



An
Bord
Pleanála

Inspector's Report ABP-306466-20

Development

(1) The change of use from residential use to office use for the Ground Floor (119.65m²), and the First Floor (117.76m²), (2) the provision of ambulant disabled access to the building, as extant, (3) permission is further sought for the preservation of the extant period property to omit the requirement for wheelchair access and wheelchair facilities in order to conserve the property in its original condition and (4) all associated site works.

Location

Sans Souci, 46 Meath Road, Bray, Co. Wicklow, A98 F951.

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

191200

Applicant(s)

Leinster Shipping (Agencies) Ltd.

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal	First Party v. Decision
Appellant(s)	Leinster Shipping (Agencies) Ltd.
Observer(s)	None.
Date of Site Inspection	5 th May, 2020
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in a predominantly residential area characterised by a variety of housing types, including several period properties, and comprises the property known as 'Sans Souci' which occupies a position along the eastern side of the R766 Regional Road (Meath Road), approximately 750m southeast of Bray town centre and 50m west of the DART line. Although the prevailing pattern of development is primarily residential, the immediate site surrounds are interspersed with a number of nursing / care homes, such as 'Bray Manor' to the immediate south / southeast and the 'Roseville' & 'Earlsbrook House / First Care' nursing homes / care facilities, as well as several 'Bed & Breakfasts' offering overnight guest accommodation.
- 1.2. The site itself has a stated site area of 0.0556 hectares, is rectangular in shape, and forms one of a pair with the adjacent property (in use as a doctor's surgery) to the northwest. It comprises a Victorian, red-brick, semi-detached, two-storey over basement dwelling house (formerly in use as a 'Bed & Breakfast') set back from the road behind a low granite wall with monolith gate piers set atop black painted plinths in addition to front and rear garden areas and off-street parking. The property retains much of its original character with notable architectural features, including the use of polychromatic decorative banding, whilst the main house entrance is recessed into a semi-circular arch-headed opening with chamfered brickwork and polychromatic detail with access via a broad flight of granite steps with cast-iron guard rails to either side.
- 1.3. The site is accessed directly from Meath Road via an existing vehicular entrance arrangement. This particular section of Meath Road operates a one-way (north-bound) traffic system. On-street parking is available along the eastern side of the carriageway only.

2.0 Proposed Development

2.1. The proposed development entails the following:

- The change of use of the ground and first floor levels of the existing property from residential to office use (total floor area: 237.41m²) with associated internal alterations.
- The continued use of the garden floor level for residential purposes as an apartment unit (floor area: 128.8m²).
- The continued use of the first-floor return for residential / storage purposes.
- The provision of ambulant disabled access to the building, as extant.
- The omission of any requirement to provide for wheelchair access and wheelchair facilities in order to preserve the original condition of this extant period property.
- Associated site development works, including the extension and resurfacing of the hardstanding areas to provide for 6 No. off-street car parking spaces.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 7th January, 2020 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 3 No. reasons:

- Having regard to the existing residential use of the building, and its location within an area zoned as RE-Existing Residential in the Bray Municipal District Local Area Plan 2018, it is considered that the proposed development would be contrary to the zoning objective and harmful to the character and residential amenities of this area, and would, therefore, be contrary to the proper planning and sustainable development of the area.
- Having regard to the proximity of the site to public transport; the availability of on-street parking in the vicinity; and the potential to reduce parking demand through the provision of bicycle parking on site; it is considered that the proposed additional vehicular parking at the site is not justified. Furthermore,

the proposed parking, due to a lack of turning space and circulation would result in increased reversing of cars onto the public road. Therefore, the proposed development would result in a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

- Having regard to item 3 as detailed in the development description contained in the public notices which is considered to be unclear and not describing development as described under that Planning Acts, it is considered that the development description is unclear and therefore non-compliant with the requirements of the Planning and Development Regulations, 2001 (as amended).

3.2. Planning Authority Reports

3.2.1. Planning Reports

In assessing the overall principle of the proposed development, whilst it was acknowledged that there are nursing homes and a doctor's surgery located in close proximity to the application site, these were considered to be '*appropriate uses*' on residentially zoned lands as per the Bray LAP, 2018, which were compatible with, and complementary to, the predominantly residential character of the area. In contrast, it was considered that the character of the commercial use proposed, should it set a precedent for similar changes of use, would serve to erode the established character of the surrounding residential area and thus would be unacceptable.

