2000, as amended (2000 Act) requires the Board, on appeal, to have regard to the provisions of a LAP prepared for the area to which an application relates.
 - Section 18(4)(a) of the 2000 Act directs that where the provisions of an LAP conflict with those of a varied or subsequent CDP, the LAP provisions cease to have any effect.
 - Section 19(1)(d) of the 2000 Act allows (subject to time restrictions and notification processes) a LAP to be extended for a period not exceeding 5 years.
 - Section 251 of the 2000 Act states that when calculating *'an appropriate period or other time limit'* referred to in the Act, 9 days over the Christmas-New Year period are to be disregarded.

- Section 251(2) of the original 2000 Act had expressly excluded Part II (plans and guidelines) of the 2000 Act from the requirements of section 251 (i.e., disregarding the 9 days from calculations of time limits). This section was removed by the 2010 Act thereby ensuring that section 251 could be applied to Part II (plans including LAPs).
- Section 251A of the 2000 Act (read in conjunction with the Department's Resumption of Statutory Planning timelines further to the expiry, on 23rd May 2020, of Orders made under Section 251A), allows for 56 days over a specified period to be disregarded in calculating time limits referred to in the Act.
- Section 19(1)(c) of the 2000 Act states that a planning authority shall commence the process (notify parties/ publish notices) '*to make, amend or revoke a local area plan at least every 6 years after the making of the previous local area plan*'.
- I consider that the requirement for a planning authority to '*make, amend or revoke a local area plan at least every 6 years after the making of the previous local area plan*' in section 19(1)(c) is an '*other time limit*' for the purposes of sections 251 and 251A of the 2000 Act.
- Section 20(4A) of the 2000 Act states that '*a local area plan made under this section shall have effect [a specified number of weeks] from the day that it is made*' (previously 4 weeks (as per the 2010 Act and LAP Guidelines), presently 6 weeks (as amended per the 2018 Act)).
- I consider that the LAP was '*made*' as described in section 20(4A) above, on the day it was adopted i.e., 14th May 2018 and it came into effect 4 weeks subsequently on 10th June 2018.
- I calculate the duration of the LAP to be up to and including 31st August 2024 (14th May 2018, plus 6 years, minus 1 day, plus 54 days, plus 56 days).
- I conclude that, at the time of this assessment, the LAP is in effect, the planning authority has not extended, amended or revoked the current LAP, or made a new LAP (only commenced the review process), and that the Board is required to have

regard to the existing LAP except for any provisions which conflict with the current CDP, as these have ceased to have effect.

Compliance with the Bray Municipal District Local Area Plan

- 8.2.6. The appeal grounds include that the proposal is a material contravention of the LAP due to noncompliance with the MU: Mixed Use zoning objective and the provisions of SLO4 applicable to the site. This is in respect of the height and siting of Block 3 (too high and close to boundary), the quantum of the office/ commercial floorspace permitted to date (insufficient), and the proportion of the residential use in terms of the overall development (excessive).
- 8.2.7. The applicant acknowledges that the proposal does not comply exactly with the provisions of SLO4, submitting that the objective is a guide for development and that, overall, the proposal includes uses that comply with the MU zoning objective, provides sufficient and proportionate quantum of new floorspace, and is designed in a high density format with acceptable plot ratio and building heights.
- 8.2.8. Of the pertinent appeal ground that the proposal is a material contravention of the LAP, I highlight to the Board that the MU: Mixed Use zoning objective '*To provide for mixed use development*', is to be read in conjunction with the associated specific local objective (SLO) which indicates the permissible uses therein for those specific lands. For the appeal site, SLO4 refers to residential, employment uses (not low density manufacturing/ warehousing), nursing home, and healthcare facility. As the proposal comprises a residential use with a childcare facility (ancillary commercial service required by the Childcare Planning Guidelines), I find that the proposal complies with the MU: Mixed Use zoning objective for the site.
- 8.2.9. Of the material contravention of SLO4, I highlight the policy in Chapter 10 of the LAP regarding the nature of a SLO. The LAP states the purpose of the SLO is to guide developers regarding the aspirations of the LAP for mixed use zoned lands. The LAP differentiates that, unlike an Action Area Plan, a SLO does not require an agreed masterplan prior to making an application. I consider that the language used (purpose, guide, aspirations) and the sentiment implied (no masterplan required, no express prior to lodgement agreement required) reflect the non-binding and non-absolutist nature of the SLO. In this context, I do not consider it to be logical or

reasonable to conclude that the proposal materially contravenes SLO4 and thereby the LAP.

Conclusion

8.2.10. In conclusion, I consider that the proposed development complies with the Bray LAP in terms of pertinent considerations of zoning and land use envisaged for the site. I assess the planning merit and appropriateness of the remaining appeal ground items relating to SLO4 (quantum of commercial floorspace, building height and siting, and proportion of residential development) in the following sections.

8.3. Planning History

8.3.1. The appeal grounds include issues associated with the planning history at the appeal site and implications for the proposed development. The site and lands indicated under the applicant's control (red and blue line boundaries), correspond with the lands subject to SLO4 (LAP, pg.69). The total area of the SLO4 lands is indicated as c.3.75ha.

Compliance with SLO4: Quantum of Employment and Residential Floorspace

8.3.2. In the appeal documentation, the applicant outlines that the development of the SLO4 lands is proposed to be undertaken through three phases. Phase 1 includes the southern portion of the SLO4 lands and corresponds with those included in PA Ref. 22/823, measuring c.1.66ha. Phase 2 is the proposed development, corresponds with the majority of the SLO4 lands, measuring c.2.38ha. Phase 3 is the mid-west portion of the SLO4 lands (and southwest corner of the appeal site), measuring c.0.5ha. There is a degree of overlap in the site boundaries/ areas of the phases due to the inclusion of access roads/ services along the western site boundary.

8.3.3. Under PA Ref. 22/823 (i.e. Phase 1), permission has been granted for a nursing home (floorspace of c.8,666sqm) and an office building (c.3,354sqm). To date, this extant permission has not been implemented. The proposed development (Phase 2) seeks permission for 178 apartments (floorspace of c.16,079sqm) with a childcare facility (c.428sqm). For future development (Phase 3), the applicant's Phasing and Implementation Strategy and Architectural Design Statement (Area Schedule – Masterplan, pg.42) indicate two office blocks (combined floorspace of c.8,770sqm).

- 8.3.4. In respect of uses and quantum of floorspaces, I identify the key provisions of SLO4 as requiring a mixed-use scheme with an overall floorspace of c.35,000sqm-37,500sqm (total quantum of floorspace varies due to SLO4 references to areas and/or percentages). Specifically, employment uses are to be of a high intensity format with a floorspace totalling at least c.20,000sqm, that a nursing home is an employment use and can be 50% of the total employment floorspace (i.e. c.10,000sqm), and that the residential use can be 40% of the overall floorspace/ c.15,000sqm/ c.150 dwelling units.
- 8.3.5. With regard to the quantum of commercial floorspace and the proportion of the residential use in the overall scheme, development within Phases 1-3 yields a total floorspace of c.37,297sqm of which the employment uses comprise c.21,218sqm (c.57%) and the residential use comprises c.16,079sqm (c.43%). As outlined previously, I find that the wording and intention of SLO4 to represent guidance as to the appropriate development of the lands. I find the quantum of commercial floorspace of c.21,218sqm (c.57%) of the overall scheme outlined in the applicant's Masterplan to be within the scope of the framework envisaged in SLO4, being marginally above the c.20,000sqm guide for same. Similarly, I find the proportion of the residential use of c.43% of the overall scheme to be acceptable being marginally above the 40% guide for same.
- 8.3.6. I acknowledge the appellant's position that the Phase 3 future development (employment uses/ commercial office buildings) is outstanding having not being applied for or permitted at the time of assessment of this appeal. In this regard, I consider the status of Phase 3 to be 'committed to' future development as per the Masterplan. The appropriate future development of Phase 3 (smallest of the phases in terms of area and proportion of floorspace), will likely be subject of a new local area plan.
- 8.3.7. I find that the extant permission (Phase1) and the proposed development (Phase 2) yield a combined floorspace of c.28,527sqm of which c.12,448sqm (c.44%) is employment uses and c.16,079sqm (c.56%) is residential use. At this time of assessment, while these quantum/ proportions align less favourably with the scope of the provisions of SLO4, it nevertheless remains the case that the LAP is presently in effect, the Board is required to have regard to the LAP, and the proposed

development in and of itself (nature of uses, floorspace quantum, and proportions as cumulatively proposed as part of the overall scheme) complies with the LAP (i.e. zoning objective and framework of SLO4).

Phasing of Development in Lands subject to SLO4

- 8.3.8. The Phasing and Implementation Strategy relates to the lands under the applicant's control which correspond with those also subject to SLO4. The Strategy identifies four implementation stages (Fig 1.1, pg. 4), including Phase 1 (PA Ref. 22/823), Phases 2(a) and (b) (the proposed development), and Phase 3 (future development). The sequence of implementation is firstly, Blocks 1 and 2 in Phase 2(a) (i.e. the northern portion of the proposed development), secondly is Block 3 in Phase 2(b) (eastern portion), thirdly are Blocks 4 and 5 in Phase 3, and lastly are the nursing home (Block 6) and office building (Block 7) in Phase 1.
- 8.3.9. While I note the applicant's justification (lack of commercial interest to date), I have concerns regarding the sequence of the phasing strategy and the intention to delay the delivery of the nursing home and office building to the final implementation stage/ medium term (this permission was granted in October 2022 for a five-year period). Further, I am mindful of the delayed delivery in the context of the Phase 3 employment uses/ commercial office buildings being outstanding and likely to be subject to a new local area plan.
- 8.3.10. I consider an alternative phasing sequence to that proposed by the applicant to be necessary, and that a more appropriate phasing sequence is required to accord with the framework envisaged in SLO4. I positively note that Condition 3 of the planning authority's decision requires that Phase 1 is commenced in conjunction with Phase 2(b). In the event of a grant of permission, I recommend the attachment of a phasing condition requiring the delivery of the extant permission and the adjacent eastern portion of the proposed development.

Extant Planning Permissions and Implications of Conditions

- 8.3.11. The appellant states there are implications for the proposed development arising from two extant permissions at the site/ landholding, describing them as conflicting applications. These are firstly, PA Ref. 22/823 and secondly, PA Ref. 23/60043 (see section 5.0 above Planning History). PA Ref. 22/823 (Phase 1, nursing home and

office building) is described an unimplemented consent which the proposed development relies upon. Attached to the permission is a condition requiring Newcourt Stream (to the southeast of site) to be culverted and thus this permission is required to be implemented. PA Ref. 23/60043 (demolition of structures on-site) includes different proposals for tree removal to those of the proposed development and the associated conditions would conflict with same.

- 8.3.12. In respect of PA Ref. 22/823, I note this extant permission involves Newcourt Stream being culverted as part of the surface water drainage system. The internal access road from Vevay Road roundabout included in the proposed development, is also included in PA Ref. 22/823 (Phase 1). In the proposed development, a permanent swale is indicated on the northern side of the access road, and a temporary swale is proposed on the southern side of the road (see Surface Water Layout DWG 210038-X-91-X-DTM-DR-DBFL-CE-1001).
- 8.3.13. The southern swale will drain surface water from an area of c.500sqm and discharge via a stone layer to the open section of the Newcourt Stream in the adjacent lands. This is a temporary arrangement until the development permitted under PA Ref. 22/823 (Phase 1) is implemented, at which point the temporary swale will be removed, the area landscaped (see Landscape Masterplan Proposed Phase 2 with Permitted Phase 1, Dwg 6871-301A), the open section of the Newcourt Stream culverted, and all excess surface water discharged to the public system. In this regard, I concur with the applicant that these elements of the proposed development are not reliant on Phase 1, nor would they prejudice the delivery of Phase 1. The surface water drainage system for the proposed development is in the main independent of Phase 1.
- 8.3.14. The applicant submits there is no possibility of a pollution risk to Newtown Stream even in the event of Phase 2 proceeding before Phase 1 as the temporary swale provides ample treatment. I have reviewed plans and particulars submitted, including additional details in the applicant's appeal response. I consider that the proposal includes sufficient measures to protect Newcourt Stream and note that no concerns are raised by the planning authority, Inland Fisheries Ireland (no submission), or in the submission from the Department.

- 8.3.15. I direct the Board to subsections 8.7 and 8.9, and the AA and EIA screening determinations in Appendices 1 and 3 of this report for detailed consideration of the implications of the proposed development for Newcourt Stream and surface water drainage.
- 8.3.16. As discussed previously, I recommend the attachment of a condition requiring the implementation of Phase 1 prior to or concurrently with that of Phase 2(b) of the proposed development (i.e. Block 3). Such a condition will also contribute to the timelier delivery of the permanent surface water drainage system for the overall scheme.
- 8.3.17. In respect of PA Ref. 23/60043, this is an extant permission which has not been implemented. The proposed development includes similar elements relating to site clearance works. These permissions are mutually exclusive, and there is no element of the proposed development which is reliant on that of PA Ref. 23/60043. Of the different proposals for tree removal, understandably the proposed development includes for the development of the site with a detailed landscaping plan. As PA Ref. 23/60043 has not been implemented to date, there would be no conflict in the associated conditions due to the implementation of the proposed development.

Conclusion

- 8.3.18. In conclusion, while I acknowledge issues raised by the appellant regarding the outstanding delivery of a mixed-use scheme at the lands, I do not find there to be any issue arising from the planning history at the site or the applicant's wider landholding that would impede the proposed development.

