



An
Bord
Pleanála

Inspector's Report PL27.JA0036

Proposed Development

Town Centre, retail, office, restaurant, cinema, total area 23,423m² on 0.968ha at Eglinton Road, Florence Villas, Florence Road, Quinsborough Road, Main Street, Bray, County Wicklow.

Planning Authority

Wicklow County Council

Applicant(s)

Wicklow County Council

Type of Application

Section 175 Local Authority Development Requiring EIA.

Observer(s)

An Taisce.
Dept. AHRR and Gaeltacht Affairs.
Cara Hunter and Others.
Funfair Casino.
Paul Rochford.
Transport Infrastructure Ireland.
Thomas Allen.
Orla Byrne and Others.
Hillary Dully Comerford

Date of Site Inspection

18th Nov. and 6th Dec 2016

Inspector

Hugh Mannion

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1.0 Site and Surroundings

- 1.1. The site has a stated area of 0.968ha and comprises a brownfield site in Bray Town centre. The site is currently used as paid surface car parking. The east/west axis through the site is the longer, the north/south axis is the shorter and the site is very irregularly shaped. The site boundaries follow the rear boundaries of plots facing onto the adjoining streets. These streets are; Main Street to the west, Quinsborough Street to the north, Eglinton Road to the east and Florence Street to the south. The boundary treatment within the site varies but is largely older site rubble stone or blockwork walls. There is security fencing along the rear of buildings facing main street especially where only the facades of 5 and 6 Main Street remain. There is a security gate on the eastern end of the site where there is a closed off the access from the site to Eglinton Road alongside 6 Eglinton Road. The application states that the site was previously subject to excavation, at present the site is generally poorly metalled with areas of hardcore. There is some surface water ponding on site.
- 1.2. The surrounding streets generally comprise retail, commercial and community uses. Main Street runs to the west of the site and is fronted by buildings which back onto the site. This street is two way with a cycle track and is a bus route. On the west side of Main Street (unaffected by site works) there is a church at the junction with Florence Road, followed by a number of commercial units including a bank. On the east side of the street there is number 7 Main Street which was in commercial use but is now unoccupied, has lost most of its roof and is proposed for demolition. Beside this building is a pedestrian access which is proposed to be widened and incorporated as the main pedestrian entrance/new street into the proposed development and then the facades of numbers 4 and 5 Main Street of which all the rear portion have been demolished.
- 1.3. The commercial units on Quinsborough Road run along the northern site boundary. This road is a one-way single carriageway going east from Main Street. There are double yellow lines and widened footpaths and relatively recently planted trees. There is a mix of two and three storey buildings and between numbers 7 (the two storey Boomerang Lounge public house) and 8 (the three storey Oxfam charity shop)

is a laneway access to the rear of the buildings facing onto Quinsborough Road (shown as a right of way on site plan drawing 1219-00-110). Although this access is fenced off from the application site now it is proposed to be incorporated as a pedestrian access to the proposed development. There is a second vehicular and pedestrian access from Quinsborough Road into the site located between number 11 Quinsborough Road (a three storey building use as a “Funfair”) and a manse attached to St Andrew’s Presbyterian Church. This is proposed to be incorporated into the new development as a pedestrian only access. The Presbyterian Church turns the corner into Eglinton Road.

1.4. Eglinton Road is a two-way street and the rear of the buildings fronting onto it on the western side provide the eastern boundary of the site. There is a modernist public library on the eastern side of the street. Eglinton Road comprises three terraces of two storey over basement houses with flights of steps from the street to the front doors. In the first terrace (numbers 1-5) there is a solicitors’ practice in number 1 adjoining the Presbyterian Church, number 2 is occupied by MABS (money advice and budgeting service), numbers 3 and 4 are in residential use. Number 5 is a newspaper office. Between 5 and 6 is Stable Lane. The second terrace (numbers 6, 7 and 8 which are protected structures) is incorporated into the application site and it is proposed that the rear returns and an out building (a combined floor area of 144m²) of these buildings will be demolished. The third terrace (numbers 9, 10 and 11) on Eglinton Road are not included in the application site. Numbers 9 and 10 are in residential use (possibly multiple units) while number 11 (which turns the corner onto Florence Road) is in medical practice use at basement level and solicitor’s practice at upper floors.

1.5. Florence Road is one-way street heading west towards a junction with Main Street and completes the rectangle of streets around the site. On the corner of Florence Road and Eglinton Road is Bray Methodist Church. Thereafter on the southern side of Florence Road is a terrace of two storey redbrick houses. There is a dress shop, dentist, a vet and a ladies’ beauty salon interspersed with residential uses. Closer to the junction with Main Street is a new building in use as a retail outlet (“Dealz”). The

rears of the buildings on the northern side of Florence Road back onto the application site. There is a shared vehicular and pedestrian access/egress to the site from Florence Road. This access will continue as the main access to the lower ground floor public/customer parking. Numbers 3 and 4 Florence Villas are proposed for demolition. In the track of these houses and of the adjoining currently closed off lane is proposed to be the main service/delivery access to the proposed development.

2.0 Proposed Development

2.1. The proposed development comprises;

- 256 car parking spaces at lower ground floor level with 320 cycle spaces.
- Anchor store 1 (on upper ground and first floor 3,004m²).
- Anchor store 2 (on upper ground floor 1,137m²).
- 8 retail units at upper ground level and at first floor (total 3,449m²).
- 3 restaurant units at upper ground (one spanning first floor level (985m²).
- 3 business units at first floor level (545m²).
- Five screen cinema at upper ground, first and second floor levels (2,410m²).
- Change of use of 6-7 Eglinton Road (protected structures) from residential to office use, demolition of rear returns and outbuildings, (144m²) construction of a glazed link to the rear of the structures and refurbishment of previous office use at 8 Eglinton Road (total 870m²),
- New urban street accessed from Main Street into the new development creating a central plaza with pedestrian access from Quinsborough Road, incorporating an events space, seating, landscaping and kiosks.
- Demolition of numbers 3 and 4 Florence Villas, Florence Road (188m²) and creating a new vehicular access for services at this location,
- Demolition of 7 Main Street (194m²),
- Demolition of the façade of 5 Main Street,
- Demolition of a bottle shed (75m²) to the rear of 2 Quinsborough Road,

- Public access from Florence Road into car parking area,
- Pedestrian entrances from Main Street, Eglinton Road, Quinsborough Road and Florence Road,

Associated plant, site services, circulation areas, bin storage, lifts, ESB storage, ancillary storage, boundary treatments and all ancillary works.

3.0 History

PL 39.103718 (Ref. 90/97) Permission granted in February 1998 on appeal for a two-storey retail development with carparking. This development was not carried out.

PL39.109380 (Ref. 184/98) Permission granted in June 1999 on appeal for amendments to 90/97. This development was not carried out.

PL 39.127072 (Ref. 01/39) Permission granted in March 2003 on appeal for supermarket, 6 no. shop units (total 5,274sq.m), offices of 118sq.m and 57 no. apartments, 417 cars spaces generally on the current site.

PL 39.207860 (Ref. 04/65) Permission granted appeal in December 2004 for modifications to PL 39.127072 to include change of basement storage area to retail sales and change at ground floor level from supermarket and 6 no. shops to 2 no. department stores and 16 no. shops (total 6,609sq.m).

PL39.217556 (Ref 05/189) permission granted on appeal in April 2007 for a mixed-use town centre retail scheme including 110 residential units and crèche/community facility at The Florentine Centre, Main Street, Bray, Co. Wicklow. This development was not carried out.

4.0 Planning Authority's case for development

The planning authority's case for the proposed development may be summarised as follows;

- 4.1. The proposed development is more modest in scale than has been previously permitted on site.
- 4.2. The planning authority purchased this site from the receiver appointed to the previous owner with a view to developing the site in order to arrest the decline of the retail core of Bray town.
- 4.3. The two anchor retail uses will provide large floor plate retail premises which are not available in the town centre at present.
- 4.4. The multi-screen cinema and restaurant uses will improve the evening and night-time economy of the town centre.

5.0 Observations

- 5.1. Observations have been received from;
 1. An Taisce.
 2. Dept. of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.
 3. Cara Hunter and Others.
 4. Funfair Casino.
 5. Paul Rochford.
 6. Transport Infrastructure Ireland.
 7. Thomas Allen.
 8. Orla Byrne and Others.
 9. Hillary Dully Comerford.

