

# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:** PL27.246000

**Development:** Conversion of attic to habitable accommodation with new roof structure between ridges at a Protected Structure.

**Location:** Mandalay, Violet Hill, Herbert Road, Bray, Co. Wicklow

### Planning Application

Planning Authority: Wicklow County Council

Planning Authority Reg. Ref.: 15/346

Applicants: Peadar and Danielle Bruton

Planning Authority Decision: Grant permission

### Planning Appeal

Appellants: (1) Finn and Maria Gallen  
(2) Tudor Violet Management Company Ltd.

Type of Appeal: Third party

Date of Site Inspection: 23/3/16

**Inspector:** Siobhan Carroll

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.0.1 The appeal site is located at 'Mandalay', Violet Hill, Herbert Road, Bray, Co. Wicklow. Violet Hill House a neo-gothic Victorian country house built in circa 1862 was designed by William Fogarty. It is sited within grounds containing mature trees and shrubbery. The property is a Protected Structure and as described in the National Inventory of Architectural Heritage was constructed in red brick with granite and Bath stone block. The exterior of the property was subsequently painted. There are a number of two-storey projecting gabled bays which in turn are faced with a mixture of single and two-storey square and canted bays. The window design features a mix of flat and pointed arched with timber sash frames. The pitched roof is finished with natural slate arranged in bands and has cast-iron rainwater goods; overhanging eaves have decorative bargeboards. Violet Hill House is designated of Regional importance in the National Inventory of Architectural Heritage.
- 1.0.2 In the 1970's the property was sub-divided into three separate two-storey residential units within a terrace. 'Mandalay' the subject property is the central unit within the terrace. It is served by a separate gated vehicular entrance and the site includes a front and rear garden. It would appear that the exterior original features on 'Mandalay' have been substantially retained. The adjoining property to the north-east is 'Amber Gallery' and the adjoining property to the south-east is 'Violet Hill House'.

## **2.0 PROPOSED DEVELOPMENT**

Permission is sought for the conversion of the attic to habitable accommodation with new roof structure between ridges at a Protected Structure. Features of scheme include;

- Installation of a rooflight (700mm x 1200mm) to the north-eastern side elevation.
- Installation of a rooflight (1000mm x 2000mm) to the south-eastern rear elevation.
- New section of zinc/lead roof with valley gutter and side cladding to the central area of the roof between the existing ridges.

### **3.0 PLANNING HISTORY**

Reg. Ref. 10/59 – Permission was granted for alterations to previously approved conservatory extension to the rear of the dwelling under Reg. Ref. 05/294

Reg. Ref. 06/53 – Permission was granted for interior alterations to first floor level and the conversion of the attic to habitable accommodation including new rooflights and roof window.

### **4.0 PLANNING AUTHORITY DECISION**

#### **4.1 Planning and technical reports**

##### **Internal Reports:**

Heritage Officer: No objections.

##### **Submissions**

The Planning Authority received a number submission in relation to the planning application. The issues raised are similar to those set out in the appeals.

#### **4.2 Planning Authority Decision**

Following the submission of further information the Planning Authority granted permission subject to 5 no. conditions.

### **5.0 GROUNDS OF APPEAL**

Third party appeals have been lodged by (1) Finn and Maria Gallen and (2) Tudor Violet Management Company Ltd.

#### **(1) Finn and Maria Gallen**

- It is considered that the proposed rooflights to the rear elevation and the zinc/lead raised roof to the front elevation are not in keeping with the Gothic Revival building.
- A modern rooflight is considered unacceptable addition to the Protected Structure.

- The raising of the roof is considered a material change to the appearance of the property.
- The proposed works cannot be carried out without access onto the roof of the appellant's property The Gallery.
- The modified plan submitted in November 2015 to insert a steel beam to be supported from the walls below would put increased pressure on the overall roof structure with implications for the adjoining properties.

## **(2) Tudor Violet Management Company Ltd.**

- The main house Violet Hill is a Protected Structure. There are four units within the house and it is stated that the roof belongs to all of the units.
- Therefore it is contented that Mandalay is not a structure which is independent of the overall Protected Structure.
- The appellants have expressed specific concern regarding the modifications which would occur to the original design of the property. The proposed steel beams would result in loads being distributed to adjoining properties.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

- No response was submitted by the applicants in response to the two third party appeals.

### **6.1 Planning Authority response**

- None received

## **7.0 POLICY CONTEXT**

### **7.1 Bray Town Development Plan 2011-2017**

The subject site at Mandalay, Violet Hill, Herbert Road, Bray, Co. Wicklow is identified as being Zoned Objective 'RE1' 'to protect existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.'