8.4. Residential Density

- 8.4.1. The appeal grounds include that the density of the proposed development of 97dph is far too high, that it unnecessarily exceeds the housing provision for Bray town in the Core Strategy of the CDP (40dph) and will cause severely negative impacts on residential amenity. Concerns regarding the implications of the population increase (598 persons) for traffic growth and demands on services as listed in the Social and Community Infrastructure Audit (e.g., doctors) are raised by observers.
- 8.4.2. The applicant submits the density of the scheme at 97dph is appropriate for the site, has had regard to requirements of SLO4 (provide c.150 dwelling units), complies

with CDP policy on higher density proposals, is in line with national planning guidelines on the matter (Apartment Guidelines, Compact Settlements Guidelines), and was accepted by the planning authority.

Compact Settlements Guidelines, 2024

8.4.3. The Compact Settlements Guidelines require a two-step refining process for residential density (Policy and Objective 3.1). The provisions of the guidelines on these matters now supercede similar policies/ standards in other planning guidelines and the 2022 CDP.

8.4.4. Firstly, as Bray town is located in the Metropolitan area of Dublin, the site is categorised according to its 'Metropolitan Town' location (as per definitions in Table 3.3 of the guidelines) and its level of accessibility (as per definitions in Table 3.8) which determine an appropriate density range. Secondly, site-specific analysis is undertaken to further refine the residential density acceptable for the site.

Refining Residential Density: Steps 1 and 2

8.4.5. I have undertaken the two-step density refining process required by Policy and Objective 3.1. In the first part of Step 1, I identify the site (as per Table 3.3) as being located within the category of 'Metropolitan Town – Suburban/ Urban Extension'. I consider the site to most accurately align with the description of this category, as comprising 'Suburban areas are the low density car-orientated residential areas constructed at the edge of the town, while urban extension refers to greenfield lands at the edge of the existing built-up footprint that are zoned for residential or mixed-use (including residential) development'.

8.4.6. The site is located c.2km south of Bray town centre, is at the southern edge of the existing built-up area of the town (as per the Bray LAP zoning map, the southern landbank is the somewhat unique conservation and tourism zoning associated with Kilruddery House), is surrounded by suburban development (older housing and warehousing stock), and is zoned for mixed use including residential development. For such locations, the guidelines state that densities in the range of 35dph-50dph shall generally be applied, and that densities up to 100dph shall be open for consideration at 'accessible locations' (as per Table 3.8).

- 8.4.7. In the second part of Step 1, I have considered the accessibility of the site with regard to the range and frequency of existing and planned public transport options in the vicinity of the site. I have reviewed the information provided in the applicant's Traffic and Transportation Assessment (TTA) on existing and planned bus services. The site qualifies as an 'accessible location', as there are several bus stops within 500m walking distance (some notably closer, c.100m distance) offering, cumulatively, high frequency urban bus services. Of particular note are the planned local L routes associated with BusConnects which will service Vevay Road and Boghall Road and the peak time X route offering high frequency services along the Southern Cross Road. For assessment purposes, residential densities of new developments in 'Metropolitan Town – Suburban/ Urban Extension' accessible locations of up to 100dph shall be considered.
- 8.4.8. For the Board's clarity, with regard to planned high capacity public transport, I confirm I have reviewed available BusConnects Core Bus Corridor information for the area www.brayscheme.ie. I identify the site as being c.2.2km walking distance from the closest bus stop locations on Castle Street in the published route of the BusConnects E Spine. This distance is more than the 500m walking distance necessary for the site to have qualified as a higher accessibility category for increased densities (as per Table 3.8).
- 8.4.9. In Step 2 of the refining process, I have analysed the impact of the proposed development on site-specific criteria. In respect of the character of the area, I find this to be divergent, not uniform or distinct and, therefore, able to adjust to a denser form of development at the site. The range of uses is reflected in the diversity of the surrounding buildings' dates, styles, heights, and densities. The proposal is characterised by its use of a mid-scaled block format with a modern architectural design, elevational treatment, and external finish. I consider the proposal will complement and contribute to the diversity of the area's character.
- 8.4.10. In respect of the historic environment, while the dwellings along Boghall Road are older housing stock, there are no protected structures, architectural conservation areas or archaeological monuments at or in the vicinity of the site. The receiving area is not a historically sensitive environment and, therefore, I do not consider it to be vulnerable to a denser form of development at the site.

- 8.4.11. In respect of protected habitats and species, the site is comprised of buildings, artificial surfaces, unmanaged vegetation, and hedgerows/ treelines. The Ecological Impact Assessment (EclA) indicates that the site is not under any wildlife or conservation designation. The site surveys did not record any rare or protected habitats, plant, or mammal species (save for bats) of more than low local biodiversity value. The site is determined to have no key ecological receptors and no evidence of habitats or species with links to European sites. Bat populations are recorded using the site for commuting and foraging purposes (four species in June 2022, two species in April 2024). No evidence of bat roosts was identified on site and the existing building and trees were not found to be suitable for bat roosts. Surface water (drained from a confined area of 500sqm) discharges from a temporary swale via a stone layer to the Newcourt Stream. The stream is a minor watercourse with no fisheries status. As such, I do not consider there to be an impediment to a denser form of development at the site due to biodiversity.
- 8.4.12. In respect of daylight/ sunlight of residential properties, the Daylight and Sunlight Assessment (DSA) report outlines the impact of the proposal on the daylight/ sunlight available to existing dwellings (10 properties assessed) and that which will be available to future residents. The recorded results are within the BRE standards for access to daylight (VSC), sunlight (APSH), and amenity spaces indicating no impact on neighbouring residences. The proposed development achieves high levels of compliance with the BRE standards (daylight access for 96% of rooms and sunlight access for 99.4% of units), indicating high levels of residential amenity. As such, I do not consider there to be an impediment to a denser form of development at the site due to access to daylight and sunlight.
- 8.4.13. Finally in respect of water services capacity, Uisce Eireann has provided Confirmations of Feasibility confirming that there is sufficient capacity for water supply and wastewater drainage, and infrastructure upgrades are not necessary to either system to facilitate the proposed development. The proposal incorporates several SuDS features with on-site attenuation infrastructure, and the planning authority has not raised any issue regarding capacity of the surface water drainage system. As such, I do not consider there to be an impediment to a denser form of development at the site due to water services.

8.4.14. Overall, none of the site-specific criteria are sensitive aspects of the receiving environment, and I consider the impact on same from the development of the site to be acceptable. As such, in completing the two-step density refining process, I consider a residential density of up to 100dph to be appropriate for the appeal site. This density aligns with the direction in the guidelines, reflects the nature of the site (mixed use zoning, prominent suburban infill site, accessible location, mix of surrounding uses) and can be absorbed at the site without causing a negative impact (manageable increase in population, capacity in facilities and services, robust character of the area, existing residential amenity and visual amenity not injured).

Core Strategy

8.4.15. In relation to the Core Strategy, Table 3.5 of the CDP identifies a housing target of 4,026 units for Bray town up to 2028 and a further 771 houses up to 2031. Core Strategy Table A indicates the development capacity of zoned lands in Bray relative to the housing targets. In calculating the amount of surplus lands (hectares) and the amount of surplus units from same, the table applies a density assumption of 40dph. The appellant objects to the density of the proposed development of 97dph, stating it unnecessarily exceeds the housing targets for Bray town.

8.4.16. I do not consider the proposed development to be at odds with the Core Strategy and housing targets for the town. I consider that the allocation of housing units across the county in the Core Strategy is an indicative guide, subject to change and review, and to not constitute a definitive limit or prescriptive restriction. The Core Strategy and identification of housing targets is instead a cyclical, iterative process informed by the requirements of the NPF and RSES (which can be subject to updates), and of national planning guidelines (which include SPPRs requiring the achievement of minimum densities, which for the appeal case is in excess of the referred to 40dph). As such, I do not concur with the appellant, instead I find that the proposal is consistent with the overall guiding principles of the Core Strategy, being located within the development boundaries of a designated Key Town in the settlement hierarchy, on zoned and serviced lands, and at an acceptable density.

Population Increase

8.4.17. In considering the impact of the proposal on the receiving area, I note that in the 2022 Census, the population of Bray town was 33,512 persons. For the proposal, I

estimate there to be a population increase of between c.493-577 persons. This range is based on the 2022 Census average household for Bray town (2.77 persons) and the total number of bedspaces in the scheme (577 if all occupied, see Table 2 of this report above). To determine a more focussed impact, I identify that the site is located in the Kilmacanogue Electoral Division, the population of which is 15,082 persons. The proposed development represents an increase of c.3.7%-3.8% in population to the ED area. Having regard to the unit mix and proportion of 2-bedroom units, I consider a population increase nearer the town's household average to be more realistic (i.e., c.493 persons, c.3.7%).

- 8.4.18. While the appellant and observers oppose the increase of people to the area and associated increase in traffic generation and services, I consider this proportion to be well within acceptable parameters for built-up suburban areas such as the Kilmacanogue ED and adjacent ED areas of Bray town with several services and facilities, and to be in line with national and local policy for planned and targeted growth.

Conclusion

- 8.4.19. In conclusion, I am satisfied that the proposal represents a suitable form of infill development at an appropriate residential density, thereby contributing to an increased provision of new homes and a greater mix and variety of residential typologies available in the area. The proposed development therefore complies with a range of applicable policy objectives at the national, regional, and local levels. Further, I have reviewed and had regard to several reports on the case file, including the Social and Community Infrastructure Audit and TTA, and am satisfied that there are and will be sufficient services and facilities in the area to cater for the proposed development.

8.5. Height, Scale and Massing

- 8.5.1. The appeal grounds include objections to the height, scale and massing of the proposal and the resultant adverse impacts in terms of visual impact and residential amenity (considered in the following subsection). The appellant disputes the positive statements made and conclusions formed about the design of the scheme as included in the application documentation (e.g. Statement of Response to LRD Opinion, Architectural Design Statement, and Visual Impact Statement).

8.5.2. In response, the applicant refers to the national policy context for higher buildings, the regard given to surrounding buildings in the design process, the setbacks from site boundaries and the separation distances achieved to residential properties and St. Andrew's National School, and the avoidance of any impact on same due to height and scale of the proposal.

Building Height

8.5.3. In terms of principle, the proposal includes three residential blocks of 3 and 4 storeys with principal heights of between c.10.5m and 14.6m. The national context for appropriate building heights for infill sites in accessible locations such as the appeal site (see section 6.0 above, in particular SPPR 4 of the Building Height Guidelines), is wholly supportive of and indeed requires developments of up to 4 storeys in height. Appendix 3 of the applicant's appeal response includes a response to the development management criteria test as per SPPR 3 of the Building Height Guidelines, which I note and concur with.

8.5.4. I consider the height of the proposal to be materially consistent with guidance indicated in SLO4 of the Bray LAP (which also allows for heights up to 4 storeys at the site) particularly when considered in the overriding context of the national policy.

Visual Impact

8.5.5. In terms of the visual impact of the proposed development, I have reviewed the Architectural Design Statement, Visual Impact Statement, Photomontages and CGIs, Daylight and Sunlight Assessment, and all relevant plans (block elevations, contextual elevations and cross sections).

8.5.6. I positively note the architectural approach to the proposal, whereby an overall coherent scheme is created whilst featuring distinct components. This is achieved through the coordinated design of the fenestration, entrances, balconies, and screening arrangements for the blocks, coupled with staggered building lines, stepped building heights and variations in roof profile (primarily between Block 3 and Blocks 1 and 2). The use of varied yet complementary external finishes for the blocks (different coloured bricks) is also positively noted. While I find the proposed external finishes and boundary treatments plan to be acceptable, due to the visually prominent location, I recommend a maintenance strategy for same too.

- 8.5.7. The receiving area comprises a low-rise, low-density built environment. I find the character of the area to be divergent, not uniform or distinct and, therefore, able to adjust to a denser form of development at the site. The proposal is characterised by its use of a mid-scaled block format with a modern architectural design, elevational treatment, and external finish. I consider the proposal will complement and contribute to the diversity of the area's character. Overall, I do not consider the blocks to be excessive in terms of their scale or massing in and of themselves, or in comparison to the receiving area.
- 8.5.8. 12 viewpoints are selected in the Visual Impact Statement (with existing and proposed images) representative of views of the site's context along Southern Cross Road, Vevay Road, Boghall Road and from adjacent residential streets. At my site inspection, I travelled the area noting these viewpoints and confirm the accuracy of same. The views comprise a mix of fore, mid, and far-distances. While the appellant is critical of the Visual Impact Statement, I consider the methodology used to be acceptable, robust and can be relied upon.
- 8.5.9. While the proposal's height, scale and massing are visible in the fore and/ or mid-ground distances, I do not consider these to overly dominate the views (due to the effective use of external finishes to reduce bulk and massing, the stepped building heights, the extent of retained planting, and the screening provided from new planting along the site boundaries, in particular the northern and eastern boundaries), or to result in abrupt transitions in scale and massing (due to the gradual increase in scale and massing from that of the adjacent properties), or to cause injury to the streetscapes (due to these not being visually vulnerable).
- 8.5.10. In my opinion, the degree of impact on the visual amenity of the area is likely to be moderate negative (during the construction phase) through to moderate neutral/ positive given the extent of change (though not adverse) of the appearance of the site once developed. I consider that the proposed development will not have a negative effect on the site and receiving area, or cause undue injury to same, from any viewpoint due to the existing character of the area (notably divergent, not overly vulnerable) and its capacity to absorb a relatively high degree of change in its built environment.

Conclusion

8.5.11. In conclusion, I am satisfied that the design and layout of the proposal are acceptable in terms of building height, scale, and massing. I positively note the design approach taken to the scheme, its relationship with and regard given to the receiving area. I am satisfied that the proposed development is an appropriate design solution for this site and will not have undue impacts on the visual amenities of the receiving area.

8.6. Residential Amenity

8.6.1. The appeal grounds raise several issues relating to the adverse impact on the residential amenity of existing properties (in particular those of 1 and 2 Briar Wood), and include criticisms of the levels of amenity afforded to future residents of the scheme and of the proposed childcare facility.