6.0 Summary of Observations

6.1. The observers' observations may be summarised as follows;

- There are maternity bat roosts on site and it is not sufficient as stated in the EIS that these would be removed licenced bat handler. Detailed bat survey is required.
- A programme of pre-development archaeological testing should be carried out on site.
- Numbers 6, 7 and 8 Eglinton Road are protected structures in the Bray Town Development Plan. The proposed development will negatively impact on these protected structures.
- The proposed development is the equivalent of 8 storeys, too high and will overshadow the houses/rear gardens on Eglinton Road and Quinborough Road. Windows in the development will overlook the rear of houses on Eglinton Road.
- The Dept. of Environment, Heritage and Local Government were seriously concerned by the potential impact of the proposed development on the surrounding development, in particular the protected structures.
- The proposed development does not reflect the design standards set out in the Retail Planning Guidelines.
- The construction phase of the proposed development will impact on houses on Eglinton Road. A proposed pedestrian access is over Stable Lane will interfere with a right of way to the rear of property on Eglinton Road.
- The road network in the area is inadequate to accommodate the proposed development. Goods deliveries will negatively impact on residential amenity. The additional traffic arising from the proposed development will negatively impact on the residential amenity of the area.
- The proposed car parking provision (256 spaces) is inadequate. Development of a multi-storey car park should be considered for the site.
- The portico height should be reduced to reduce the impacts on 11 Quinsborough Road.

7.0 Local Authority Response

7.1. The local authority responded to the observations as follows;

- A bay survey has been carried out and submitted to the Board.
- The planning authority will carry out archaeological protection measures when carrying out the proposed development.
- Elements of some protected structures will be demolished, these are in poor repair and detailed justification for this work is set out in the EIS.
- Permission was previously granted on this site under PL39.217556 but the local authority regards the current proposal as representing a more sustainable form of development.
- The current proposed development will be visible from the rear of houses facing onto Eglinton Road but it will not overlook these properties.
- The impacts on the townscape have been considered in the submitted EIS and represent an improvement on the current situation and that permitted under PL39.217556.
- The proposed development does not impact on the right of way to the rear of 1-5 Eglinton Road.
- The daylight/sunlight assessment was carried out as part of the application. The sunlight to the majority of the windows on the rear of Eglinton Road will remain unaffected by the proposed development. Some lower level windows will be impacted upon (see section 4.9 of the EIS). The daylight/sunlight assessment was carried out as part of the application.
- The proposed uses are permitted in principle in the Town Plan and building heights comply with section 12.2.4 of the Bray Town Plan 2011-2017. Residential development was not proposed because of the local authority's policy to reinforce town centre uses on the site and the wider area.

- The design including a new curved shopping street complies with advice set out in the Retail Planning Guidelines. Service areas are enclosed within the built structure.
- The non-technical summary accords with the EPA's Guidelines on the Information to be Contained in Environmental Impact Statements.
- The EIS included a detailed traffic analysis including a road safety audit. The number of car parking spaces is adequate and in accordance with the Development Plan standards. The cinema will bring vitality to the town centre.
- The demolition of 3 and 4 Florence Villas and creation of a new access to the service area is advertised in the public notices for the proposed development.
- The EIS (4.4) includes a noise assessment. The plant associated with the development will operate within noise limits set out in the EIS.
- The application includes a retail impact statement (RIS) which demonstrates that the proposed development complies with the Development Plan and the retail strategy for the greater Dublin area (RSGDA).
- About ½ of the waste generated on site will be recycled or reused and about ½ will be disposed of.
- The Board is invited to amend the proposed development in order to minimise impact on 11 Quinsborough Road. The local authority has submitted a new drawing to the Board (1912-00-100Rev A) recognising the right of way to the rear of 10 Eglinton Road.

8.0 Further Submissions

- 8.1. The National Transport Authority, Transport Infrastructure Ireland and Dun Laoghaire Rathdown County Council commented that they had no specific issues to raise.
- 8.2. Further submissions were received (see Cunnane Stratton Reynolds 22nd November 2016, Paul Rochford and Others 22nd November 2016, Thomas Allen 18th November 2016, NTA 18th November 2016, Hillary Dully Comerford 16th November 2016 and e-

mail dated 28th November 2016, Dept. of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.

- 8.3. The issues raised in these submissions may be summarised as inadequacy of the EIS, loss of part of Stable Lane, adverse impact on protected structures, reduction of daylight/sunlight to adjoining property, inadequacy of the bat survey, likelihood of noise from plant at roof level, inadequacy of the submitted retail impact statement.
- 8.4. In the case that the Board grants permission appropriate conditions should be imposed. Traffic is already heavy in the area and the introduction of two-way traffic flows on Florence Road will have a significant effect. There is insufficient car parking in the immediate area to serve the proposed development and there are suitable sites for multi-storey parking developments not being used by the planning authority.
- 8.5. There will be particularly adverse impact on 4 Eglinton Road. The present view over the car park is preferable to the view of the mass of the proposed development. The proposed building height is inappropriate and does not have regard to the Retail Design Manual.

9.0 Prescribed Bodies

- 9.1. There are submissions from An Taisce and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. The points raised are summarised above at paragraph 6.

10.0 Planning Policy Framework

- 10.1. Bray Town Development Plan 2011-2017 is the development plan for the site. The site is zoned TC: Primarily Town Centre Uses: To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' (LOTS) residential accommodation.

10.2. The retail strategy (section 4.4.1) set out in the Plan states that;

It is the policy of the Council to promote and encourage the major enhancement and expansion of retail floorspace and town centre activities in Bray Town Centre, in order to sustain its competitiveness as a Major Town Centre in the GDA. In achieving this, the Council will have regard to the 'Retail Planning Strategy for the Greater Dublin Area', the 'Wicklow County Retail Strategy' and the 'Retail Planning Guidelines for Planning Authorities'.

10.3. Section 4.4.2 Bray Town Centre states that;

It is the policy of the Council to promote the town centre as the primary retailing and commercial sector location in the town. Retailing will be promoted as the core function of the town centre.

10.4. **Wicklow County Development Plan 2016 to 2022** (becomes operational on the 12th December 2016) in table 6.2 places Bray at the top of the County's retail hierarchy.

10.5. The **Regional Planning Guidelines for the Greater Dublin Area 2010 to 2022** sets out a Retail Hierarchy which places Dublin City Centre as a Level 1 metropolitan Centre followed by major town centres and county town centres. Bray is the only major town centre in level 2 in County Wicklow.

10.6. The **Retail Planning Guidelines for Planning Authorities** (DOECLG 2012) includes a Retail Design Manual.

11.0 **Assessment**

This assessment will address planning policy context, retail planning context, impact on bats, archaeology, impacts on protected structures, Stable Lane, Eglinton Road/Quinsborough Road, urban design, noise, shadow impacts, parking provision

and traffic impacts, environmental impact assessment (EIA), appropriate assessment AA.

12.0 Planning Assessment

12.1. Planning Policy Context

12.1.1. The site is zoned for “Primarily Town Centre Uses” in the Bray Town Development Plan 2011 to 2017 with the objective to provide for the development and improvements of appropriate town centre uses including retail, commercial, office and civic uses and to provide living over the shop residential accommodation.

12.1.2. Having regard to the mix of uses proposed (retail, cinema, café/restaurant and associated parking) that the proposed development accords with the zoning objective for the site.

12.2. Retail Planning Policy

12.2.1. The Wicklow County Development Plan 2016 to 2022 reflects the Retail Strategy for the Greater Dublin Area 2008 to 2018. Dublin City Centre is the level 1 metropolitan centre. Then there is a series of level two centres which includes Bray. The County Wicklow Retail Hierarchy (table 6.2) in the County Development Plan sets out a County-wide retail hierarchy with Bray town centre at the top followed by Greystones. At fourth level are neighbourhood centres (for example Avoca, Carnew and Roundwood). Smaller villages comprise a fifth tier.

12.2.2. The application includes a retail impact statement (RIS) which makes the point that the site is within the Bray Core Retail Area and has a history of permitted town centre/mixed use permissions including extensive parking. The RIS makes the point that the Retail Strategy in the previous and new County Development Plan envisages about 7000m² of convenience floor space for Bray up to 2031 and 35,000m² additional comparison floor space in the same period. The gross retail

floor area proposed in this application is 7,590m², of which 1,137m² is convenience and 6,453m² is comparison. Given the town centre location of the proposal, transport links and site in the largest urban area in the County I consider that this convenience/comparison floor area split is reasonable and will allow further retail development at other sites to take place without that other potential development being crowded out by the present application.