- Chapter 8 – Natural, Architectural & Archaeological Heritage

- Section 8.4.5 refers to Architectural Heritage
- Table 8.3 – Record of Protected Structures
- Protected Structure no. 25 – Herbert Road (Kilbride) Violet Hill

## **7.2 National Policy**

Architectural Heritage Protection, Guidelines for Planning Authorities, DoEHLG, 2004

## **8.0 ASSESSMENT**

- 8.0.1 The main issue to be determined by the Board in relation to this appeal relates to the appropriateness of the works to be carried out to the building having regard to its status as a Protected Structure.
- 8.0.2 It is proposed to convert the attic of ‘Mandalay’ to habitable accommodation. This entails the construction of a new section of zinc/lead roof and side cladding between existing roof ridges. It is also proposed to install a new rooflight to the north-eastern side elevation and a new rooflight to the south-eastern rear elevation.
- 8.0.3 The subject property ‘Mandalay’ is part of the original Victorian country house Violet Hill House. ‘Mandalay’ and the adjoining properties ‘Violet Hill House’ to the south and ‘Amber Gallery’ to the north all form part of the Protected Structure.
- 8.0.4 Architectural Heritage Protection Guidelines for Planning Authorities, DoEHLG, 2004 provides guidance in relation to development affecting the setting and character of a Protected Structure. The Guidelines recommend a cautious approach to extensions of protected buildings stating that the new work should involve the smallest loss of historic fabric and the need to avoid important features being obscured, damaged or destroyed. The Guidelines state that attempts should be made to disguise new additions or extensions and make them appear to belong to the historic fabric.
- 8.0.5 A Conservation Report Method Statement and Architectural Heritage Impact Assessment was prepared by Niall Smith Architects and submitted with the application. In terms of the condition of the roof of the property it is stated in the report that there is some evidence of minor damage of slates to the front. It is also noted that there is some damage to the top section of ridge tiles. In

relation to the condition of the two existing rooflights it is stated that these are in poor condition and it is advisable they would be replaced.

- 8.0.6 It is stated in the Conservation Report Method Statement that repairs and works to the roof are essential and that the alteration to the roof profile would not be directly visible from front. It is noted that the only discernable difference when viewed from the rear is the proposed new rooflight.
- 8.0.7 The Planning Authority in their assessment of the proposed development sought further information regarding the proposed rear rooflight, the requirement to submit evidence to show that the applicants have sufficient control over the walls and attic space to carry out the development and to address the matter of potential overlooking from rooflight in the central valley of the roof.
- 8.0.8 In response to these matters the applicants stated that the proposed rear rooflight is required as a means of escape and it is necessary to be 1000mm x 2000mm. The revised plans submitted to the Planning Authority on the 13<sup>th</sup> of November 2015 indicate the design of the rear rooflight is a 'Velux Conservation Rooflight'. The use of the conservation glazing bars provides a more traditional appearance which integrates well with the overall rear elevation.
- 8.0.9 The second matter raised by the Planning Authority in the further information concerned whether the applicants had sufficient control over the walls and attic space to carry out the development. This issue has also been raised in the appeals specifically in relation to the steel beam and whether the works would require access to the adjoining properties. It is proposed to insert a steel beam supported from the walls below and to run parallel with the party wall. In response to the further information request the applicants stated that the works will be partially constructed along the party wall and that no works will take place on the adjoining owner's property or encroach onto the properties.
- 8.0.10 Furthermore I note that issues concerning ownership of or title to specific lands and / or acts of trespass are not planning issues and are therefore out with the remit of this appeal. However if planning permission is granted and if the appellants consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant. This section of the Act states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.
- 8.0.11 Regarding the proposed rooflight to the north-eastern side elevation this is not directly visible from the front or rear of the property and its location in the side roof plane and addressing the central valley in the roof would not result in any undue overlooking of adjoining property. In relation to the proposed new section of roof to the central section of the roof between existing ridges, I would concur with the assessment of the Planning Authority that these

alterations to the roof profile would not be directly visible from either the front or rear of the property and as such would not materially or adversely affect the protected structure.

8.0.12 In relation to the matter of appropriate assessment, I consider that having regard to the nature of the proposal the conversion of an attic to habitable accommodation and the nature of the receiving environment, namely a suburban and fully serviced location that no appropriate assessment issues arise.

## **9.0 CONCLUSIONS AND RECOMMENDATION**

9.0.1 I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be granted for the following reasons and considerations subject to the conditions set out below.

### **REASONS AND CONSIDERATIONS**

Having regard to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not materially or adversely affect the protected structure, would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 13<sup>th</sup> of November 2015, 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.

**Reason:** In the interest of clarity.

2. The external finishes of the wall and roof and the design of the rooflights shall be in shall be in accordance with the details indicated on Drawing No: (00)003 and Drawing No: (00)004 submitted to the planning authority on the 13<sup>th</sup> day of November, 2015.

**Reason:** In the interest of visual amenity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall be in accordance with the requirements of the planning authority for such works and services.

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

4. 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.

**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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**Siobhan Carroll,**  
**Inspectorate**  
**21<sup>st</sup> of April 2016**