Existing Residential Amenity

8.6.2. Impacts on existing residential amenity include those relating to overlooking, overshadowing, overbearance, and disruption associated with construction phase activities and operation phase noise and traffic generation.

8.6.3. In considering overlooking, I highlight the fundamental context of the receiving area. As the site is not adjacent to the rear of any residential properties, the proposed development addresses the front garden areas of the proximate residences, each separated by roads and/ or screening. Overlooking, causing a loss of privacy, is that which occurs to the private amenity space and/ or windows to the rear/ sides of residential properties. Overlooking of garden areas and/ or windows to the front of properties is not considered to be a reasonable cause of disamenity as these are the public interfaces for such properties and potential overlooking would be no greater than exists or would be caused from the public realm (i.e., passersby at street level, road users in taller vehicles).

8.6.4. Further, the separation distances from the northern-most apartments in Blocks 1 and 2 on Boghall Road to the Scott Park residences are between c.41m-46m. The separation distances from the eastern-most apartments in Blocks 2 and 3 on Vevay Road to St. Andrew's National School and the Briar Wood residences are c.73m and c.54m respectively. While I acknowledge the concerns raised by the appellant, at these distances, the proposed development will not realistically result in undue

overlooking impacts on the adjacent properties. By way of comparison, these distances are well in excess of the 16m separation distance recommended by SPPR 1 of the Compact Settlement Guidelines between sides/ rears of residences.

- 8.6.5. In respect of overshadowing, I have reviewed the Daylight and Sunlight Assessment (DSA) report and consider the methodology used to be accurate and robust. The DSA outlines the impact of the proposal on the daylight/ sunlight available to existing dwellings (10 properties assessed). The recorded results are within the BRE standards for access to daylight (VSC), sunlight (APSH), and amenity spaces indicating no impact on neighbouring residences. I have considered the issue of overbearance in the context of the visual impact of the proposal in the previous subsection 8.5 above.
- 8.6.6. In respect of construction and operation phase impacts, I consider that these are within acceptable parameters for a mid-scale, mid-density development such as the proposal at a location in a built-up serviced area such as the appeal site. The likely anticipated will be mitigated by measures included in the CEMP, NVA, TTA and MMP.

Future Residential Amenity

- 8.6.7. Key considerations in determining the level of amenity for future residents of the scheme include the apartment unit mix, accommodation design and standards, and open space provision and function. The proposed development is subject to the requirements of national policy in the Compact Settlements Guidelines and the Apartment Guidelines, both of which include several mandatory SPPRs.
- 8.6.8. With regard to amenity levels of future residents of the scheme, I confirm to the Board that I have reviewed the range of plans and relevant particulars, including the Architectural Design Statement, Housing Quality/ Schedule of Accommodation, DSA, Landscape and Biodiversity Design Statement and associated landscaping plans, Social and Community Infrastructure Audit, TTA, and MMP. In short, I find that the proposed development materially complies with standards for residential development included in the national planning guidelines and local policy context (cited in section 6.0 of this report above). I am satisfied that the proposed development will afford future residents with acceptable levels of amenity, in a well-designed, serviced, and managed development.

Childcare facility

- 8.6.9. A childcare facility (c.428sqm) is sited in the southern portion of the ground floor level of Block 1. On the western side of the facility is an enclosed area comprising the outdoor play space (c.188sqm), bin store, and cycle store (10 spaces), and three car parking spaces and the remaining 6 cycle spaces. On the eastern side are the set down/ drop off area and remaining 9 parking spaces to serve the facility. I have reviewed the applicant's Childcare Facility Brochure and consider the design, siting, and layout to be acceptable, being well orientated and readily accessible.
- 8.6.10. The childcare facility has an indicated capacity of 30 childcare spaces with 9 staff members. The applicant indicates the facility has potential for greater capacity depending on the end users' requirements/ operational model. I calculate the proposal generates a requirement for c.47 childcare spaces in accordance with the Childcare Guidelines. The applicant applies the dispensation in the Apartment Guidelines allowing 1-bedroom units to be excluded from the calculation of childcare demand. On omission of 78 1-bedroom units, the applicant calculates a requirement for 27 childcare spaces.
- 8.6.11. While I note the omission of 1-bedroom units is raised as an appeal ground, I do not concur with appellant. I find that the calculation of childcare demand to be reasonable and justified (I note the analysis undertaken in the Social and Community Infrastructure Assessment on existing facilities, needs, demands, and capacity). Indeed, I highlight that section 4.7 of the Apartment Guidelines allows for flexibility for 1 and 2-bedroom apartments (which comprise 157 units/ c.88% of the proposed scheme) to be excluded from generating a demand for such a facility. In this context, I accept the case outlined by the applicant and agree that the childcare facility sized to cater for a minimum of 30 children is acceptable. Further, I note the flexibility towards the facility's capacity dependant on, for instance, the children's ages and type of sessional care offered. The childcare facility is a positive component of the proposal, and its provision will serve both residents and the community. Final agreement on its finishes, signage and operation can be addressed by condition.

Conclusion

8.6.12. In conclusion, I have considered the residential amenity for existing and future residents. For existing residents, I consider that the proposed development will not injure the residential amenity of adjacent properties or amenities in the wider area. I find that future residents will be provided with residential accommodation of an acceptable standard and enjoy a high level of residential amenity.

8.7. Biodiversity

8.7.1. In relation to biodiversity, the appeal grounds centre on criticisms of the application documentation. These include the validity of the bat assessment in the EcIA Impact Assessment (EcIA), the accuracy of comments made in/ findings of the EcIA with regard to pollution, culverting, and fisheries value of Newcourt Stream, and objections to the extent of tree removal at the site and implications of same. ,

8.7.2. The appellant also raises there being omissions from the in-combination impacts in the screening reports for Appropriate Assessment (AASR) and Environmental Impact Assessment (EIASR). I highlight at this point, that in the AA and EIA screening determinations (Appendices 1 and 3 of this report), I have had regard to supplementary information provided in the applicant's appeal response relating to the omission of PA Ref. 23/60266 from the AASR and EIASR.

Site

8.7.3. The site is comprised of buildings, artificial surfaces, unmanaged vegetation, and hedgerows/ treelines. The EcIA indicates that the site is not under any wildlife or conservation designation. The site surveys did not record any rare or protected habitats, plant, or mammal species (save for bats) of more than low local biodiversity value. The site is determined to have no key ecological receptors and no evidence of habitats or species with links to European sites.

Bats

8.7.4. The appellant submits the bat surveys are out of date as these were undertaken between 19-31 months prior to application being lodged, that an up-to-date bat survey is required by the DAU, Department of Housing, Local Government and Heritage prior to a decision being made on the proposal, and that bat boxes as mitigation measure is insufficient.

- 8.7.5. I have reviewed the EclA and the applicant's appeal response on the grounds. Bat populations are recorded using the site for commuting and foraging purposes (four species in June 2022, two species in April 2024). No evidence of bat roosts was identified on site and the existing building and trees are not found to be suitable for bat roosts.
- 8.7.6. The EclA and the applicant's appeal response indicate that the bat survey in June 2022 and a follow-up survey in July 2023 confirmed the baseline environment was unchanged. The updated survey completed in April 2024 on foot of the third party appeal (included as Appendix 4 in the applicant's appeal response) recorded two bat species and less activity. The updated bat assessment finds that the impacts of the proposed development after mitigation remain the same as proposed for 2022. The EclA confirms the public lighting plan has been appropriately designed for bats species.
- 8.7.7. Overall, I find the appellant's grounds to be unsubstantiated. I consider that the applicant has satisfactorily demonstrated the presence, nature (i.e. purpose), and levels of bat activity at the site. I concur with the applicant's identification of impact on bats after mitigation measures to be neutral-positive in effect.

Watercourses

- 8.7.8. For this appeal case, there is a notable degree of overlap between biodiversity and surface water management issues. In subsection 8.9 below, I consider surface water management and flood risk for the proposed development. The appeal grounds include criticisms of comments made in/ findings of the Site-Specific Flood Risk Assessment (SSFRA) relating to future maintenance of the system and localised/ downstream flooding, which are similar to those of the EclA, and disputes the interpretation of a third party report relied upon (Eastern CFRAM Study).
- 8.7.9. I direct the Board to subsection 8.9, and the AA and EIA screening determinations included in Appendices 1 and 3 of this report, for detailed consideration of the implications of the proposed development for Newcourt Stream and surface water drainage.
- 8.7.10. The Newcourt Stream, a minor watercourse which flows through lands adjacent to the south of the site (coincides with an open section), is partially located within the

southeastern corner of the site adjacent to the Vevay Road roundabout. The stream is not classified in terms of water quality status or monitored. The stream is culverted along its route downstream of the site and has an outfall through an existing drain at Bray Promenade. I estimate the culverted route as being c.1.6km in length (as per Figure 4.4.3, Eastern CFRAM Study HA10 Hydraulics Report Bray (Newcourt Stream) Model, RPS for the OPW, 2016 (accessed via a link embedded in the Engineering Services Report (Chapter 3 Surface Water, section 3.2.10 SUDS Maintenance)). The culverted stream discharges to the Irish Sea, and I estimate the outfall location as being c.1.25km (directly) to the northeast of the site.

- 8.7.11. Other proximate watercourses include the Swan Stream (c.730m to the northwest of the site), a tributary of the River Dargle (c.2km north of the site) which in turn discharges to Bray Harbour and the Irish Sea. However, there is no direct pathway from the site to these other waterbodies.
- 8.7.12. The proposed development includes a permanent swale on the northern side of the access road from Vevay Road roundabout/ to the south of Block 3, and a temporary swale is proposed on the southern side of the road (see Surface Water Layout DWG 210038-X-91-X-DTM-DR-DBFL-CE-1001). The southern swale will drain surface water from the access road (a confined area of c.500sqm) and discharge via a stone layer to the open section of the Newcourt Stream in the adjacent lands. This is a temporary arrangement until the development permitted under PA Ref. 22/823 (Phase 1) is implemented, at which point the temporary swale will be removed, the area landscaped (see Landscape Masterplan Proposed Phase 2 with Permitted Phase 1, Dwg 6871-301A), the open section of the Newcourt Stream culverted, and all excess surface water discharged to the public system.
- 8.7.13. The demolition, enabling and construction activities which will be managed through the implementation of the CEMP and RWMP. The CEMP has mitigation measures to reduce and manage potential risks in relation to a contamination event of surface water/ land/ groundwater. Section 5.0 of the CEMP comprises a sediment and water pollution control plan related to the protection of the Newcourt Stream. I note that no submission was made on the application by Inland Fisheries Ireland (the prescribed body had no objection to the extant permission PA Ref. 22/823). The planning authority has not raised any issue regarding the temporary discharge of surface

water to Newcourt Stream, the proposed surface water system, or the capacity of the existing public surface water drainage system.

Trees

- 8.7.14. The proposed development involves site clearance and enabling works which involve extensive removal of existing trees and shrub vegetation onsite. The EclA determines these to be of local importance but low value. The EclA identifies impacts on vegetation (due to tree and shrub removal) to arise from the project. Mitigation measures proposed for vegetation, primarily include the implementation of the proposed landscape planting plan which results in neutral-positive effects.
- 8.7.15. In response to appellant claims that the proposal is inconsistent with the CDP, the applicant submits that the proposed landscaping plan accords with biodiversity enhancement CPOs of the CDP, as the removal of mature trees along the western boundary are non-native and not suitable for retention, a new belt of native trees and shrubs will be planted along the western boundary, six semi-mature trees are retained and will be further supplemented along the northern boundary, and other young/ semi-mature trees to be removed will be replaced with significant replanting of new primarily native trees.
- 8.7.16. I have reviewed the landscape plan (i.e., proposed planting programme in the Landscape and Biodiversity Design Statement and associated landscaping plans) and note these indicate compliance with the All-Ireland Pollinator Plan. I positively note that the plan includes an appropriate mixture of native trees and shrubs, preferably of local provenance, and will incorporate a range of species to attract feeding invertebrates, including moths, butterflies, and bees. Indeed, I note that the EclA, Landscape and Biodiversity Statement, and Tree Survey Report contain a range of mitigation measures to protect, safeguard, and enhance biodiversity at the site.

Conclusion

- 8.7.17. In conclusion, save for the trees of low value local importance, the site has been demonstrated to have no key ecological features. There are no protected habitats, plants, or mammals, save for bats at the site. While being used for foraging and commuting purposes, the site (building and trees) is not suitable for roosting.

Newcourt Stream is a minor watercourse with no fisheries status. There are no meaningful direct pathways connecting the project to any European site. I am satisfied that the proposal will not have an adverse impact on biodiversity. I recommend the implementation of the mitigation measures in several biodiversity related reports be subject of a condition in the event of a grant of permission.

8.8. Traffic, Access, and Parking

- 8.8.1. The observations and the third party appeal raise concerns in relation to excessive traffic generation, negative impact on the local road network, and claims of both insufficient and excessive on-site car parking provision.

Traffic Generation and Impact on Road Network

- 8.8.2. In relation to traffic generation, I have reviewed the applicant's TTA and Mobility Management Plan (MMP). I have also undertaken a site visit and travelled several streets and roads in the area.
- 8.8.3. The site is served by a local road network which is well connected to regional roads, R761 (Vevay Road) and R768 (Southern Cross Road) that are located in immediate proximity to the east and south of the site respectively. The N11/ M11 is accessible at c.2.9km (closest driving distance) to the west of the site. The TTA refers to the local road network in the vicinity of the site, including Vevay Road, as being a congested network and to CDP policy seeking to relieve congestion at junctions serving Bray on the N11/ M11.
- 8.8.4. During the site development works, the proposal will result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to/ removed from the site. Due to the proximity of the site to public transport, there are sustainable transport options available to workers. The site development works are short term in duration and impacts arising will be temporary, localised, and managed under the CEMP (Section 3: Traffic Management) and associated measures and strategies are also included in the TTA.
- 8.8.5. The proposed development is to be served by two entrances (new entrance on Boghall Road and the existing entrance from Vevay Road roundabout). Once operational, I estimate that proposed development will result in an increase of c.493 persons in the Kilmacanogue/ south Bray area with an associated increase in traffic

generation for all modes of transport. The proposal includes a total of 178 car parking spaces and 422 cycle parking spaces.