- 12.2.3. The Retail Planning Guidelines make the point (see paragraph 4.4) that where a proposed development complies with the policies and objectives of a development plan and/or a retail strategy that further supporting retail impact studies are not required.
- 12.2.4. Nonetheless the application is accompanied by an RIS which provides a catchment (see figure 5.1), population and expenditure estimates, turnover estimates, turnover ratios, gross additional expenditure potential, future sources of retail sales and capacity potential. Table 6.4 in the RIS sets out the details of existing retail permissions in the area, their locations, floor space and expected turnovers. Two capacity assessments are examined in the RIS one includes the expected impacts of the permitted development on the Bray Golf club lands and the other without these lands being developed. Table 6.1 estimates the total catchment expenditure up to 2022 and table 6.5 estimates that there is net spare expenditure capacity and concludes that there will be net spare expenditure capacity of between €52m and €82m for convenience goods and between €64m and €85m for comparison goods in the period 2016-2022. The retail impacts are described as supporting the policy objective set out in the retail planning guidelines, the County Development and the Bray town development plan, increasing competition in the catchment and attracting additional customers to the area, contribute to meeting the convenience and comparison shopping provision set out in the County Retail Strategy, not cause a negative impact on other centres, not cause an increase in the number of vacant properties, benefit from good public transport links and link into the existing town centre.

12.2.5. Of its nature retail impact assessment is predicated on economic development and population changes. It is therefore predictive and uncertain. Nonetheless I agree with the application that the proposed is broadly within the parameters for convenience and comparison retail floor space provision set out in the planning authority's Retail Strategy. Having regard to the retail strategy, the town centre location of the site and the landuse zoning of the site I conclude that the proposed development is acceptable in retail impact terms.

12.3. Flora and Fauna - Bats

- 12.3.1. The Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (DAHRRGA) make the point that the EIS is deficient in that it does not deal comprehensively with the potential impacts on bats on site. A full bat survey should be carried out before a planning decision is made. The EIS (see 4.2.3.2) makes the point that there are slate roofs to the rear of Florence Villas, a slate roof at 7 Main Street and a small building known as a bottle store which have the potential to provide for roosting bats.
- 12.3.2. The applicant submitted a Bat Survey Report to the Board on 11th October 2016 which the Board circulated to all the objectors for comment. This report noted the constraints in its assessment such as inability to access unsafe buildings on the application site, that September is out of the breeding season and that weather conditions were less than ideal. Notwithstanding these factors three species of bats were noted to commute within or around the site; soprano pipistrelle, common pipistrelle and Lister's bat. Within 1 km of the site the soprano pipistrelles, common pipistrelles, Lister's bat and Daubenton's bat have been observed.
- 12.3.3. The potential impacts are described as loss of potential roost sites, disturbance from lighting and loss of feeding areas. The mitigation measures proposed comprise further study prior to site works commencing to determine if bats are likely to be disturbed, approval from the NPWS should bat roosts be required to be disturbed, the incorporation of two bat boxes into the proposed buildings, restricting light spill

from lights mounted on the buildings and ensuring that the lights are designed not to be triggered by passing birds or bats. Planting within the developed site should be of types which encourage invertebrates which would be a food source for the bats. The report concludes that there will be no substantial effects on the species of bat identified on site or in the immediate area but that there may be a short term impact on foraging potential within the site.

- 12.3.4. The objectors to the proposal commented that the bat survey established that there is significant bat activity at the Eglinton Road end of the site. The DAHRRGA comments that the bat survey should have been undertaken before the application was made, that it was undertaken at a sub-optimal time of year, is inconclusive and that the development works should cease if bats are found to be present on site.
- 12.3.5. I note the findings of the EIS as augmented by the bat survey and the comments received in relation to it. There is agreement between the objectors and the findings of the bat survey that there is bat activity on site. Having carried out a site inspection which included walking to the side and rear of the houses at 6, 7, and 8 Eglinton Road and observing the rear gardens from inside numbers 6 and 8 I conclude that there is a single immature ash tree and what may be buddleia but no vegetation which would significantly contribute to bat roosting or foraging habitats. I note the recommendation made by an observer that the proposed development should be moved west and away from the houses fronting onto Eglinton Road. Having regard to all the evidence it appears that the site is of insufficient roosting and feeding value to bats to require an alteration to the development which may impact on the service/loading area accessible from Florence Road and, perhaps, on the utility of the buildings on Eglinton Road to use as office space.
- 12.3.6. The submitted bat survey and the DAHRRGA's recommendation that if bat roosts are discovered that remedial measures can be undertaken with the assistance of the DAHRRGA is reasonable and I have included **condition 4** providing for this in the attached draft order.

12.4. Archaeology

- 12.4.1. The western half of the site (figure 22), lies within a zone of archaeological interest for Bray. The site was subject to archaeological testing in 2004 but no archaeological remains were revealed. The EIS proposes mitigation measures to be undertaken which comprise archaeological testing to the rear of 6-8 Eglinton Road and 3, 4 and 4A Florence Road.
- 12.4.2. The DAHRRGA commented that a condition relating to the archaeological monitoring of site development works should be included in any grant of planning approval.
- 12.4.3. Having regard to the material submitted with the application including the EIS and the comments from the DAHRRGA I am satisfied that the monitoring of the site works during development works so as to alert the local authority to the presence, if any, of archaeological remains will allow for appropriate conservation in situ or by record of any such remains. I have included a **condition number 2** providing for this below.

12.5. Impacts on Protected Structures.

- 12.5.1. An observer makes the points that the local authority has carried out unauthorised development by demolishing the rear garden walls of 6, 7 and 8 Eglinton Road and laying hard-core of parts of the eastern end of the site which were once included within the curtilages of these protected structures. Furthermore, the EIS is invalid for including retention elements in an application which requires an EIA.
- 12.5.2. I have carried out an internal inspection of 6 and 8 Eglinton Road and an external inspection of 6, 7 and 8 Eglinton Road.
- 12.5.3. It appears to me that some alteration of the rear boundaries of these protected structures has taken place where they back onto the parking area. The observer

states that these alterations have taken place recently. The site survey drawing 1219-01-100 indicates that there was a plywood fence on a different line than the existing capped boundary wall and this is supported by the inspector's photographs on file PL39.217556.

12.5.4. It is not possible in the context of this application to be definitive as to what works, if any, to the rear gardens of the protected structures were carried out. Where a question of the carrying out of works or development which may require planning permission arises that is a matter for the planning authority, in the first instance, to consider. The Board is constrained to determine application before it which includes an EIS. I consider that the EIS adequately describes the likely significant environmental impacts attributable to the proposed development.

12.5.5. The application comprises an assessment of the impacts on these protected structures (see 4.7.2 in the EIS and a visual record in chapter 4 in volume 2). These three houses date from the 1850 and 1870's. The EIS concludes that the works will have a significant negative impact on 6 to 8 Eglinton Road. The observer makes the case that demolition of protected structures may only be granted in 'exceptional circumstances' in accordance with s57(10(b)).

12.5.6. Notwithstanding that these three buildings are protected structures I consider that their value subsists more in their contribution to the overall architectural composition of Eglinton Street and the wider area than any special value in the buildings as specific buildings. Number 7 is in very poor repair, number 6 is open to the elements at roof level while number 8 is in fairly good repair. I consider that the EIS is accurate in that it recognises that the proposed development will impact on the overall townscape setting of the buildings. Drawing 1219-04-04 illustrates the elevation of the new building relative to the previously permitted development and the existing houses on this side of Eglinton Road. In my view some visual impact is inevitable when new buildings are constructed and in this case that impact will be significant, reasonable and acceptable.

- 12.5.7. There are returns to all three buildings which are proposed for demolition. Number 6 has a part two storey, part single storey return. Number 7 has only a single storey return and number 8 has a part two-story and part single story return with a free standing single storey shed. There is no rear vehicular or pedestrian access to these returns/gardens although there may have been such in the past. I am satisfied that at least some of these rear elements are not original to the 19th century structures.
- 12.5.8. The Architectural Heritage Protection Guidelines for Planning Authorities (DOEHLG 2011) make the point that planning authorities where they propose to carry out works to protected structures must give public notice of these works and make available information on the impact on the protected structures of the proposed works. It may be noted that the public notice of this application included reference to works to protected structures at 6, 7 and 8 Eglinton Road and the application and submissions by the planning authority to the Board as part of this application set out details of the impacts on the protected structures.
- 12.5.9. The observer makes the case that demolition of a protected structure is acceptable only in exceptional circumstances. Section 57(10)(b) of the Act provides for this eventuality. I would make the point in relation to this that the proposed development includes the demolition of the rear extensions of numbers 6 to 8 Eglinton Road. The Architectural Heritage Protection Guidelines make the case that an application for partial demolition of a protected structure must demonstrate that (a) the elements to be demolished do not contribute to the special interest of the whole (b) that the partial demolition is essential to the proposed development and (c) will allow for the proper conservation of the whole structure. Having regard to the material submitted with the application and my internal and external inspection and assessment of these buildings I conclude that their special interest as protected structures lies in their contribution to the streetscape of Eglinton Road and that the demolition of the rear extensions will not detract from their streetscape value. I also agree with the application that the demolition of these elements is necessary to the carrying out of the proposed development as a whole and in particular is necessary for the provision of the service yard/loading area to be accessed over the new entrance from Florence Road. Finally, I conclude, as recommended by the Architectural Heritage

Protection Guidelines (see paragraph 6.8.8) that the proposed change of use to 6 and 7 Eglinton Road will prolong the life of these buildings by introducing an economically viable long-term office use. Number 8 Eglinton Road is already in office use. Furthermore, and especially having regard to the poor state of repair of these buildings and the development plan zoning for the site and objective to create a new town centre development, I consider that exceptional circumstances exist as required by s57 to allow for demolition of these restricted elements of the protected structures.

12.6. Stable Lane/Rear of Eglinton Road and 11 Quinsborough Road.

- 12.6.1. An observer states that the proposed development will negatively impact on access over Stable Lane to the rear of 1 to 5 Eglinton Road.

- 12.6.2. Stable Lane runs between 5 and 6 Eglinton Road and is currently gated at its western end along the application site boundary; it is open at the Eglinton Road end. The lane is partially metalled and there are two ESB substations opening onto it; one within the curtilage 6 Eglinton Road and one within the rear garden of 5 Stable Lane. The boundary wall of 5 Stable Lane (in use as a newspaper office) is not continuous along the lane and consequently the rear garden is partially open to the public. A sharp right turn at the end of Stable Lane on the corner of the rear garden of 5 Stable Lane leads to a narrow footpath between the rear boundaries of 1-5 Eglinton Road and the blockwork boundary of the application site. An observer states that Stable Lane is a right of way and that the proposed development will interfere with its use as such.

- 12.6.3. The applicant marked this lane and footpath in yellow on the revised drawing number 1219-00-100 Rev A submitted to the Board on the 11th October 2016. This submission was circulated for comment and observer's comments were received. On the basis of the revised submission by the applicant and having regard to the observer's comments and my site inspection I am satisfied that the proposed development, which provides for a pedestrian access over Stable Lane and does not

interfere with the footpath passing from it behind the 1-5 Eglinton Road, will not unreasonably impact on the utility of the lane as a right of way in a manner that would require refusal of planning approval in this instance.

12.6.4. An observer makes the case that the proposed development may impact on the access to the rear of 9, 10 and 11 Eglinton Road.

12.6.5. An observer makes the case that there is an unacknowledged right-of-way to the rear of the terrace at 9, 10 and 11 Eglinton Road. I refer to Drawing number 12190-00-10 which is the clearest drawing showing the site layout on the corner of Eglinton Road and Florence Road. 11 Eglinton Road turns the corner into Florence Road. There is the original house in use as a solicitors practice on the upper floors and a medical practice in the basement. Then there is a two storey building in use as a gym fronting onto Florence Road in what was originally the rear garden of 11 Eglinton Road. Beside this gym and on the boundary of the application site is a pedestrian gate accessing the remainder of the rear garden of 11 Eglinton Road. Beside this is an access with low locked iron gates. The applicant has submitted a revised drawing number 12190-00-10 Rev A which marks this right-of-way in yellow.

12.6.6. The application proposes a ramped vehicular service/delivery access off Florence Road but leaves a separate access behind the terrace of 9, 10 and 11 Eglinton Road. Having regard to the application and the revisions submitted to the Board on the 11th October 2016 I conclude that that the proposed development will not unreasonably impact on the existing access to the rear of 9, 10 and 11 Eglinton Road.

12.6.7. An observer makes the case that a proposed feature at the pedestrian entrance from Quinsborough Road may impact on the windows on the elevation of 11 Quinsborough Road. This feature is illustrated on drawing number 1219-05-27 Rev PA in the booklet of drawings submitted with the application. The applicant has

commented that a compliance condition to revise this treatment would be acceptable.

12.6.8. Drawing number 1219-05-27 Rev PA is not entirely clear as to what is envisaged at this point where the newly pedestrianised access to the site from Quinsborough Road is proposed. I consider that this issue may be managed by a condition requiring the publication of revised drawings as agreed by the applicant. I have included a **condition number 5** dealing with this matter below.

12.7. Urban Design

12.7.1. The site is within an urban context and the proposed development comprises 23,423m² of development in three storeys over basement car parking. There is a variety of heights in the surrounding streetscape, largely two and three storeys but the churches/chapels at the site's three corners add mass and height to the urban pattern in the area. There is a fine urban grain in the town centre close to the site which is typical of Irish town centres and there is dense network of streets in the area.

12.7.2. The observers make the point that the proposed development is out of scale with the area, will tower over adjoining structures, that the photomontage is inaccurate and that the proposal will adversely impact on the form and historic pattern of development in the area.

12.7.3. The Bray Town Development Plan (12.2.4.2) makes the point that the town centre is a particularly appropriate location for high buildings; that a maximum height of 4 storeys over ground level is appropriate irrespective of adjoining property heights, buildings should not detract from places or structures of architectural or historic importance and that the overall design should be of particularly high quality.

- 12.7.4. The Retail Design Manual which accompanied the Retail Planning Guidelines (2012) sets out a number of key principles of urban design. The more important of these in the present context are; appropriate location, context and character, vitality and viability, access and connectivity, high design quality, mixed use, public realm and height.
- 12.7.5. In relation to appropriate location it may be noted that the site is located within the centre, zoned for town centre uses and has a history of permitted mixed uses. I conclude therefore that the proposed development is appropriately located.
- 12.7.6. The context of the site is town centre and the character of the uses in the adjoining streets is mixed with a preponderance of retail/commercial uses. Main Street, Quinsborough Road, and Eglinton Road are dominated by commercial, retail and community uses. The Florence Road retains a significant element of residential uses. Nonetheless I conclude that the character of the proposed development will accord with the context of the site and the character of the neighbouring uses.
- 12.7.7. The Retail Planning Guidelines and the accompanying design manual make the point that encouraging new retail development and sustaining new retail development depends to a significant extent on the encouragement of footfall and customers in appropriately located retail centres. Bray town centre is a vibrant place well served by public transport and within walking distances of significant residential development. However, the existing site particularly where it presents site frontages to the surrounding streets is visually poor with some dereliction, particularly on Main Street and poorer building maintenance, particularly on Eglinton Street. The physical changes proposed by the development will remove these poorer elements and new build, new uses and a consequential greater footfall will improve the vitality and viability of the area.
- 12.7.8. There is some permeability through the site at present but through a poorly surfaced and visually unappealing surface car park. The proposed development includes

street level pedestrian access from Main Street along an east/west main landscaped new street leading to a circular events space. There is direct pedestrian access proposed from Florence Road to this new street/events space and to the north directly from Quinsborough Road. There is a further pedestrian access from Quinsborough Road to one of the anchor stores along the side of the manse associated with the Presbyterian church on the corner of Quinsborough Road and Eglinton Road. There is a further (stairway) access from Florence Road beside the main public car park entrance/service entrance.

12.7.9. In my view these public access points and new internal routes will open up the site to walkers and the less able bodied which who not traverse a poorly surfaced car park as well as encouraging potential shoppers to explore the area off the surrounding streets. I conclude the proposed development is acceptable in terms of access and connectivity.

12.7.10. In terms of design it is the case that there will be a new element of mass in views from the surrounding streetscapes. This is inevitable if the site is to be developed in accordance with the Town Development Plan zoning and to improve the landuse quality of a significant town centre site. Nonetheless appropriate efforts have been made to reflect the palette of materials found in the adjoining area in the new proposed development. Brickwork, stone cladding, glass, some wood cladding, zinc and granite are all reflective of the area and, in my view, the new elements will read as part of the streetscape.