- 8.8.6. The TTA establishes the existing traffic volumes at three junctions in proximity to the site (J1-J3) along Vevay Road (see Figure 6.1). The TTA includes traffic generation associated with extant permissions for residential and commercial developments (ABP 305058, PA Ref. 19/534, PA Ref. 22/823 (Phase 1)) located to the south of the site, which is referred to as 'committed' development.
- 8.8.7. The TTA assesses the performance of four junctions (J1-J4) including the two entrances to the proposal, J2 Vevay Road roundabout and J4 Boghall Road entrance (see Figure 7.1). The junctions are analysed for 'Do Minimum' (base + committed) and 'Do Something' (base + committed + proposed) scenarios.
- 8.8.8. The TTA estimates trip generations for the proposed development for the opening year 2025, and subsequent design years of 2030 and 2040 (see Table 7.1). For the 'Do Something' scenario in 2040 design year, at J2 (Vevay Road entrance) there will be 32 in/ out trips in the AM peak (a 2.27% impact on the performance of the junction) and 26 in/ out trips in the PM peak (1.97%), and at J4 (Boghall Road entrance) there will be 23 in/ out trips in the AM peak (3.4%) and 19 in/ out trips in the PM peak (2.67%). The degree of impact is predictably greatest at J4 Boghall Road entrance given the current conditions (i.e. not operational as the site is presently vacant).
- 8.8.9. The degree of impact is less for the two other existing junctions in the local road network. J1 (Southern Cross roundabout) and J3 (T junction of Vevay Road and Boghall Road) experience AM peak impacts of 1.15% and 0.78% respectively, and PM peak impacts of 1.06% and 0.66%. For each design year, J1-J4 are all predicted to experience a moderate impact in the 'Do Something' scenario, but to remain under the acceptable threshold for congested networks (such as Vevay Road), i.e. traffic generation in excess of 5%.
- 8.8.10. The TTA undertakes further sensitivity testing of the entrance junctions (in terms of ratio to flow capacity and queue length) establishing that these will operate with reserve capacity in the 2040 future design year.

- 8.8.11. To address the identified impacts, measures have been incorporated into the proposal's design and/ or mitigation measures proposed including implementation of the MMP, provision of cycle parking at higher rates and car parking at reduced rates (as per the 2022 CDP), and support of planning authority corridor enhancements along Vevay Road (bicycle and bus priority measures) included in the proposal. The TTA concludes that the proposal will not result in a material deterioration of local road conditions.
- 8.8.12. While I acknowledge concerns raised in the observations, I find these to be without substantiated evidence. The planning authority did not raise any objection to the proposed development on traffic grounds, nor did the NTA as a prescribed body consulted on the application. The site and surrounding lands are zoned for development in the Bray LAP, and it is reasonable to anticipate that such development will generate traffic. Several issues raised are beyond the scope of this appeal and relate more strategically to the wider land use and transportation planning for the town of Bray and the adjacent national road infrastructure (N11/ M11).
- 8.8.13. I consider that in the documentation submitted (e.g. the TTA has identified existing and planned transport services and considered future capacity) the applicant has adequately demonstrated that the proposed development is not likely to cause congestion or to have an adverse impact on the traffic conditions of the surrounding area. This is a conclusion with which I concur.

Parking Provision

- 8.8.14. The proposed development includes totals of 178 car and 422 cycle parking at surface and basement levels. In respect of the car parking, there are claims of both under provision (leading to overspill in the local area) and over provision (leading to excessive traffic generation).
- 8.8.15. In terms of car and cycle parking provision, I have had regard to SPPR 3 and SPPR 4 respectively of the Compact Settlements Guidelines (see section 6.0 above). For the number of apartments, I consider 166 car spaces (additional 12 spaces are for childcare use) to be an appropriate level of provision (equates to 0.93 spaces per apartment/ including visitor, as the guidelines allow for up to 1.5 spaces per apartment at this location). I note the provisions of the MMP and Parking Strategy

relating to the management of same. Similarly, I consider 406 cycle spaces (additional 16 spaces are for childcare use) to be an appropriate level of provision (equates to 2.28 spaces per apartment/ including visitor, notably in excess of the requirement for 299 spaces as the guidelines require 1 space per bedroom).

- 8.8.16. As such, I find the both the car and cycle parking provision to be an appropriate response for the proposed development and the appeal site. Also, I find the siting, layout, facilities, access arrangements (I positively note the inclusion of a cycle lift) related to the car and cycle parking to also be acceptable. I recommend requirements for EV charging be subject to condition in the event of a grant of permission.

Other Considerations

- 8.8.17. The planning authority attached four conditions to the grant of permission relating to transport matters. I recommend the continued inclusion of conditions relating to the agreement on final road safety and quality audits. I also recommend conditions relating to the implementation of mitigation measures included in the TTA and the MMP, and that the internal layout of the scheme accords with the requirements of DMURS and the National Cycle Manual.

Conclusion

- 8.8.18. In conclusion, while I acknowledge third party concerns in respect of traffic generation and parking arrangements, I consider that the proposal is of a scale and intensity of use that will not cause undue transportation impacts, and incorporates several measures to address identified impacts. I am satisfied that the proposal is acceptable in terms of pedestrian, cyclist and traffic safety and convenience. In the event of a grant of permission, I recommend that standard and project specific conditions be attached, the latter requiring final agreement with the planning authority.

8.9. Water Services and Utilities

- 8.9.1. The proposed development seeks connections to the public systems for water supply, wastewater drainage, and surface water drainage. The existing services are located in Boghall Road, the northern boundary of the site. The appeal grounds

relate to water services issues, primarily the surface water management for the proposed development.

- 8.9.2. In subsection 8.7 above, I have considered the biodiversity issues for Newcourt Stream. Of relevance for this section include claims of poor site drainage conditions, insufficient information on the maintenance of the surface water drainage system (detention ponds/ swales), these features posing a safety risk for children/ users of open spaces, and concerns relating to increased flood risk associated with the proposal.
- 8.9.3. The applicant refutes the grounds, stating that the proposed development has allowed for/ been adapted to the ground conditions, been designed to required surface water standards (GDSDS), will be operated and maintained in accordance with the requirements of the planning authority, and does not cause or increase the potential of flood risk to adjacent properties or downstream of the site.

Surface Water Management

- 8.9.4. I have reviewed the applicant's Engineering Service Report, Site Specific Flood Risk Assessment (SSFRA), CEMP, and the supplementary information in the appeal response. I note that there is one surface water catchment area for the site (Phase 2 and Phase 3). Stormwater will be collected and filtered through catchpit manholes, drained to an attenuation tank, and discharged by flow control device to the existing surface water system. The on-site system includes several SuDS features of permeable paving, green roofs (60% of blocks' roof plans), swales, and silt traps.
- 8.9.5. Except for the temporary arrangement to drain surface water runoff from the southern access road (a confined area of 500sqm) and discharge via a stone layer to the Newcourt Stream (as outlined in detail in subsection 8.7 above with regard to biodiversity), excess surface water in the proposal will discharge to the public system. Once PA Ref. 22/823 (Phase 1) is implemented, the temporary swale will be removed, the area landscaped, the open section of the Newcourt Stream culverted, and all excess surface water discharged to the public system.
- 8.9.6. The planning authority has not raised any issue regarding the temporary discharge of surface water to Newcourt Stream, the proposed surface water system for Phase

2, or the capacity of the existing public surface water drainage system to accommodate Phase 2 and Phase 3.

- 8.9.7. As such, I find the proposal to be acceptable as the surface water management system incorporates several SuDS features, has been designed and will be constructed in accordance with the requirements of the GDSDS. The system will be operated and maintained in accordance with the requirements of the planning authority, and I recommend a condition be attached to this effect.

Flood Risk

- 8.9.8. A SSFRA has been undertaken of the proposed development and is further supplemented by information in the appeal response on the Newcourt Stream, drainage, and flooding. The SSFRA outlines there is no evidence for (topography) or history of the Newcourt Stream flooding. There is no connection to other proximate waterbodies (e.g. River Dargle or its tributary Swan Stream).
- 8.9.9. The site is located within an area designated as Flood Zone C (outside of the extents of a 1 in 1000 year flood event (0.1% AEP)). The risks of tidal and groundwater flooding are very low and low due to separation distance to the coast (c.1.5km) and subsurface ground/ hydrological conditions. The risks of fluvial (adjacent Newcourt Stream) and pluvial flooding (surface water surcharges, drainage blocks, overland flows) are moderate.
- 8.9.10. The proposal's design and further mitigation measures address the risks. These include the incorporation of several SuDS features, minimal amounts of paved surfaces (roads, parking), road levels directing overland flows to swales/ gullies/ open spaces, flow routes free of development, buildings' finished floor levels (+0.5m higher than top attenuated water level), attenuation design capacity for 1 in 100 year storm events, and proper operation and maintenance of the drainage system.
- 8.9.11. I find the methodology used and information relied upon in the SSFRA to be accurate and robust, and note that the planning authority accepted the findings of same. I recommend that a condition be attached requiring the mitigation measures included in the SSFRA to be implemented.

Water Supply and Wastewater

- 8.9.12. Finally, in respect of water services capacity, Uisce Eireann has provided Confirmations of Feasibility confirming that there is sufficient capacity for water supply and wastewater drainage, and infrastructure upgrades are not necessary to either system to facilitate the proposed development.
- 8.9.13. Related, the appellant criticises the occupancy rate used in the Engineering Service Report for calculating the water demand, stating it is too low for the proposed housing mix. However, I note and concur with the applicant's appeal response that these rates are as required by Uisce Eireann, which has indicated no objection to the proposed development.
- 8.9.14. Wastewater arising from the project will be collected, discharged to the existing wastewater sewer in Boghall Road, treated at Shanganagh WWTP, at which there is confirmed capacity to cater for the project, and discharged to necessary standards to the Irish Sea.

Conclusion

- 8.9.15. In conclusion, while I note concerns raised by the appellant, I consider that the applicant has sufficiently demonstrated that the water services infrastructure for the proposal will be designed, operated, and maintained to all required standards. There is sufficient capacity in the public systems to accommodate the demands arising from the proposal. Further, the proposal does not create or increase flood risk for adjacent properties, and subject to the attachment of standard conditions in the event of a grant of permission, is acceptable.

8.10. Planning Conditions

- 8.10.1. The first party and third party appeals both include objections to/ dissatisfaction with conditions attached by the planning authority to the grant of permission for the proposed development.

First Party Appeal

- 8.10.2. The applicant has appealed Condition 5 which restricts the first occupation of the residential units to individual purchasers or to those eligible for the occupation of social and/ or affordable housing, and specifically not to a corporate entity.

8.10.3. The applicant submits that the condition is contrary to the Development Management Guidelines (nature of conditions) and the Commercial Institutional Investment Guidelines (restriction applies to own-door houses and duplexes).

8.10.4. I have reviewed the Commercial Institutional Investment Guidelines and confirm to the Board that the stated purpose is to set out planning conditions to prevent new residential development in lower density housing developments being bulk-purchased for market rental purposes by commercial institutional investors. The conditions are stated as being applicable for own-door housing and duplex units. The guidelines state that planning authorities and An Bord Pleanála must have regard to the conditions as applicable.

8.10.5. For the Board's reference, the standard condition attached by An Bord Pleanála to grants of permission for houses and/ or duplex units is as follows:

All of the permitted house and duplex units in the development, when completed, shall be first occupied as a place of residence by individual purchasers who are not a corporate entity and/ or by persons who are eligible for the occupation of social or affordable housing, including cost rental housing Prior to commencement of development, the applicant, or any person with an interest in the land shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect. Such an agreement must specify the number and location of each house or duplex unit.

Reason: *To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.*

8.10.6. CPO 6.2 of the CDP relates to the sale of all forms of residential development, and while I note the intent of the objective, I am mindful of the requirements of the planning guidelines on An Bord Pleanála.

CPO 6.2 states:

The sale of all developments of residential units, whether houses, duplexes or apartments, to commercial institutional investment bodies shall be prohibited.

8.10.7. Further, I have reviewed the planning history cases referred to by the applicant (e.g. ABP 310327, and cases in Wicklow (i.e. the same administrative area as the

proposed development and therefore subject to the provisions of the CDP) and find that a condition such as Condition 5 has not been attached. I consider these Board decisions to constitute a planning precedent for this issue. No response was received from the planning authority on the appeal grounds.

8.10.8. I concur with the applicant, consider that first occupation restriction does not apply to proposals comprised solely of apartments, such as the proposed development, and recommend that in the event of a grant of permission, a condition such as Condition 5 should not be attached.

Third Party Appeal

8.10.9. The third party appeal includes grounds against several conditions attached by the planning authority. These relate to inappropriate phasing provisions, and the wording of conditions not being as stipulated by the prescribed bodies (e.g. in respect of landscaping, bat surveys and archaeology by the DAU, Department of Housing, Local Government and Heritage, and hours of operation by the HSE).

8.10.10. In subsection 8.3 above, I have assessed and outlined in detail my recommendation in respect of an appropriate phasing and implementation plan for the proposed development and lands under the applicant's control. I recommend this be subject of a condition in the event of a grant of permission.