12.7.11. The proposed development differs from the previously permitted development in that there is no residential element proposed. The proposed uses include larger anchor retail uses, restaurants/cafes, cinema and smaller retail uses. This accords with the zoning objective for the site. In my view the proposed mix of uses reasonably reflects the objectives set out in the Retail Design Manual and the Development Plan.

12.7.12. In terms of height the Town Development Plan's policy is that development should not exceed 4 storeys over ground level. The subject application proposes three floors over a lower ground floor parking/service floor. It is significant that the present proposed development is lower than that previously permitted under PL39.217556 (see elevation drawings 1219-04-01, 1219-04-02, 1219-04-03, 1219-04-04).

12.7.13. In terms of height and urban design I conclude that the proposed development is acceptable.

12.8. Noise

12.8.1. The observers make the point that the EIS is deficient in relation to the noise assessment because there is no night time assessment provided for the access along the side of the manse on Quinsborough Road (location number 3 in figure 16 in the EIS). The applicant makes the point that this is not a night time noise sensitive location.

12.8.2. The access is a one-way vehicular access at present, the adjoining manse is in use as a dentist's practice. The adjoining three storey building to the west along Quinsborough Road is in use as a 'funfair' at ground floor and appears to be in office/storage use at first and second floor. The proposed development will provide only pedestrian use through this lane.

12.8.3. Having regard to these factors I conclude that the proposed development will not unreasonably impact on the amenity of property close to this proposed pedestrian access to Quinsborough Road.

- 12.8.4. The observers make the case that the access to the underground car parking and service/delivery area has the capacity to give rise to unreasonable noise impact on the houses along Eglinton Road.
- 12.8.5. Commercial use is proposed for the protected structures at 6 and 7 Eglinton Road and consequently, these buildings are not particularly sensitive noise receptors. Numbers 9, 10, 11 Eglinton Road either are or have the potential for residential use. The applicant commented (see paragraph ix in the applicant's response received by the Board on 11th October 2016) that the service yard will be enclosed by a solid wall (see the area marked M on the eastern elevation drawing number 1219-04-04). I note the observers' comment that the gradient of the service area is steep at 1:10 but since this is a private commercial access I consider that this will not unreasonably impact on adjoining uses.
- 12.8.6. In relation to noise from air handling related plant and machinery impacting on property on Eglinton Road I recommend a condition that all such plant and machinery be enclosed within the roof is appropriate. I recommend **condition number 14** set out below.

12.9. **Shadow Impacts**

- 12.10. An observer makes the case that the shadow analysis is inadequate and that nearby buildings will be negatively impacted upon.
- 12.11. Table 44 in section 4.9 of the EIS may be read in conjunction with the shadow study diagrams submitted in volume 2 attached to the EIS especially for midday on 21st June. Shadow cast by a building will largely be a function of the orientation of one building relative to another, the separation distance and the height of the building casting the shadow. The EIS accepts that there will be some loss of sunlight particularly to the ground floors of buildings on Quinsborough Road but that these

buildings are largely in commercial use and where residential use occurs it is on upper floors where shadow impact will be absent or minimal.

- 12.12. A separate shadow analysis has been submitted on behalf of an observer (see “Integrated Environmental Solution’s” analysis submitted by Cunnane Stratton Reynolds to the Board on the 26th August 2016). This analysis demonstrates largely the same effect as claimed by the applicants on the rear of buildings on Quinsborough Road for 21st June.
- 12.13. The shadow analysis submitted by the applicant addresses, *inter alia*, mid-summer afternoon shadow impacts at 3pm as does the observer’s analysis. These two separate analyses agree that there is shadow on the rear gardens on 1 to 5 Eglinton Road. I consider this to be a reasonable conclusion for the summer mid-afternoon when the sun is almost due west of the application site. However only numbers 3 and 4 Eglinton Road are in residential use and this is an analysis of direct sunlight as distinct from diffuse daylight.
- 12.14. In relation to sunlight and daylight, the advice on standards and methodology for assessing sunlight and daylight impacts is usually adopted from the publication ‘Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice (Paul Littlefair BRE Press 2nd Edition). This guide (see section 3.3) states in relation to sunlight to gardens that these amenity areas should receive at least 2 hours of sunlight in the 21st March. The EIS (see especially section 4.9.3 and following) and the shadow impact analysis submitted with the application (see the shadow study in volume 2 for the 21st March) makes the case that the rear gardens of Eglinton Road will receive at least 2 hours of sunlight on that date. This access to sunlight meets the advice set out in the BRE publication. Having regard to the orientation of the Eglinton Road rear gardens to the proposed development, the separation distance between the proposed development and the rear gardens of Eglinton Road and height of the proposed development I conclude that the impact on sunlight and daylight are not sufficiently significant to require the amendment of the proposed development.

12.15. A further point made by the applicant is that there is an extant planning permission under PL39.217556 for a higher mixed use development on this site (this is notwithstanding a separate point made by an observer that the lifetime of that application may not have been properly extended by the planning authority). In relation to this point northern elevation drawing 1219-04-02 shows the previously permitted roof scape to be somewhat higher than that currently proposed.

12.16. Parking Provision.

12.16.1. The existing car park has 225 spaces; the proposed development will have 256 spaces. The observers make the point that parking provision is inadequate.

12.16.2. The Town Development Plan (see paragraph 7.4.5 Town Centre Car Parks) makes the point that it may be appropriate to develop a multi storey car park on Florence Road. This issue is raised by an observer in the context of the alternative forms of development considered in the EIS.

12.16.3. There appears to be no parking provision requirements in the Town Development Plan but Table 7.1 in County Development Plan (the new development plan 2016-2022 commences on 12th December 2016) requires 4 spaces per 100m². The applicant makes the case that applying car parking standards in the then current plan (County Development Plan 2010 to 2016) that 504 spaces would be required.

12.16.4. The guidance provided in 'Smarter Travel – A sustainable transport future 2009-2020' is relevant here. The key goals of Smarter Travel is to reduce the overall travel demand and commuting by cars, to minimise negative impacts of transport in the local and wider environments, maximise the efficient public transport and alleviate congestion and improve quality of life access to transport for all.

12.16.5. It may be noted that the proposed parking provision at 256 car parking spaces, eleven more than are currently on site. Having regard to the town centre

location, rail links, bus network in the area and footpath and cycle availability I consider that the proposed development will be accessible to a significant population hinterland in a manner that will not encourage a substantially greater number of cars entering the town centre. I conclude therefore that the parking provision is adequate.

12.17. Traffic

- 12.17.1. Numbers 3, 4 and 4A Florence Road will be demolished and a new service/supplies delivery entrance created. The observers make the point that access to the proposed service area off Florence Road is unsafe and will give rise to conflict with pedestrians and that in other retail settings a gradient of 1:10 leads to wheel spin.
- 12.17.2. Transport Infrastructure Ireland commented that it had no objection to the proposed development.
- 12.17.3. Service/delivery vehicles are characteristic of urban areas. In the present case the adjoining street network has a 50kph speed limit but because of the restricted street widths, multiplicity of signal controlled junctions, multiplicity of entrances to backlands and general traffic in practice vehicular speeds are lower. There are adequate sightlines on Florence Road at the proposed new service entrance and the configuration of the service area and the proposed new entrance allows for drive in/drive out. The users of this entrance/exit will be professional lorry/delivery drivers not the general public. The gradient of the access ramp is steep but this is to a private commercial yard (The applicant deals with this issue at section viii of the submission received by the Board on the 11th October 2016). Having regard to these factors I conclude that the service access will not give rise to traffic hazard.

12.17.4. The traffic and transport assessment (Chapter 4 of the EIS) includes an analysis of all the major junctions in the vicinity of the site. These are set out in table 66 in the EIS and illustrated in figure 35 (see page 196). These are Main Street/Seapoint Road to the north of the site, Main Street/Herbert Road/Quinsborough Road, Main Street/Florence Road, new customer vehicular access on Florence Road, Florence Road/Eglinton Road and Quinsborough Road access. The traffic modelling data is set out in chapter 9 in volume 2.

12.17.5. There are two significant changes arising from the proposed development. First is the alteration of the Quinsborough Road access from a joint vehicular/pedestrian entrance to pedestrian only. Second is the reintroduction of two-way traffic on Florence Road for a distance of about 95m from the junction with Eglinton Road, past the service/delivery entrance to the new customer car parking entrance. The first is incorporated in this application the second will be effected by the County Council in its capacity as Roads Authority.

12.17.6. The EIS concludes that by managing parking demand through discouraging long stay parking, the availability of pedestrian/cycle access to the proposed development, the availability of public transport, a mobility management plan to encourage customers and staff to avail of public transport, the management of service/delivery vehicles, and signed information to car park users that the proposed development can be carried out and operated without significant impact on the traffic and transport systems in the area.

12.17.7. Having regard to the traffic management measures set out in the application, the town centre location and the existing and proposed traffic patterns in the area I conclude that the proposed development will not negatively impact in the traffic loadings on the local road system or endanger pedestrian or vehicular traffic safety.

12.18. Environmental Impact Assessment

12.19. Environmental Impact Statement.

12.19.1. The application is accompanied by an EIS that includes a non-technical summary. The EIS describes the likely significant effects on the receiving environment under the following headings.

Description.

Alternatives.

Planning Policy Context.

Human Beings.

Fauna and flora.

Soil, geology and hydrogeology

Noise and vibration.

Air Quality and Climate.

Hydrology.

Cultural Heritage,

Visual impacts, Sunlight, daylight and overshadowing,

Material assets.

Traffic,

Inter-relationship.

Cumulative and Interaction of Effects.

12.20. Description and Alternatives.

12.20.1. The description of the development set out in the EIS is accurate and accords with the details provided for in the application. The alternatives identified are; provide

for predominantly residential development, continue the use of the site as a car park or implement the permission granted under PL39.217556.

12.20.2. Both solely residential and retail were considered but both rejected as they did not fulfil the 'town centre' zoning for the site set out in the Development Plan. A mix of uses including retail, office and cinema were considered the most viable choice for the site.

12.20.3. Continued use as a car park would be a poor use of scarce development land and create demand for out of town retail development. The previously permitted development under PL39.217556 is considered to be an excessively large scale development in the current economic climate. The proposed development is an improvement on the previously permitted proposal as it includes a cinema which is an appropriate use in a town centre.

12.20.4. I consider that while the alternatives set out in the EIS are not exhaustive they are an adequate summary of the likely forms of development on site. I agree with the EIS in its conclusion that a mix of retail, office and cinema will more accurately reflect the town centre zoning of the site over the previously permitted uses granted under PL39.217556. Likewise retention of the site largely as surface car parking or turning the site over to exclusively residential uses would not be preferable landuses to the proposed development or better reflect the zoning provisions set out in the Town Development Plan.

12.21. Planning Policy Context.

12.21.1. Chapter 3 of the EIS summarises the planning policy background to the application. I consider that to be an accurate summary.

12.22. Human Beings.

- 12.22.1. The EIS (4.1.3) identifies a catchment of the proposed development as being within a 20 minutes' drive time isochrone of the site and considers the retail and wider economic impacts arising from the proposed development within this area. The potential impacts are identified as construction phase impacts and operational phase impacts. The construction phase impacts are summarised as the creation of approximately 85 full time construction jobs over a construction period of 23 months. The operational phase is predicted to support about 448 jobs.

12.23. Fauna and flora.

- 12.23.1. The EIS (4.2) describes the site as comprising built land, buildings and other artificial surfaces and disturbed ground summarised as being largely tarmac and gravel surfaces associated with the car park use. There are no ecologically significant plant species on site. In relation to the fauna on site mice, rats and foxes live on/use the site. Common bird species use/nest on the site but the site is not important for over-wintering. The site is generally of low ecological interest and the proposed development will not impact on any European site or NHA.
- 12.23.2. The impact on flora is identified as removal of on-site plant species none of which are scarce or rare and this impact will be non-significant. The impact on fauna is identified as loss of roosting sites for bats but these mammals will be removed by a licenced bat handler. Impacts on nesting birds will be mitigated by ensuring nests are not disturbed during the nesting period.

12.24. Soil, geology and hydrogeology

- 12.24.1. The majority of the site was excavated to a depth of 3 to 3.5m in 2004 and then backfilled. The underlying soil has been tested and is not contaminated. The site is over a poor aquifer which is unproductive except for local zones. Previous

excavations associated with the previous permission indicated that there is bedrock close to the surface in the eastern end of the site and this would give rise to extreme vulnerability. Ground water flows west to east – that is seawards across the site.

12.24.2. Construction phase impacts are related to excavation and filling and accidental spills and leaks. Previous excavations did not reveal any contaminated soil but since the site has been used as car parking since 2007 it is possible that oils spills have occurred; where these are discovered the soil will be removed by licenced contractor. Refuelling of construction related vehicles will take place at a distance from surface water drains. Any spills related to the construction phase will have short-term imperceptible impacts.

12.24.3. The operational phase impacts are identified as accidental emissions which because there will be bulk storage of chemicals or oils on site will be limited accidental leakages from motor vehicles which will drain to the surface water system.

12.25. Noise and vibration.

12.25.1. The EIA recognises that there will be noise impacts and distinguishes between construction phase impacts and operational phase impacts. The ambient and background noise levels arise from activities within the existing car parking area, parking cars, pedestrians and road traffic on the adjoining streets. Ambient noise levels were measured in the range 49 dB L_{Aeq} to 54 dB L_{Aeq} and background noise levels in the range 42 dB L_{Aeq} to 43 dB L_{Aeq} .

12.25.2. In relation to the construction phase it may be noted that in the absence of Irish statutory guidance, the application has adopted the BS 5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites. Noise standard for noise during construction works. This standard recommends that noise levels between 7am and 7pm outside the nearest windows of the occupied room closest to the site should not exceed 70dBA in rural or suburban areas and

75dB(A) urban areas near main roads. The EIS states that having regard to the urban location of the site that the most appropriate construction phase noise level should be 70 dB(A) The mitigation measures include selection of quiet plant, noise control at source, screening, liaison with the public and monitoring

12.25.3. Operational phase noise will originate from activity in the service yard and delivery area, the mechanical and electrical plant and car parking related movements. No special mitigation measures are required for the service areas of car parks as they are enclosed or partially enclosed. Where ventilation is required for plant rooms noise reducing louvers may be fitted, noise reduction can be installed on external air handing plant, anti-vibration mounts can be installed between plant and structural elements, all mechanical plants can be in a manner which minimises rattle noise. Operational noise levels will not exceed daytime 45dB L_{Aeq1hr} and night time to 35 dB $L_{Aeq 15mins}$.

12.25.4. There are no identified sources of vibration during the operational phase. Construction phase vibration will arise from some demolition and excavation. The construction phase vibration will be mitigated by the appointment of a designated vibration liaison officer who will confirm the origin and time of planned vibrations in a manner to reduce the vibration impact experienced in neighbouring properties.

12.26. Air Quality and Climate.

12.26.1. Air quality construction phase impacts will arise from construction traffic and dust arising from excavation/building works. Mitigation measures will include road sweeping, watering, speed restrictions to 20kms on unsurfaced roads, delivery vehicles fitted with tarpaulins. Climate impact at construction phase will be imperceptible.

12.26.2. No operational phase mitigation measures are required for either air quality or climate.

12.27. Hydrology.

- 12.27.1. Surface water contamination during construction phase is identified as arising from oils and fuels spills and concrete spills. There are no water courses in or directly adjacent to the site. A bunded area will be created at 110% capacity of all oils/fuels/paints stored on site. Drainage from these bunded areas will be diverted for collection and safe disposal. Concrete wash waters will be tinkered off site.
- 12.27.2. In the operational stage foul water will drain to the public system. Washwater from the underground car parking areas will flow through a petrol interceptor. Surface water from other areas will be collected in an attenuation tank and discharged to the surface water sewer on Quinsborough Road.
- 12.27.3. Sufficient capacity exists in the public water supply to serve the proposed development.

12.28. Cultural Heritage

- 12.28.1. The western half of the site (figure 22 in the EIS), lies within a zone of archaeological interest for Bray. The site was subject to archaeological testing in 2004 but no archaeological remains were revealed. Mitigation measures to be undertaken comprise archaeological testing to the rear of 6-8 Eglinton Road and 3, 4 and 4A Florence Road.
- 12.28.2. There are three protected structures; 6, 7 and 8 Eglinton Road included within the application site boundary. The EIS provides details of the impacts on these structures at section 4.7.2 and a photographic survey in section 4 of Volume 2 of the EIS. All three houses are in poor condition, parts of 6 and 7 Eglinton Road are near collapse. Internal access to number 6 is not possible due to poor condition but access is possible to 6 and 8. The returns to each of the three houses will be demolished and the remaining main houses will be used as office space. The main

service area will occupy part of the rear gardens of all three houses at a separation distance of 6.7m.