8.10.11. In respect of applying the exact wording of conditions as recommended by the prescribed bodies, I have assessed issues relating to the landscape plan and bat survey in subsection 8.7 above (i.e., proposed planting programme in the Landscape and Biodiversity Design Statement and associated landscaping plans indicate compliance with the All-Ireland Pollinator Plan, and the applicant's appeal response included an up-to-date bat survey of the site (April 2024) and the EclA includes mitigation measures addressing other concerns).

8.10.12. In respect of archaeology, the Department's submission acknowledges the low potential for archaeological finds/ remains at site due to previous disturbance and recommends a condition regarding report times in the event of discovery of same. I have reviewed the applicant's Archaeological Report which finds no impact from the proposed development on archaeological heritage and does not recommend any mitigation measures. I note the applicant's appeal response on the

matter and a description of the notification process to be followed if there is an archaeological discovery. The condition attached by the planning authority constitutes a standard condition on the notification process, however, I find no reason to not use the wording from the DAU submission in the event of a grant of permission.

- 8.10.13. In respect of the conditions recommended in the HSE submission, I consider these matters to be addressed by way of the mitigation measures included in the CEMP and/ or the NVA. I recommend the implementation of the mitigation measures in these reports (in addition to several other reports) be subject of a condition in the event of a grant of permission. Further, I recommend that the standard condition used by An Bord Pleanála in respect of hours of operation be attached.

Conclusion

- 8.10.14. In conclusion, I consider that the proposed development accords with the proper planning and sustainable development of the area subject to compliance with several conditions. I am satisfied that the recommended conditions comply with the requirements of Section 7.3 of the Development Management Guidelines on the criteria of conditions.

9.0 Appropriate Assessment

9.1. Screening Determination for Appropriate Assessment

- 9.1.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required.

- 9.1.2. This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.

- Standard pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same.
- Qualifying interests, special conservation interests, and conservation objectives of the European sites.
- Distances from European sites.
- Absence of any meaningful pathways to any European site.

9.1.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

10.0 Environmental Impact Assessment

10.1. Screening Determination for Environmental Impact Assessment

10.1.1. The applicant has submitted an Environmental Impact Assessment screening report (EIASR) with the application addressing issues included for in Schedule 7A of the Planning and Development Regulations 2001, as amended (2001 Regulations).

10.1.2. Part 2 of Schedule 5 of the 2001 Regulations, as amended, and section 172(1)(a) of the Planning and Development Act 2000, as amended (2000 Act), identify classes of development with specified thresholds for which EIA is required.

10.1.3. I identify the following classes of development in the 2001 Regulations as being of relevance to the proposal:

- Class 10(b) relates to infrastructure projects that involve:
 - (i) Construction of more than 500 dwelling units,
 - (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.
- Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 2 of Schedule 5 where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7 of the Regulations.

10.1.4. The proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class 10(b)(i) and/ or (iv) of the 2001 Regulations. In respect of the

latter, 'business district' is defined as a district within a city or town in which the predominant land use is retail or commercial use. I do consider that the appeal site (with a site area of c.2.38ha) comes within this definition and is instead another part of a built-up area where the 10ha threshold applies.

- 10.1.5. As such, the criteria in Schedule 7 of the 2001 Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA. The criteria include the characteristics of the project, the location of the site, and any other factors leading to an environmental impact.
- 10.1.6. I confirm to the Board that, based on the criteria in Schedule 7, I have completed an EIA screening determination of the project. The EIA screening determination is presented in detail in Appendix 3 of this report. I have concluded that the proposed development would not be likely to have significant effects (in terms of extent, magnitude, complexity, probability, duration, frequency, or reversibility) on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.
- 10.1.7. In undertaking the EIA screening determination, I have had regard to the information provided in the applicant's EIASR and other related assessments and reports included in the case file. I concur with the nature of the impacts identified, and note the range of mitigation measures proposed. I am satisfied that the submitted EIASR identifies and describes adequately the effects of the proposed development on the environment. The EIASR concludes that an EIA is not required due to the project being significantly below thresholds for Schedule 5 classes of project requiring EIA, that mitigation measures are proposed to address identified impacts, and that the proposed development is not considered likely to cause significant effects on the environment. This is a conclusion with which I concur.

11.0 Recommendation

Following from the above assessment, I recommend that permission is GRANTED for the development as proposed due to the following reasons and considerations, and subject to the conditions set out below.

12.0 Recommended Draft Board Order

Planning and Development Act 2000, as amended

Planning Authority: Wicklow County Council

Planning Authority Register Reference: 24/46

Appeal by Avonvard Limited and Jamie Brohan, against the decision made on the 15th day of March 2024, by Wicklow County Council to grant permission subject to conditions to Avonvard Limited c/o of John Spain, 39 Fitzwilliam Place, Dublin 2, in accordance with plans and particulars lodged with the said Council.

Proposed Development

Large-scale residential development on lands at Vevay Road and Boghall Road (the former Dell site), Bray, County Wicklow.

The proposed large-scale residential development includes the demolition of the existing vacant manufacturing building on site, all associated site clearance and enabling works, and the construction of a residential development (Phase 2 development on the overall landholding) comprising 178 no. apartments (with a mix of 78 no. 1 bed apartments, 79 no. 2 bed apartments, and 21 no. 3 bed apartments), and a childcare facility, in 3 no. buildings (Blocks 1, 2 and 3), ranging from 3 to 4 no. storeys in height, over a basement level, and all associated site and infrastructural works.

The detailed description of the development is as follows:

- Demolition of the existing vacant manufacturing building on the site and associated site clearance and enabling works;
- Block 1 contains 29 no. apartments, including 16 no. 1 bed, 10 no. 2 bed, and 3 no. 3 bed apartments in a three storey building partially over a basement level. Balconies / private terraces are provided for all apartments on the western and eastern elevations. Block 1 includes a childcare facility with a

Gross Floor Area (GFA) of 427.6 sq.m at ground floor level and associated play area for the childcare facility;

- Block 2 contains 57 no. apartments, including 20 no. 1 bed, 29 no. 2 bed, three storey building over a basement level. Balconies / private terraces are provided for all apartments on the north-east, north-west, south-east and south-west elevations;
- Block 3 contains 92 no. apartments, including 42 no. 1 bed, 40 no. 2 bed, and 10 no. 3 bed apartments in a four storey building partially over a basement level. Balconies / private terraces are provided for all apartments on the north-east, north-west, south-east and south-west elevations;
- 155 no. car parking spaces and 311 no. cycle parking spaces for the residential units are provided at basement level, and secure allocated storage space is provided at basement level for the residential units. 23 no. car parking spaces, 111 no. cycle parking spaces, and a set down area are provided at surface level to serve the residential units and childcare facility;
- Vehicular access will be via the existing access from Vevay Road and via a new vehicular access from Boghall Road, and the proposal includes associated internal road infrastructure, which provides pedestrian, cyclist and vehicular access to the basement level. The proposed development includes associated improvements to Vevay Road and Boghall Road to facilitate the proposed development (which includes alterations to the existing footpaths/ public road);
- The proposed development includes public open space, communal open space, boundary treatments, hard and soft landscaping, bin stores, an ESB substation and cycle lift, external fire escape cores, plant rooms, green roofs, and PV panels at roof level. The associated site and infrastructural works include provision of utilities and associated civil works, foul and surface water drainage and public lighting, along with all associated ancillary development.

Decision

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

Reasons and Considerations

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

- a) Policies and objectives set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midland Region.
- b) Policies and objectives set out in the Bray Municipal Local Area Plan 2018-2024, including the location of the site on lands subject to Zoning Objective 'MU: Mixed Use' and 'Specific Local Objective 4', and the permitted in principle uses therein.
- c) Policies and objectives of the Wicklow County Development Plan 2022-2028.
- d) Housing for All, A New Housing Plan for Ireland, 2021.
- e) The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.
- f) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.
- g) The Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.
- h) The Design Manual for Urban Roads and Streets, 2013, updated 2019.
- i) The Childcare Facilities, Guidelines for Planning Authorities, 2001.
- j) The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009.
- k) The Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023.
- l) The Greater Dublin Area Transport Strategy 2022-2042, 2022.
- m) The nature, scale, and design of the proposed development.

- n) The availability in the area of a range of social, community, and transport infrastructure.
- o) The pattern of existing and permitted development in the area.
- p) The planning history of the site and within the area.
- q) The reports of the planning authority.
- r) The submissions received by the planning authority from observers and prescribed bodies.
- s) The grounds of appeal.
- t) The response to the grounds of appeal by the applicant.
- u) The report and recommendation of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise (Stage 1) in relation to the potential effects of the proposed development on designated European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up suburban area, the distances to the nearest European sites and the absence of any direct hydrological connections, submissions and observations on file, the information and reports submitted as part of the application and appeal, and the Planning Inspector's report. In completing the screening exercise, the Board adopted the report of the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment and the preparation of a Natura Impact Statement would not, therefore, be required.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the proposed development on the environment.

Regard has been had to:

- a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- b) The location of the site on lands that are subject to Zoning Objective 'MU: Mixed Use' and 'Specific Local Objective 4' in the Bray Municipal Local Area Plan 2018-2024, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The policies and objectives of the Wicklow County Development Plan 2022-2028, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).
- d) The infill, brownfield nature of the site and its location within a built-up suburban area which is well served by public services and infrastructure.
- e) The planning history at the site and the existing pattern of development in the vicinity of the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- g) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.

- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction and Environmental Management Plan, Resource and Waste Management Plan, Operational Waste Management Plan, Ecological Impact Assessment, Landscape and Biodiversity Design Statement, Tree Survey Report, Site Specific Flood Risk Assessment, Noise and Vibration Assessment, Traffic and Transport Assessment, and Mobility Management Plan.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusion on Proper Planning and Sustainable Development

The Board considers that, subject to compliance with the conditions set out below, the proposed development would be consistent with the applicable 'MU: Mixed Use' zoning objective and 'Specific Local Objective 4' of the Bray Municipal Local Area Plan 2018-2024 and applicable policies and objectives of the Wicklow County Development Plan 2022-2028, would constitute an acceptable mix and quantum of residential development, would result in an appropriate density of residential development, would provide acceptable levels of residential amenity for future occupants, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause adverse impacts on or serious pollution to biodiversity, lands, water, air, noise or waste, would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and would be capable of being adequately served by water supply, wastewater, and surface water networks without risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development 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>a) This development shall be carried out in a phased manner as part of the coordinated development of lands under the applicant's control (indicated on Dwg No. 2309-VR-1000), unless otherwise agreed in writing with the planning authority.</p> <p>b) The development of the lands shall be undertaken in accordance with the stages outlined in the Phasing and Implementation Strategy (as per Table 4.1: Phasing Implementation Duration) subject to Condition 2(c) below.</p> <p>c) Construction of Phase 2(a) shall be commenced in the first instance. Construction of Phase 2(b) shall not be commenced until such time as the construction of Phase 1 (extant permission, PA Ref. 22/823) has commenced. Phase 2(b) can be commenced, progressed, and completed concurrently with that of Phase 1.</p> <p>d) The occupation of residential units within each phase shall be restricted until the communal and/ or public open space to serve the phase, and the childcare facility (applicable for Phase 2(a)) have been developed, are operational, and available for use to the satisfaction of the planning authority.</p>

	<p>Reason: In the interests of orderly development and to ensure the timely provision of amenities and infrastructure for future residents.</p>
3.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Construction and Environmental Management Plan, Resource and Waste Management Plan, Operational Waste Management Plan, Ecological Impact Assessment, Landscape and Biodiversity Design Statement, Tree Survey Report, Site Specific Flood Risk Assessment, Noise and Vibration Assessment, Traffic and Transport Assessment, and Mobility Management Plan submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Prior to the commencement of development, the developer shall submit a comprehensive list of mitigation and monitoring measures from the named reports and a corresponding timeline/ schedule for implementation of same to the planning authority for its written agreement.</p> <p>Reason: In the interest of protecting the environment, public health, and clarity.</p>
4.	<p>Proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme. No advertisements/ marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility.</p>
5.	<p>a) Details of the materials, colours, and textures of all the external finishes to the proposed buildings and boundary treatments shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.</p>

	<p>b) Details of security shuttering, external lighting, and signage for the childcare facility shall be agreed in writing with the planning authority prior to commencement of development.</p> <p>c) Details of a maintenance strategy for all external finishes within the proposed development shall be submitted for the written agreement of the planning authority.</p> <p>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 visual amenity.</p>
6.	<p>a) No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.</p> <p>b) Roof areas shall be accessed for maintenance purposes only and shall not be used for any amenity or recreational purpose.</p> <p>Reason: To protect the visual amenities of the area and residential amenities of property in the vicinity.</p>
7.	<p>a) Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces.</p> <p>b) The design of the lighting scheme shall be approved of by a suitably qualified bat specialist. The details of the lighting scheme, including written evidence indicating approval by the bat specialist, shall be submitted to and agreed in writing with the planning authority prior to commencement of development/ installation of lighting.</p> <p>c) The agreed lighting system shall be fully implemented and operational before the proposed development is made available for occupation.</p>

	<p>Reason: In the interests of amenity and public safety, and wildlife protection.</p>
8.	<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 visual and residential amenity.</p>
9.	<p>The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, set down/ drop off area, parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority. 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>
10.	<p>a) A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/ points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/ stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/ points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.</p> <p>b) Electric charging facilities shall be provided for motorcycle and/ or bicycle parking, and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.</p>