12.28.3. There are other protected structures close to or adjoining the site; 1 to 11 Eglinton Road, St Andrews Presbyterian Church and the Manse and 9 Quinsborough Road. There will be visual impacts arising from the proposed development but having regard to the town centre zoning and an extant planning permission for development of the site for commercial uses no further mitigation measures are proposed.

12.29. **Visual impacts**

12.29.1. Section 4.8 of the EIS augmented by the photomontages in volume 2 describe the visual impacts of the proposed development. The EIS makes the point that there will be negative visual impacts during the construction phase. Given the form of development proposed no operational visual mitigation measures are proposed.

12.30. **Sunlight, daylight and overshadowing.**

12.30.1. The EIS (see especially paragraph 4.9.3 and following) provides an analysis of the impacts on a sample of rooms in existing buildings around the site and provides a mapped shadow analysis in section 6 of volume 2. The chosen locations for separate analysis are set out in tables 44 and 45. These illustrate that there are loss of sunlight hours impacts on some of the sampled locations but no mitigation is proposed.

12.30.2. Daylight impacts on sample rooms is set out in table 46. Daylight is predicted to decrease but this decrease is exacerbated by the absence at present of any development on the application site. Having regard to the strategic nature of the proposed development additional mitigation measures are not proposed.

12.31. Material assets.

- 12.31.1. The material assets are identified as public piped services and waste services. Construction phase water pollution impacts are dealt with above and mitigation measures include bunding and treatment of cement wash water. Surface water during operational phase will be attenuated before entering the surface water system.
- 12.31.2. Construction phase waste services will be addressed in the construction and demolition waste management set out in section 8 of Volume 2. Where possible left over materials will be reused on site. Where contaminated soil arises (probably from previous fuel spills related to car parking) this will be removed off site. The EIS sets out an operational waste management plan whereby waste materials are segregated into paper, plastic, mixed non-recyclable waste, organic (bio-waste), glass, metals, pallets, waste cooking oil, fluorescently tubes and batteries. All waste generated on site will be recycled, recovered or reused by suitably licensed and permitted contractors.

12.32. Traffic.

- 12.32.1. The application site is located in Bray town centre and is served by a Dart station about 360m to the east, 6 Dublin bus and Aircoach routes, a public road network and a cycle and footpath network.
- 12.32.2. The previously permitted number of parking spaces was 537. The existing car parking provision on site is 230 spaces; the proposed number is 256 spaces. The parking requirement of the new development is predicted to be 256 spaces having regard to the relocation of existing on-site long-term parking off-site, the better management of the proposed spaces creating faster turnover, the use of the proposed spaces by users of both the proposed centre and other town centre uses and the staff of the new development.

12.32.3. The construction phase impacts will arise from private cars transporting construction workers and construction related plant and machinery.

12.32.4. The operational phase impacts will arise from the slight increase in new parking spaces over the existing on-site provision. These impacts will be mitigated by improved parking management, tie into existing cycling/footpath connections, availability of public transport links, development of a delivery service vehicle strategy and traffic management.

12.32.5. The EIS concludes that the development can be sustainably accommodated without significant impacts on the existing transport and traffic infrastructure.

12.33. Cumulative and Interaction of Effects.

12.33.1. Chapter 5 of the EIS addressed the cumulative and interactive effects of the proposed development. The EIS concludes that there will be no significant adverse cumulative effects on the environment from the proposed development when considered in combination with other existing and approved schemes.

12.34. Environmental Impact Assessment

12.34.1. The EIS generally follows the format required by Schedule 6 of the Planning and Development Regulations 2001, as amended. In general, I would comment that the content and scope of the EIS to be acceptable and in compliance with the requirement of Articles 94 (content of EIS) and 111 (adequacy of EIS content) of the Planning and Development Regulations, 2001 (as amended).

12.34.2. I consider that the EIS submitted correctly identifies the likely significant direct and indirect effects of the proposed development on the environment. I agree with the conclusions reached in the EIS in relation to the magnitude of the likely

significant impacts. I note the mitigation measures proposed to be adopted and consider these to be adequate. In particular, I would single out the traffic impacts, visual impact and impact on protected structures, hydrology are likely to be significant. In carrying out an EIA the Board should have regard to the conclusions reached in the preceding sections of this assessment at sections 12.1 to 12.17.

12.34.3. The EIS makes the point that there is an extant permission for development of a mixed use commercial/residential development on this site and that it is located in the town centre which is already subject to significant town centre related traffic flows. I consider these to be valid points and having regard to the provision of very good public transport links (DART, public and private bus) and the footpath and cycle network that I consider that the additional traffic impact on the town centre and wider hinterland will not be material. I consider that the mitigation measures, in particular the better parking management and the dedicated service entrance off Florence Road will reduce the impact of any additional trip generation associated with the proposed development. I do not consider that there are any unreasonable indirect traffic impacts.

12.34.4. I consider that the visual impacts will be significant. It is inevitable that the development of an undeveloped site will give rise to new buildings visible from the public realm. There is potentially some negative impact for a number of buildings at ground floor level from some overshadowing which I have dealt with in detail in section 12.9 above. However, the impact will not be universally negative and new buildings and uses will counter the air of dereliction which surface car parking generates in town centre locations. In the present case the derelict site frontage along Main Street will be redeveloped which will be a positive impact.

12.34.5. There will be an impact on the three protected structures on Eglinton Road and I have dealt with the planning merits of this issue under a separate heading in the planning assessment above. The EIS makes the point that all three buildings are to varying degrees in poor repair, that they will be converted to office use and that the proposed development will significantly impact on them by removal of the rear

returns and the bringing of the service area associated with the new development to within about 7m of the rear walls. I agree with the EIS that the proposed development will significantly impact on these three houses. Nonetheless in the interests of achieving the overall objective set out in the Town Development Plan to develop the site for town centre uses, the limited loss of original building fabric and the desirability of ensuring a long term economically viable use for the majority of the buildings I conclude that the environmental impacts are acceptable.

12.34.6. An observer makes the point that that the EIS is inadequate as it does not provide sufficient information on the works carried out by the planning authority within the rear gardens of the protected structures and hard-coring perhaps under the permission reference number 05/189 (PL39.217556). This work is unauthorised. The applicant makes the case that hard coring by the planning authority of itself is exempted development.

12.34.7. I have compared the existing boundary treatment in this area with the inspector's photographs on PL39.217556 (see especially photograph 29 on that file) and it appears that the boundary treatment has been altered from plywood fencing to a capped block wall. Nonetheless I do not agree that these works invalidate the current application or that they render the EIS so incomplete as to make it non-compliant with Schedule 6 of the Planning and Development Regulations 2001, as amended.

12.34.8. In relation to hydrology the EIS makes the point that the site is relatively impermeable. Having inspected the site, I agree with this point. Surface water will arise, generally from roofs and customer parking and service areas. Mitigation of possible collection and transport of contaminants in the surface water is addressed through filtering the water from the parking and service areas through a petrol interceptor and then to an underground storage tank which will release the water at a controlled rate to the public surface water system. Having regard to the geology underlying the site which does not allow for infiltration of rainfall through sustainable urban drainage systems (SUDS), and to the mitigation measures set out in the EIS I

conclude that the surface water treatment system is appropriately designed and that the proposed development will not give rise to unacceptable impact on the hydrology of the site or on the receiving public surface water system.

12.34.9. Having regard, to the material set out in the EIS, the other material available on file and my site inspection, and my assessment set out above I conclude that the proposed development will not give rise to any unreasonable significant environmental impacts either on its own or in combination with other plans or projects.

13.0 **Appropriate Assessment**

13.1. The local authority carried out an AA screening exercise and concluded that the proposed development is not directly connected with or necessary to the management of a European site and poses no potential for significant impacts on the Natura 2000 network.

13.2. The AA screening report identified Bray Head SAC (code 714), Ballyman Glen SAC (000713), Knocksink Wood SAC (000725), Glen of the Downs SAC (000719), Rockabill to Dalkey Island SPA (003000) Wicklow Mountains SAC (002120) and Wicklow SPA (004040) as European sites within 10kms of the application site that should be screening for AA. The screening report sets out the qualifying interests and conservation objectives and applies the source pathway receptor model to an analysis of the potential impacts on the European sites¹. The screening report considers the in combination effects of the proposed development. The report identified a number of projects and landuse activities within the 10kms radius of the site and states that some of these have had impacts on European sites but

¹ There is a typographical error in the screening report stating that it has considered 4 European sites; in fact, it has considered 7 such sites.

concludes that the proposed development will not make any in-combination contribution to these impacts.

- 13.3. I have read the AA screening report and other material submitted with this application, I have carried out a site inspection and reviewed the material published by the NPWS in relation specifically to the sites outlined above and I consider that there are no other European sites which should be included in this screening assessment. Using the source/pathway/ receptor model I consider that the only emission with a potential to impact on a European site is surface water which will eventually flow into the Dargle. In this regard it may be noted that the parking and service areas with a potential to give rise to hydrocarbon spill will drain through an oil interceptor and then into attenuation tanks from where a controlled flow will enter the existing town surface water system. I conclude that there is no potential adverse impact arising from this arrangement.
- 13.4. The EIS states that there is an adequate public water supply to serve the site and I am satisfied that this is the case. The Shanganagh/Bray municipal waste water treatment plant (MWWTP) was a joint project of Wicklow County Council and Dun Laoghaire Rathdown County Council and was provided for in the Water Services Investment Programme 2007-2009. The main purposes of the project, which commenced in 2008 and was completed in 2011, was to provide a new MWWTP, upgrade an existing pumping station in Bray and construct 6kms of pipeline between Bray and Shanganagh. The new plant is capable of treating 43,000m³ of sewage per day and serving a population of 248,000. The Board sought the comments of the EPA and Irish Water in relation to this application and received no objections on the grounds of water pollution or a lack of capacity in the public foul sewerage system. Therefore, I am satisfied, and having particular regard to the provisions of Article 43 of the Waste Water Discharge (Authorisation) Regulations 2007 that there is capacity within the foul drainage system to accommodate effluent from the proposed development. Therefore, regard to the nature of the proposed development (the nature of which is fully described elsewhere in this report), the existing landuse of the site, its urban location and availability of public water supply and public sewerage,

the nature of the predictable emissions it is reasonable to conclude that on the basis of the information available which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Bray Head SAC (code 714), Ballyman Glen SAC (000713), Knocksink Wood SAC (000725), Glen of the Downs SAC (000719), Rockabill to Dalkey Island SPA (003000) Wicklow Mountains SAC (002120) and Wicklow SPA (004040) or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.'

14.0 Recommendation

14.1. Having regard to the foregoing I recommend that approval be granted for the reasons and considerations and subject to the conditions set out below.

15.0 Reasons and Considerations

Having regard to;

- (i) The Retail Planning Guidelines for Planning Authorities (Department of the Environment, Community and Local Government 2012) and the accompanying Retail Design Manual,
- (ii) The designation of Bray Town as the only major town centre in the County Wicklow Retail Strategy set out in the Wicklow County Development Plan 2016 to 2022,
- (iii) The landuse zoning of the site for 'Primarily Town Centre Uses' in the Bray Town Development Plan 2011 to 2017,
- (iv) The pattern of commercial, retail, community uses and residential development in the area,
- (v) The planning history of the site including the grant of permission under appeal reference PL39.217556,
- (vi) The existing use of the site as surface car parking,

It is considered that the proposed development would accord with the zoning objective for the site set out in the Town Development Plan and with the retail strategy for the county set out in the County Development Plan, would be acceptable in terms of urban design and impacts on the amenity of adjoining property, would not endanger public safety by reason of traffic hazard and would otherwise accord with the proper planning and sustainable development of the area.

The Board considered the nature, scale and location of the proposed development, the documentation submitted with the application and further information, including the environmental impact statement, the submissions made on file, the mitigation measures proposed, and the report, assessment and conclusions of the Inspector. It is considered that this information was adequate in identifying and describing the direct and indirect effects of the proposed development. The Board completed an environmental impact assessment in relation to the proposed development, by itself and in cumulation with other development in the vicinity, and concurred with the Inspector's assessment of the likely significant impacts of the proposed development, and agreed with the conclusions on the acceptability of the mitigation measures proposed and of the residual impacts. The Board concluded that the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report of the Inspector.

The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site. The Board considered the nature, scale and location of the proposed development, the appropriate assessment screening documentation and associated documentation submitted with the application, the submissions made on file, and the report of the Inspector. The Board undertook an appropriate assessment screening exercise in relation to the potential direct and indirect effects of the proposed development on European Sites. In completing the screening exercise, the Board adopted the report of the Inspector, and concluded that the proposed development, by itself or in combination with other development in the vicinity, would not be likely to have a significant effect on European sites, including the Bray Head SAC (code 714), Ballyman Glen SAC

(000713), Knocksink Wood SAC (000725), Glen of the Downs SAC (000719), Rockabill to Dalkey Island SPA (003000) Wicklow Mountains SAC (002120) and Wicklow SPA (004040)

16.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars, including the environmental impact statement, the Natura Impact Screening report and other associated documentation, lodged with An Bord Pleanála on the 19th day of July 2016 as amended by the further plans and particulars received by the Board on the 11th day of October 2016 except as may otherwise be required in order to comply with the conditions set out below.

Reason: In the interest of clarity.

2. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
 - (a) notify the planning authority (or the National Monuments Service where the planning authority is the developer) in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority (or the National Monuments Service where the planning authority is the developer) , for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

3. The new street shall remain open to the public 24 hours per day, unless, in case of security or other special circumstances, the planning authority

publishes notice of more restricted opening hours.

Reason: In the interest of amenity.

4. Bat roosts shall be incorporated into the site and the recommendation of the Bat Survey report shall be carried out on the site in accordance with the details submitted to An Bord Pleanála on the 11th day of October, 2016.

Reason: To ensure the protection of the natural heritage on the site.

5. Revised plans and particulars of the design and layout of the proposed pedestrian access to Quinsborough Road located between the manse and number 11 Quinsborough Road shall be made available for public inspection (during normal office hours) at the offices of Wicklow County Council for a period of 6 weeks prior to commencement of development.

Reason: In the interests of visual amenity and pedestrian safety.

6. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning approval.

Reason: In the interest of visual amenity.

7. This order shall not be construed as granting approval for any additional floor areas at "mezzanine level" within the buildings hereby permitted. No mezzanine floor development shall be carried out without a further grant of planning approval.

Reason: In the interest of clarity.

8. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the

development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before the proposed development is made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of visual amenity.

9. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be made available for public inspection (during normal office hours) at the offices of Wicklow County Council for a period of 6 weeks prior to commencement of development.

Reason: In the interest of orderly development and the visual amenities of the area.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

11. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the standards of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

12. Comprehensive details of the proposed public lighting system to serve the development shall be made available for inspection by the general public (during normal office hours) at the offices of Wicklow County Council for a period of 6 weeks prior to commencement of development.

- (i) Security lighting or other lighting shall be designed to minimise overspill into adjoining property.

(ii) Lights shall not be susceptible to being triggered to turn on by passing birds or bats.

(iii) The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

13. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

14. 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 approval.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

15. (a) During the operational phase of the proposed development, the noise level from within the premises, measured at noise sensitive locations in the vicinity, shall not exceed-

(i) an LArT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday (inclusive), and

(ii) an LAeqT value of 45 dB(A) at any other time.

(b) All sound measurements shall be carried out in accordance with ISO Recommendations R 1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R 1996/1, 2 and 3, "Description and Measurement of Environmental

Noise”, as appropriate.

Reason: To protect the amenities of properties in the vicinity of the site.

16. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be made available for inspection by the general public (during normal office hours) at the offices of Wicklow County Council for a period of 6 weeks prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

17. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be made available for inspection by the general public (during normal office hours) at the offices of Wicklow County Council for a period of 6 weeks prior to commencement of development. Thereafter, the waste shall be managed in accordance with the published plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

18. Construction on site shall be limited to between 0700 hours and 1900 hours Monday to Friday, and between 0900 hours and 1400 hours on Saturday. No work shall take place on Sundays and bank or public holidays. During the construction period, the noise mitigation measures set out in the Environmental

Impact Statement shall be implemented in full.

Reason: To protect the amenity of property in the vicinity.

Hugh Mannion

Planning Inspector

7th December 2016