	<p>Reason: To provide for and/ or future proof the development such as would facilitate the use of electric vehicles.</p>
11.	<p>Prior to commencement of development and/ or occupation of the residential units, as applicable, final Road Safety Audit(s) and Quality Audit(s) shall be submitted to and agreed in writing with the planning authority.</p> <p>Reason: In the interest of sustainable transportation, and traffic and pedestrian safety.</p>
12.	<p>a) The management and maintenance of the development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being so taken in charge.</p> <p>b) The communal open spaces, hard and soft landscaping, car and cycle parking areas, access ways, refuse/ bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by the legally constituted management company.</p> <p>c) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p>Reason: In the interests of orderly development and to provide for the satisfactory future maintenance of this development.</p>
13.	<p>a) The areas of communal and public open space in the development shall be reserved for such use, levelled, contoured, soiled, seeded, and landscaped (hard and soft) in accordance with the Landscape and Biodiversity Design Rationale and associated landscape plans, unless otherwise agreed in writing with the planning authority.</p> <p>b) Final design, finishes, methods of construction and/ or installation of footpaths, cycle paths, seating, crossing points over ditches/</p>

	<p>watercourses/ SuDS features, and equipment in play areas shall be submitted to the planning authority for its written agreement.</p> <p>c) The landscaping work shall be undertaken in accordance with the phasing requirements stipulated in Condition 2(b)-(d) and shall be completed before any of the apartments in Phase 2(a) and/ Phase 2(b), as relevant, are made available for occupation, unless otherwise agreed with the planning authority and completed.</p> <p>d) A schedule of landscape maintenance shall be submitted to and agreed in writing with the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.</p> <p>e) The areas of communal and public open space shall be reserved and maintained as such by the developer until taken in charge by the management company or by the local authority.</p> <p>Reason: In the interest of nature conservation, residential amenity, and to ensure the satisfactory development of the open space areas and their continued use for this purpose.</p>
14.	<p>The developer shall report immediately the discovery of any archaeological finds and/ or remains during the course of groundworks/ construction works to the National Museum of Ireland and the Department of Housing, Local Government, and Heritage to ensure the appropriate protection and treatment of any such finds and/ or remains and the developer shall be prepared to implement any mitigation measures deemed appropriate by the above heritage authorities to ensure the protection of any such finds/remains impacted by the development.</p> <p>Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.</p>
15.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be</p>

	<p>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>
16.	<p>Prior to the commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 proper planning and sustainable development.</p>
17.	<p>Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.</p> <p>Reason: In the interest of residential amenities, public health and safety.</p>
18.	<p>a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development (apartment blocks and childcare facility), including the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of</p>

	<p>these facilities, shall be submitted to and agreed in writing with the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed OWMP.</p> <p>b) The OWMP shall provide for screened communal bin stores for the apartment blocks and the childcare facility, the locations, and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage for the proposed development.</p>
19.	<p>Drainage arrangements including the attenuation and 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 and surface water management.</p>
20.	<p>a) The developer shall enter into water and/ or wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.</p> <p>b) All development shall be carried out in compliance with Uisce Eireann codes and practices.</p> <p>Reason: In the interest of public health.</p>
21.	<p>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 sections 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)</p>

	<p>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>
22.	<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 and/ or management company 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> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
23.	<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>

	Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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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.

Phillippa Joyce

Senior Planning Inspector

1st July 2024

Appendix 1:

AA Screening Determination Form

Screening for Appropriate Assessment

Screening Determination

Step 1: Description of the project

I have considered the proposed residential development in light of the requirements of section 177U of the Planning and Development Act 2000 as amended.

Subject Site

The subject site is the former manufacturing premises for the Dell Computer company, located at the junction of Vevay Road and Boghall Road, c.2km to the south of Bray town centre. The site is c.1.5km to the southwest of Bray Promenade and beach. The Newcourt Stream, a minor watercourse, flows through lands adjacent to the south of the site (coincides with a short open section of the stream) and is partially located in the southeastern corner of the site (adjacent to the Vevay Road roundabout). The stream is culverted along its route downstream of the site and has an outfall through an existing drain at Bray Promenade (route is c.1.6km in length) discharging to the Irish Sea (outfall location is c.1.25km to the northeast of the site).

The nearest European site to the project is Bray Head SAC (located c.0.58km to the northeast of the site, and c.350m to the southeast of the outfall point of the culverted Newcourt Stream).

There are several other SACs and SPAs (identified in section 6.4 of this report) that are located inland of the site (c.3km-8.5km to the west and south) and coastal SACs and SPAs (c.6.5km-12.5km to the north and southeast).

Project

The project comprises the demolition of a vacant manufacturing building (c.7,384 sqm), site development works (vegetation and hardstanding removal, subsurface ground excavation), and the construction of a residential development comprising 178 apartments with a childcare facility accommodated in three blocks over a basement level.

The project includes new hard and soft landscaped open spaces, boundary treatments, new entrance and circulation areas, surface and basement level car and cycle parking spaces, refuse areas, onsite surface water drainage system with SuDS measures, and connections to public services for water supply, wastewater drainage, and surface water drainage.

The proposed surface water drainage system comprises one catchment area for the site (project and Phase 3). Stormwater will be collected and filtered through catchpit manholes, drained to an attenuation tank, and discharged by flow control device to the existing surface water sewer in Boghall Road which is discharged to the Irish sea at Bray seashore. The onsite system includes SuDS features of permeable paving, green roofs, swales, and silt traps prior to discharge to the public system.

The project includes the construction of a temporary swale in the southeast of the site, which is associated with the internal access road from the Vevay Road roundabout. The swale will drain surface water from an area of c.500sqm and discharge via a stone layer to the open section of the Newcourt Stream in the adjacent lands. This is a temporary arrangement until the development permitted under PA Ref. 22/823 (Phase 1) is implemented, at which point the temporary swale will be removed and the area landscaped, the open section of the Newcourt Stream will be culverted, and all excess surface water discharged to the public system.

Wastewater arising from the project will be collected, discharged to the existing wastewater sewer in Boghall Road, treated at Shanganagh WWTP, at which there is confirmed capacity to cater for the project, and discharged to necessary standards to the Irish Sea.

Submissions and Observations

Uisce Eireann indicates the project can be serviced (Confirmations of Feasibility are provided for connections to water supply, wastewater, and surface water drainage to the existing services infrastructure located in Boghall Road), and that there is capacity in these public systems without requirement for any infrastructural upgrades.

Health Service Executive (Environmental Health Office) considers several items including those of consequence to this appropriate assessment of water quality, groundwater protection, and waste management. Recommendations relate to the content and implementation of the Construction and Environmental Management Plan (CEMP).

Department of Housing, Local Government and Heritage (Development Applications Unit) provides heritage related recommendations on nature conservation and on archaeology. The issues raised are not of consequence to this appropriate assessment.

The planning authority undertook an appropriate assessment screening of the project.

Consideration was given to surface water discharge to the Newcourt Stream, the open and culverted nature of the stream and outfall location, the proximity of the outfall point to Bray Head SAC (c.350m), and the conservation values of Bray Head SAC. It was concluded that the proposed

development would not be likely to have a significant effect on the conservation values of this or any Natura 2000 site.

Step 2: Potential impact mechanisms from the project

Site Surveys

Site surveys referred to in the AASR and Ecological Impact Assessment (EclA) comprised of habitat, invasive species, rare and protected plants, large mammal, amphibian, reptile, and bird surveys as well as specialist bat surveys. The surveys are indicated to have been undertaken on several dates between 2018 and 2023, with the most recent bat survey dating from April 2024 (appeal response). The June 2022 and April 2024 bat surveys observed bat species feeding and commuting at the site, but no roosts were identified in the building/ trees at the site.

The site surveys confirm the site does not contain any protected habitats, plants, fauna, or bird species that are associated with the designations for European sites (i.e., the qualifying interests (QI) for SACs and special conservation interests (SCI) for SPAs). There is no habitat on the site suitable for use, even on a very occasional basis, by any protected bird species listed as a SCI in any European site. The habitats at the site are dominated by buildings and artificial surfaces (Fossil code, BL3), with unmanaged flower beds and borders (BC4), encroaching shrub (WS1), and hedgerows/ treelines (WL1/ WL2). The site is categorised as having no key ecological receptors, as while the trees and shrubs are of local importance, these are of low value.

Site surveys conclude that the project is not located in, on, or adjoining any European site, any designated or proposed NHA, or any other listed area of ecological interest or protection.

European Sites

The Appropriate Assessment Screening Report (AASR) identifies 19 European sites in the zone of influence of the project (Table 5.1, pg. 18). The table identifies the European site, states the QIs/ SCIs of each site, and outlines the conservation objectives of same (i.e. to maintain or restore favourable conditions).

The project is confirmed to have no conceivable pathway to seven of these European sites (locations inland of the project). The remaining 12 European sites (coastal) are found to have a potential hydrological connection via a surface water pathway. Consideration is given to the likely low amounts of polluting material arising from the project, the low likelihood of a polluting event occurring, the dissipating effects of same by surface water dilution and subsequent seawater dispersal, and the separation distances involved. The AASR concludes that the project will not have a significant effect on any European site in light of their conservation objectives.

I confirm to the Board that I have reviewed the NPWS website, the Conservation Objectives documents for the European sites, applicable Statutory Instruments, and find the entries in Table 5.1 of the AASR to be accurate and can be relied upon. As there are no viable pathways connecting the site to any inland European site, I consider that the likelihood of any significant effect of the project on same can be reasonably excluded at this preliminary examination stage.

Of the coastal European sites, I note the nature of the project (a medium scaled residential development designed in compliance with GDSDS requirements), the nature of the pathway (surface water (if not infiltrated to ground onsite) is treated, discharged (by restricted flow) along existing surface water drains and the Newcourt Stream (undergoing dilution) for distances of c.1.5km to sea (undergoing further dispersion), the QIs and SCIs (e.g. habitats of reefs, salt meadows, ferns, and wetlands, and species of water and wintering birds), the notable distances involved (varying between closest of Rockabill to Dalkey Island SAC at c.6.6km to furthest of Howth Head SPA and SAC at c.19.2km).

Due to these factors, I consider that the likelihood of any significant effect of the project on all but the closest European site, Bray Head SAC (site code 000714), can be reasonably excluded at this preliminary examination stage.

Effect Mechanisms

There are no protected habitats or species identified at the site and therefore the likelihood of any significant effect of the project on any European site due to loss of habitat and/ or disturbance of species can be reasonably excluded. There are no European sites in the zone of influence with groundwater-dependent QIs/ SCIs and therefore the likelihood of any significant effect of the project on groundwater due to pollution or spillage can be reasonably excluded. There is no hydrological connection between the project and any European site arising from wastewater.

A potential indirect hydrological connection has been established between the project and the coastal European sites via surface water drainage to the Newcourt Stream (of an internal access road from the temporary swale) and to the existing public surface water system (remainder of the site's catchment) and discharge to the Irish Sea.

Having regard to the characteristics of the project in terms of the site's features and location, and the project's scale of works, I consider the following impacts and effect mechanisms require examination for implications for a likely significant effect on one European site, Bray Head SAC (site code 000714):

- A) Surface water pollution during construction phase.
- B) Surface water pollution during operation phase.

Step 3: European Site at risk

Table 1 European Site at risk from impacts of the proposed project

Effect mechanism	Impact pathway/ Zone of influence	European Site(s)	Qualifying/ Conservation interest features at risk
<p>A) Surface water pollution during construction phase.</p> <p>B) Surface water pollution during operation phase.</p>	<p>Impact via a potential hydrological pathway.</p>	<p>Bray Head SAC (site code 000714)</p> <p><i>Bray Head SAC is situated in north-east Co. Wicklow between the coastal towns of Bray and Greystones. Bray Head consists of a plateau of high ground, with five prominent quartzite knolls reaching a maximum height of 241m....Bray Head SAC is selected for two Qualifying Interests, vegetated sea cliffs and European dry heath... Sea cliffs can be broadly divided into two categories: hard (or rocky) cliffs and soft (or sedimentary) cliffs, both of which are covered by the Annex I habitat 'vegetated sea cliffs of the Atlantic and Baltic coasts'. Hard cliffs are composed of rocks such as limestone, sandstone, granite, or quartzite, which are hard and relatively resistant to erosion...Vegetation of hard sea cliffs in exposed situations exhibits a strong maritime influence and is relatively stable. A sea cliff is defined as...a steep or vertical slope located on the coast, the base of which is in either the intertidal (littoral) or subtidal (sublittoral) zone... The cliff may be composed of hard rock...and hard</i></p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>

		<p>cliffs are at least 5m high...Sea cliffs may support a range of plant communities such as grassland, heath, scrub and bare rock communities, among others.</p> <p>At Bray Head SAC, the lower cliffs are fairly steep in places but the upper cliffs are less steep, and often support heath or dry grassland vegetation. In parts the cliffs are up to 60m in height.... At Bray Head SAC, tall, rocky sea cliffs, approximately 2km in length, form most of the seaward boundary of the SAC with lower, steep clay cliffs extending for a further 1km to the south.</p> <p>(extracts from Bray Head SAC, Site Synopsis NPWS)</p>	
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Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the Conservation Objectives 'alone'					
European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
Bray Head SAC					
Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	<i>To maintain the favourable conservation condition of...</i>	N	N		
European dry heaths [4030]	<i>To restore the favourable conservation condition of...</i>	N	N		

Effect Mechanism A (surface water pollution during construction phase)

During the construction of the project, development works will be managed and implemented under the CEMP, which includes several pollution prevention and surface water control measures, in particular Section 5: Sediment and Water Pollution Control Plan.

Effect Mechanism B (surface water pollution during operation phase)

For the operational phase (i.e. occupation), the project incorporates stages to manage surface water run-off onsite (with levels of treatment) in the first instance, prior to discharge to the public surface water system and/ or adjacent stream.

Stormwater will be collected and filtered through catchpit manholes, drained to an attenuation tank, and discharged by flow control device to the existing surface water sewer. SuDS measures include permeable paving, green roofs (60% of blocks' roof plans), swales, and silt traps prior to discharge to the public system.

A temporary swale, associated with the internal access road, will drain surface water (area of c.500sqm) via a stone layer to the open section of the Newcourt Stream in the adjacent lands. This is a temporary arrangement until the development permitted under PA Ref. 22/823 (Phase 1) is implemented, at which point the temporary swale will be removed and the area landscaped, and the open section of the Newcourt Stream will be culverted, and all excess surface water discharged to the public system.

Due to the absence of a direct pathway between the project and Bray Head SAC (a relatively weak indirect hydrological connection), the low risk of harmful levels of build-up of silt or other polluting material (conventional construction methods and materials to be used), the low risk of major chemical or other toxic spillages due to the nature of the project (a mid-scaled residential scheme), the separation distances between the project and the SAC (proximity measurement of c.0.58km, and a downstream measurement of c.2km (c.1.6km along the route of the culverted stream to the Irish Sea outfall point and a further c.350m between the outfall point to the SAC), and the associated dissipating effects of surface water dilution and subsequent seawater dispersal, I consider the potential for surface water pollution during either the construction phase or operation phase of the project to be negligible.

Overall, I conclude that the proposed development would have no likely significant effect 'alone' on the qualifying interests of Bray Head SAC. Further AA screening in-combination with other plans and projects is required.

Step 5: Where relevant, likely significant effects on the European site(s) 'in-combination with other plans and projects'

Table 3: Plans and projects that could act in combination with effect mechanisms of the proposed project (e.g. approved but uncompleted, or proposed)

Plan / Project	Effect mechanism
Listed in section 7 of the AASR, and supplemented by information in section 1.0 of the Appendix 4 of the First Party Appeal Response	A and B, as per Table 1 above

I have had regard to the information included in the AASR and in the First Party Appeal response on in-combination impacts (including confirmation that the application referred to by the appellant, PA Ref. 23/60266 (replacement of a secondary school building with increased capacity from c.650 to c.1,000 students), has no link to the project).

These outline several plans and planning applications in the vicinity of the site. Following consideration of which, the AASR, and confirmed in the appeal response, does not identify any significant in-combination effect. Of the differences between the project and the development envisaged in SLO4 of the Bray LAP, these are found to not be material in consequence for appropriate assessment. This is a conclusion with which I concur. Further, I consider that the referred to plans are seeking environmental protection and pollution prevention, and the projects are to be constructed to/ operate within industry standards with connection to/ servicing by public water services infrastructure.

Table 4: Could the project undermine the Conservation Objectives in combination with other plans and projects?

European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
Bray Head SAC					
Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	<i>To maintain the favourable conservation condition of...</i>	N	N		
European dry heaths [4030]	<i>To restore the favourable conservation condition of...</i>	N	N		

I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site.

Overall Conclusion – Screening Determination

In accordance with section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) under section 177V of the Planning and Development Act 2000 is not required.

This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.
- Standard pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same.
- Qualifying interests, special conservation interests, and conservation objectives of the European sites.
- Distances from European sites.
- Absence of any meaningful pathways to any European site.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

Inspector: _____

Date: __ 1st July 2024 __

Appendix 2

EIA Pre-Screening Form

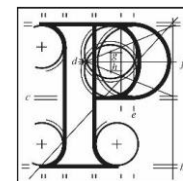
An Bord Pleanála Case Reference	ABP 319474-24		
Proposed Development Summary	Demolition of a vacant manufacturing building, site clearance and enabling works, and construction of a residential development (178 no. apartments) with a childcare facility in three blocks over basement level, and all associated site and infrastructural works.		
Development Address	Site at Vevay Road and Boghall Road (the former Dell site), Bray, County Wicklow.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		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			EIA Mandatory EIAR required
No	✓		Proceed to Q.3
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		N/A	
Yes	✓	Class 10(b)(i): threshold of 500 dwellings. Class 10(b)(iv): threshold of 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. Class 14: works of demolition carried out in order to facilitate a project listed in Part 2, Schedule 5 where such works would be	Proceed to Q.4

		likely to have significant effects on the environment.		
4. Has Schedule 7A information been submitted?				
No			Preliminary Examination required	
Yes		✓	Screening Determination required	

Inspector: _____

Date: __1st July 2024__

Appendix 3: EIA Screening Determination Form



An
Bord
Pleanála

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP 319474-24	
Development Summary	Demolition of a vacant manufacturing building, site clearance and enabling works, and construction of a residential development (178 no. apartments) with a childcare facility in three blocks over basement level, and all associated site and infrastructural works.	
	Yes/ No/ N/A	Comment (if relevant)
1. Has an AA screening report or NIS been submitted?	Yes	An AASR has been submitted with the application which considers the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	N/A
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA.	Yes	<p>Submitted with the application include:</p> <ul style="list-style-type: none"> • An EIASR which considers the EIA Directive (2011/92/EU, as amended by 2014/52/EU). The EIASR also includes an Article 103(1A) Statement (section 4.3, pg. 34). • An EclA which considers the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC). • A SSFRA which considers the EU Floods Directive (2007/60/EC) and Water Framework Directive (2000/60/EC). • A RWMP and OWMP which consider the Landfill Directive (1999/31/EC) and Waste Electrical and Electronic Equipment Directive (2002/96/EC) respectively. • An Energy Analysis Report and Building Lifecycle Report which consider the Energy Performance in Buildings Directive (2010/31/EU). <p>SEA was undertaken by the planning authority in respect of the Bray Municipal LAP 2018-2024 and the Wicklow CDP 2022-2028.</p>

B. EXAMINATION	Response: Yes/ No/ Uncertain	Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	<p>The project comprises the demolition of a vacant manufacturing building, site development works (vegetation and hardstanding removal, subsurface ground excavation), and construction of a mid-density, mid-scaled residential scheme (three blocks of apartments, an associated childcare facility, with hard and soft landscaped open spaces, new/ supplemented screening boundaries, and site services).</p> <p>The project differs from the surrounding area, but the differences are not considered to be significant in terms of character (residential uses exist in the area, conventional apartment typology, provision of on-site basement parking, landscaped open spaces, conventional boundary treatments), or of scale (use of detached block forms, moderate increases in building height and density).</p>	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	<p>The project will cause physical changes to the site during the site development works (i.e., demolition, enabling and construction activities).</p> <p>The demolition works will remove the vacant manufacturing building on site (c.7,384 sqm), and site enabling works remove existing hardstanding, vegetation/ trees, and subsurface infrastructure. The underground excavation works proposed to construct the basement level will cause changes in site topography and ground levels.</p> <p>The site and vacant manufacturing building are associated with the Dell Computer operation which closed in 2006. The enterprise land use at the site has ceased to operate. The proposed residential land use will result in physical changes to the built environment at the site, though this</p>	No

		<p>is part of an overall mixed-use scheme at the lands which include new enterprise uses (Phase 1 comprises a nursing home and office building).</p> <p>The Newcourt Stream, a minor watercourse which flows through lands adjacent to the south of the site (coincides with an open section), is partially located within the southeastern corner of the site adjacent to the Vevay Road roundabout.</p> <p>The Newcourt Stream is not classified in terms of water quality status or monitored. The stream is culverted along its route downstream of the site and has an outfall through an existing drain at Bray Promenade (route is c.1.6km in length) discharging to the Irish Sea (outfall location is c.1.25km to the northeast of the site).</p> <p>There is no pathway between the site and other waterbodies, e.g. the River Dargle (c.2km to the north) or its closer tributary, the Swan Stream (c.730m to the northwest).</p> <p>The demolition, enabling and construction activities which will be managed through the implementation of the CEMP and RWMP. The CEMP has mitigation measures to reduce and manage potential risks in relation to a contamination event of surface water/ land/ groundwater. Section 5.0 of the CEMP comprises a sediment and water pollution control plan related to the protection of the Newcourt Stream.</p> <p>Once operational the project (i.e., the occupation of the apartments and the childcare facility) will not cause physical changes to the locality in terms of topography and land use.</p> <p>The surface water proposals for the project comprise several SuDS features, onsite attenuation and discharge to the public surface water system. Except for runoff from the southern access road (area of 500sqm) which will drain to a swale, through a stone layer and discharge to the Newcourt Stream. This is a temporary arrangement until Phase 1 is constructed, the Newcourt Stream is culverted, and the overall scheme connects to the public system (as permitted under PA Ref. 22/823, Phase 1).</p>	
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		<p>There is an indirect surface water pathway between the site and the Irish sea via discharges to Newcourt Stream/ public surface water drainage system. Following the appropriate assessment screening, I do not consider this to be a meaningful pathway (see section 9.0 and Appendix 1 of this report).</p> <p>Overall, I do not consider the physical changes arising from the project likely to result in significant effects on the environment in terms of topography, land use, and hydrology/ hydrogeology.</p>	
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/ minerals, or energy, especially resources which are non-renewable or in short supply?</p>	No	<p>During the site enabling works, the project uses standard methods, except for the specialist removal and disposal of asbestos containing material, which is outlined in the CEMP (Appendix A) and supplemented by information in the RWMP.</p> <p>The demolition process will be managed through the implementation of the Outline Demolition Plan (Appendix C of the CEMP, also supplemented by information in the RWMP).</p> <p>The project uses standard construction methods, materials and equipment, and the process will be managed through the implementation of the CEMP. Similarly, waste arising from the demolition and construction phase will be managed through the implementation of the RWMP and CEMP. There is no significant use of natural resources anticipated.</p> <p>The project uses land more efficiently and sustainably than at present (basement level parking, provision of mid-density, mid-scaled residential scheme, blocks of between 3 and 4 storeys high). Otherwise, the operational phase of the project will not use natural resources in short supply.</p> <p>The project connects to the public water services systems, except for the initial surface water drainage of the southern access road to the Newcourt Stream, a temporary arrangement. The public systems have sufficient capacity to cater for demands arising from the project.</p>	No

		The project includes an energy efficient design, solar panels, several SuDS features including green roofs, and is located close to several amenities and public transport options.	
1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?	Yes	<p>Construction phase activities will produce waste through the demolition of the vacant building, which includes asbestos containing material, involving the removal, transport, and disposal of the potentially harmful substance.</p> <p>Management of the processes are outlined in the CEMP (Appendix A) and RWMP. This is a hazardous waste material which will be removed by a specialist contractor and disposed of offsite in accordance with health and safety, and waste legislation, thereby protecting human health and the environment. Mitigation measures also include environmental monitoring within the site.</p> <p>Subsequent construction phases activities require the use of potentially harmful materials, such as fuels and create waste for disposal. The use of such substances is typical of construction sites.</p> <p>Noise and dust emissions during construction are anticipated. Associated impacts will be local and temporary in nature, and the implementation of the CEMP and supplementary measures in the NVA will satisfactorily mitigate potential impacts.</p> <p>Operational phase of the project does not involve the use, storage, or production of any harmful substance. Conventional waste produced from residential and childcare activity will be managed through the implementation of the OWMP.</p> <p>Accordingly, I do not consider this likely to result in significant effects on the environment in terms of human health or biodiversity.</p>	No
1.5 Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?	Yes	Conventional and specialist (i.e. asbestos containing material) waste will be produced from construction activity and will be managed through the implementation of the CEMP and RWMP, as outlined above.	No

		<p>Operational phase of the project (i.e., the occupation of the apartments and the childcare facility) will not produce or release any pollutant or hazardous material. Conventional operational waste will be managed through the implementation of the OWMP to obviate potential environmental impacts.</p> <p>Accordingly, I do not consider this likely to result in significant effects on the environment in terms of human health or biodiversity.</p>	
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Yes</p>	<p>The project involves underground excavation works with the construction of a basement level and installation of new services infrastructure.</p> <p>The project uses standard construction methods, materials and equipment, and the process will be managed through the implementation of the CEMP and RWMP.</p> <p>The CEMP has mitigation measures to reduce and manage potential risks in relation to a contamination event of surface water/ land/ groundwater. Section 5.0 of the CEMP comprises a sediment and water pollution control plan related to the protection of the Newcourt Stream.</p> <p>The project includes for a surface water management system incorporating several SuDS features (green roofs, underground tank, swales), designed, and constructed in accordance with the GDSDS.</p> <p>During the operational phase of the project, wastewater and surface water (not infiltrated to ground/ attenuated) will be discharged to the public systems.</p> <p>Except for the Newcourt Stream, the site is at notable distance to any other waterbody (c.2km to the River Dargle and c.730m to its tributary Swan Stream with no pathways to either) and coastal waters (Bray coastline/ Irish Sea is c.1.25km to the northeast, though the distance (i.e. length of the route) between the site and the outfall point of the culverted stream is c.1.6km).</p>	<p>No</p>

		Accordingly, as risks of contamination to land or water are mitigated and managed, I do not consider this likely to result in a significant effect on the environment.	
1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?	Yes	<p>The project causes noise and vibration impacts during the site development works. Mitigation measures to address potential impacts are contained in the CEMP and the NVA.</p> <p>Noise and vibration levels will be to specified BS standards, use of good site management practices for noise reduction at source, the appointment of a public liaison officer as a contact point, specification of working hours, and monitoring. Site development works are short term in duration, impacts arising will be temporary, localised, and addressed by the mitigation measures.</p> <p>The operational phase of the project causes noise and light impacts. The noise increase is outlined in the NVA and is associated with the residential use and childcare service (vehicle access, normal activity), with mitigation measures to address same.</p> <p>Light impacts will be ameliorated through the implementation of the Site Lighting Report which contains a public lighting plan. The lighting plan has been designed to comply with several industry guidance documents, planning authority policies, and bat conservation standards. The EclA confirms the public lighting plan has been appropriately designed for bats species.</p> <p>Accordingly, I do not consider this likely to result in significant effects on the environment (human health or biodiversity) in terms of air quality (noise, vibration, light pollution).</p>	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	<p>The project produces waste including asbestos containing material which is a hazardous material with risk to human health. Mitigation measures are contained in the CEMP and RWMP, as outlined above.</p> <p>The asbestos containing material will be removed by a specialist contractor and disposed of offsite in accordance with health and safety,</p>	No

		<p>and waste legislation. Measures to further protect human health include environmental monitoring within the site.</p> <p>The project causes dust impacts during the demolition and site clearance works. Section 6 of the CEMP outlines dust control measures including dust monitoring to undertaken as necessary by main contractor, use of good site management practices for dust prevention and minimisation at source, and road cleaning.</p> <p>Site development works are short term in duration, and impacts arising will be temporary, localised, addressed by the mitigation measures.</p> <p>The operational phase of the project does not cause risks to human health through water contamination or air pollution through design of the scheme, connection to public water services systems, and the scale of residential and childcare uses arising.</p> <p>Accordingly, in terms of risks to human health, I do not consider this likely to result in a significant effect on the environment.</p>	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No risk of major accidents given nature of the project.	No
1.10 Will the project affect the social environment (population, employment)	Yes	<p>The project increases localised temporary employment activity at the site during site development works (i.e. demolition and construction phases). The site development works are short term in duration and impacts arising will be temporary, localised, addressed by the mitigation measures in the CEMP and NVA.</p> <p>The operational phase of the project (i.e. the occupation of the apartments) results in a potential increase of c.493 persons (c.3.7% increase of the Kilmacanogue ED), a slight population increase. The childcare facility will cater for a minimum of c.30 children and 9 staff.</p> <p>The receiving area is a built-up suburban location, close to education, amenities, services, public transport, and has the capacity to accommodate the impacts associated with the population increase.</p>	No

		Accordingly, I do not consider this likely to result in a significant effect on the social environment of the area.	
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	<p>Project is not part of a wider large-scale change in the area. The site is a compact, infill site within an established built-up suburban location.</p> <p>Site development works are short term in duration, and impacts arising will be temporary, localised, addressed by the mitigation measures in several associated reports.</p> <p>The operational phase of the project will result in a slight increase in activity associated with the new resident population and commercial activity associated with the childcare facility. These increases are not considered likely to result in significant effects on the environment in and of themselves, or in cumulation with development works in the wider area.</p> <p>The appellant states that PA Ref. 23/60266 (replacement of a secondary school building with increased capacity from c.650 to c.1,000 students) was not considered in the EIASR. I have reviewed the application, the planning authority's grant of permission (currently on appeal), and note the applicant's appeal response. I do not consider there to be any likely significant effect on the environment arising from that project with the subject project as there is no physical connection (c.1km separation distance), in particular there is no landscape, visual, hydrological or biodiversity connection (also raised in relation to AA screening purposes).</p> <p>The project is part of the phased development of lands which also correspond with the development framework outlined in SLO4 of the Bray LAP. Within this planned context, I do not consider that cumulative significant effects on the area could be reasonably anticipated.</p>	No
2. Location of proposed development			

<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	No	<p>The project is not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection.</p> <p>There are no direct meaningful pathways by or through which surface water, groundwater, waste, or other pollutant could reach these receptors.</p> <p>The AA screening report presents information on potential impacts of the project on European sites, allowing the Board to undertake a screening determination (see section 9.0 and Appendix 1 of this report).</p> <p>It is concluded that the project would not be likely to give rise to significant effects on identified European sites, and that a Stage 2 appropriate assessment, and submission of a Natura Impact Statement, is not required.</p>	No
<p>2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	Yes	<p>The habitats at the site are dominated by buildings and artificial surfaces (BL3), with unmanaged flower beds and borders (BC4), encroaching shrub (WS1), and hedgerows/ treelines (WL1/ WL2).</p> <p>The site does not contain any protected habitats, rare or protected plants, or invasive plant species. Planted treelines and self-sown groups of trees (native and non-native species) are identified along the northern and eastern boundaries, and to the southwest of the site described in places as a dense thicket.</p> <p>There are no protected large mammal, amphibian, reptile, or bird species identified at the site.</p> <p>Bat species were observed in June 2022 (four species) and April 2024 (two species) feeding and commuting at the site, but no roosts were identified in the building or trees at the site.</p> <p>The site is categorised as having no key ecological receptors, as while the trees and shrubs are of local importance, these are of low value.</p>	No

		<p>The EclA identifies impacts on vegetation (due to tree and shrub removal) and bats (due to habitat loss and disturbance of commuting and foraging activities) to arise from the project.</p> <p>Mitigation measures are proposed for both vegetation and bat species, primarily the implementation of the proposed landscape planting plan results in neutral-positive effects. The plan includes an appropriate mixture of native trees and shrubs, preferably of local provenance, and will incorporate a range of species to attract feeding invertebrates, including moths, butterflies, and bees.</p> <p>Accordingly, I do not consider this likely to result in a significant effect on the environment in terms of biodiversity.</p>	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	<p>No landscape designations pertain to the site.</p> <p>No archaeological features recorded at the site.</p> <p>No architectural heritage designations (protected structures, architectural conservation area) pertain to the site.</p>	No
2.4 Are there any areas on/ around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/ coastal, fisheries, minerals?	No	No such resources on or close to the site.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	<p>The Newcourt Stream, a minor watercourse which flows through lands adjacent to the south of the site (coincides with an open section), is partially located within the southeastern corner of the site adjacent to the Vevay Road roundabout.</p> <p>Once operational, a swale associated with the southern internal access road, will drain surface water (area of c.500sqm) via a stone layer to the open section of the Newcourt Stream. This is a temporary arrangement until the implementation of extant permission PA Ref. 22/823 (Phase 1) when the open section of the Newcourt Stream will be culverted, and all surface water discharged to the public system.</p>	No

		<p>A SSFRA has been undertaken of the project and is further supplemented by information in the appeal response on the Newcourt Stream, drainage, and flooding. There is no evidence for (topography) or history of the Newcourt Stream flooding. There is no connection to other waterbodies.</p> <p>The site is located within an area designated as Flood Zone C (outside of the extents of a 1 in 1000 year flood event (0.1% AEP)). The risks of tidal and groundwater flooding are very low/ low due to separation distance to the coast (c.1.5km) and subsurface ground/ hydrological conditions.</p> <p>Risks of fluvial (adjacent Newcourt Stream) and pluvial flooding (surface water surcharges, drainage blocks, overland flows) are moderate.</p> <p>The project's design and further mitigation measures address the risks. These include the incorporation of several SuDS features, minimal amounts of paved surfaces (roads, parking), road levels directing overland flows to swales/ gullies/ open spaces, flow routes free of development, buildings' finished floor levels (+0.5m higher than top attenuated water level), attenuation design capacity for 1 in 100 year storm events, and proper operation and maintenance of the drainage system.</p>	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No evidence identified of these risks.	No
2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion, or which cause environmental problems, which could be affected by the project?	Yes	<p>The site is served by a local urban road network, which is well connected to regional roads, R761 (Vevay Road) and R768 (Southern Cross Road), located in immediate proximity to the east and south respectively. The N11/ M11 is readily accessible at c.2.9km (closest driving distance) to the west of the site.</p> <p>The TTA refers to the local road network in the vicinity of the site, including Vevay Road, as being a congested network and to CDP policy seeking to relieve congestion at junctions serving Bray on the N11/ M11.</p>	No

		<p>During the site development works, the project will result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to/ removed from the site. Due to proximity to public transport, there are sustainable transport options available to workers.</p> <p>Site development works are short term in duration and impacts arising will be temporary, localised, and managed under the CEMP (Section 3: Traffic Management) and associated measures and strategies included in the Traffic and Transport Assessment (TTA).</p> <p>The operational phase of the project results in an increase of c.493 persons in the Kilmacanogue/ south Bray area with associated rise in traffic movements of all modes of transport modes. The project includes a total of 178 car parking spaces and 422 cycle parking spaces.</p> <p>The TTA establishes the existing traffic volumes at three junctions in proximity to the site (J1-J3) along Vevay Road (see Figure 6.1, pg. 60). The TTA includes traffic generation associated with extant permissions for residential and commercial developments (ABP 305058, PA Ref. 19/534, PA Ref. 22/823 (Phase 1)) located to the south of the site, which is referred to as 'committed' development.</p> <p>The TTA assesses the performance of four junctions (J1-J4) including the two entrances to the project, J2 Vevay Road roundabout and J4 Boghall Road entrance (see Figure 7.1, pg. 70). The junctions are analysed for 'Do Minimum' (base + committed) and 'Do Something' (base + committed + proposed) scenarios.</p> <p>The TTA estimates trip generations for the project for the opening year 2025, and subsequent design years of 2030 and 2040 (see Table 7.1). For the 'Do Something' scenario in 2040 design year, at J2 (Vevay Road entrance) there will be 32 in/out trips in the AM peak (a 2.27% impact on the performance of the junction) and 26 in/out trips in the PM peak (1.97%), and at J4 (Boghall Road entrance) there will be 23 in/out trips in the AM peak (3.4%) and 19 in/out trips in the PM peak (2.67%). The degree of impact is predictably greatest at J4 Boghall Road entrance given the current conditions (i.e. not operational).</p>	
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		<p>The degree of impact is less for the two other existing junctions in the local road network. J1 (Southern Cross roundabout) and J3 (T junction of Vevay Road and Boghall Road) experience AM peak impacts of 1.15% and 0.78% respectively, and PM peak impacts of 1.06% and 0.66%.</p> <p>For each design year, J1-J4 are all predicted to experience a moderate impact in the 'Do Something' scenario, but to remain under the acceptable threshold for congested networks (such as Vevay Road), i.e. traffic generation in excess of 5%.</p> <p>The TTA undertakes further sensitivity testing of the entrance junctions (in terms of ratio to flow capacity and queue length) establishing that these will operate with reserve capacity in the 2040 future design year.</p> <p>To address the identified impacts, measures have been incorporated into the project's design and/ or mitigation measures proposed including implementation of the MMP, provision of cycle parking at higher rates and car parking at reduced rates (as per the 2022 CDP), and support of planning authority corridor enhancements along Vevay Road (bicycle and bus priority measures) included in the project.</p> <p>The TTA concludes that the project will not result in a material deterioration of local road conditions, and there is no traffic and transport related impediment to the project.</p> <p>Accordingly, I do not consider this likely to contribute to congestion or to have a significant effect on the environment in terms of material assets/ transportation.</p>	
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</p>	<p>Yes</p>	<p>There are sensitive community facilities in proximity to the site, namely St. Andrew's National School, is located to the east of the site on the opposite side of Vevay Road.</p> <p>To the north of the site are residential dwellings, on the opposite side of Boghall Road are Roselawn Park and Scott Park, while to the east of the site, on the opposite side of Vevay Road is Briar Wood. Commercial</p>	<p>No</p>

		<p>premises are located adjacent to the south (hotel) and west (warehouses) of the site.</p> <p>Site development works will be implemented in accordance with the CEMP and RWMP which include mitigation measures to protect the amenity of adjacent properties and residents.</p> <p>The operational phase of the project causes an increase in residential and commercial activity at the site (traffic generation, use of open spaces, use of balconies, operation of the childcare facility) which are typical of such schemes in built-up suburban locations such as the receiving area. The project will be under the control of an established management company.</p> <p>The NVA and Daylight and Sunlight Assessment (DSA) have demonstrated that the residential amenity of proximate properties will not be unduly affected.</p> <p>The separation distances from the northern-most apartments in Blocks 1 and 2 on Boghall Road to the Scott Park residences are between c.41m-46m. The separation distances from the eastern-most apartments in Blocks 2 and 3 on Vevay Road to St. Andrew's National School and the Briar Wood residences are c.73m and c.54m respectively. At these distances, the project will not realistically result in undue overlooking, overshadowing or overbearance impacts on the adjacent properties. By way of comparison, these distances are well in excess of the 16m separation distance recommended by SPPR 1 of the Compact Settlement Guidelines between sides/ rears of residences.</p> <p>Accordingly, I do not consider this to likely result in a significant effect on the environment in terms of material assets/ human health.</p>	
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?	No	Existing and/ or approved development consents are noted in the vicinity of the site and the wider area of Bray Town. These include the planning history at the site (PA Ref. 22/823 (Phase 1)), the residential and commercial schemes considered in the TTA as outlined previously, and	No

		<p>PA Ref. 23/60266 (demolition works and construction of a new school building at Loreto Secondary School on Vevay Road as raised by the appellant.</p> <p>However, these developments are of a nature and scale that have been determined to not have likely significant effects on the environment.</p> <p>No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects with the project.</p> <p>No cumulative significant effects on the area are reasonably anticipated.</p>	
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No transboundary considerations effects arising.	No
3.3 Are there any other relevant considerations?	No	No	No
C.CONCLUSION			
No real likelihood of significant effects on the environment.	X	EIAR Not Required	
Real likelihood of significant effects on the environment.		EIAR Required	
D. MAIN REASONS AND CONSIDERATIONS			
<p>Regard has been had to:</p> <ul style="list-style-type: none"> a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended. b) The location of the site on lands that are subject to Zoning Objective 'MU: Mixed Use' and 'Specific Local Objective 4' in the Bray Municipal Local Area Plan 2018-2024, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC). c) The policies and objectives of the Wicklow County Development Plan 2022-2028, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC). d) The infill, brownfield nature of the site and its location within a built-up suburban area which is well served by public services and infrastructure. e) The planning history at the site and the existing pattern of development in the vicinity of the area. f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations. 			

- g) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction and Environmental Management Plan, Resource and Waste Management Plan, Operational Waste Management Plan, Ecological Impact Assessment, Landscape and Biodiversity Design Statement, Tree Survey Report, Site Specific Flood Risk Assessment, Noise and Vibration Assessment, Traffic and Transport Assessment, and Mobility Management Plan.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an environmental impact assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Inspector: _____

Date: __1st July 2024__