With regard to car parking, it was noted that Objective TR35 of the County Development Plan states that account will be taken of the potential to reduce private car use in locations where public transport and parking enforcement are available. Accordingly, given the availability of on-street parking and the proximity of public transport, it was not considered that the provision of additional on-site parking was warranted in this instance. The proposed development was deemed to be acceptable subject to the provision of bicycle parking as a condition of any grant of permission.

With respect to the lower-ground floor apartment, the overall size and layout of this unit was deemed to be acceptable with independent access from the side of the

building, although it was noted that the unit would be linked to the proposed offices via an internal stairway.

The report concludes by recommending a refusal of permission for the reasons stated.

3.2.2. **Other Technical Reports**

Chief Fire Officer: Advises that elements of the proposed development will require Fire Safety Certificates and Disability Access Certificates. It is further stated that the issue of *access v. building preservation* can be ventilated with the Fire Prevention Section as part of the certificate submission process.

Roads: States that there is no objection to the proposed development, although cycle parking should be provided. Furthermore, whilst the limited on-site parking provision is noted, it is considered that the availability of on-street parking and public transport in area would negate the requirement for on-site parking in line with the Development Plan.

3.3. **Prescribed Bodies**

Irish Water: No objection, subject to conditions.

3.4. **Third Party Observations**

3.4.1. A single submission was received from an interested third party and the principle grounds of objection contained therein can be summarised as follows:

- The proposed change of use / commercial development is inappropriate in this residential area.
- Concerns as regards the adequacy / feasibility of the proposed car parking arrangements.
- The need for clarity as regards the applicable land use zoning objective.
- The setting of an undesirable precedent as regards the conversion of residential properties into commercial space which would have a detrimental impact on the residential amenity of the surrounding area.
- The loss of housing consequent on the proposed development would be contrary to Government policy and public need.

- Inadequate consideration of the impact of the proposal on the one-way traffic arrangement along this section of Meath Road.
- The endangerment of public safety by reason of traffic hazard by reference to the inadequacy of the on-site turning arrangements and the potential for vehicles to reverse onto the public road.

4.0 Planning History

4.1. On Site:

None.

4.2. On Adjacent Sites:

PA Ref. No. 05630046 / ABP Ref. No. PL39.213008. Was granted on appeal on 30th November, 2005 permitting Shay and Sarah Costello permission for a single storey extension to the Convent Avenue side, comprising relaxation and kitchen facilities, a single storey extension to the rear comprising a laundry and sluice room and a first floor extension to the rear on Convent Avenue side comprising staff facilities, internal alterations and associated site works, at Bray Manor Nursing Home, Meath Road, Bray, Co. Wicklow.

5.0 Policy and Context

5.1. Wicklow County Development Plan, 2016-2022:

Chapter 5: Economic Development:

Section 5.5: Objectives for Economic Development:

EMP1: To support all forms of employment creation, especially where this can mitigate long distance commuting, subject to the proper planning and sustainable development of the area and compliance with all other objectives of this plan.

EMP4: To permit proposals for employment generating development where it can be demonstrated that the development complies with the relevant development standards and is not detrimental to residential amenity or to environmental quality, and is acceptable with regard to its impact on

the character and visual amenity of the area. Regard will be paid to ensuring that existing or planned infrastructure can acceptably accommodate a proposed development. Developments that result in an unacceptably high level of traffic generation, that are detrimental to residential amenity, the character or visual amenity of an area or the existing roads infrastructure will not be permitted.

EMP 16: Office Developments and Small-Scale Service Industries:

To encourage and facilitate the provision of office developments and small-scale service industries at appropriate locations. The most suitable location for local or small-scale office developments and small-scale service industries is generally in above-ground floor commercial premises at appropriate locations in town / village centres and neighbourhood centres. The development of these types of uses in neighbourhood centres can reinforce the existing service function of these centres, as well as create new opportunities for local employment in locations that are accessible to residential areas.

The Council will permit office development in appropriate employment zoned locations that are deemed suitable with regard to sustainable traffic and land use considerations.

Appendix 1: Development and Design Standards

5.2. Bray Municipal District Local Area Plan, 2018-2024:

5.2.1. Land Use Zoning:

The proposed development site is located in an area zoned as '*RE-Existing Residential*' with the stated land use zoning objective '*To protect, provide and improve residential amenities of existing residential areas*'.

Description: To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall

residential development; however new housing or other non-community related uses will not normally be permitted.

Uses generally appropriate for residential zoned areas include houses, apartments, residential open space, education, community facilities, retirement homes, nursing homes, childcare, health centres, guest house, bed and breakfast, places of public worship, home based economic activity, utility installations and ancillary development and other residential uses in accordance with the CDP.

5.2.2. *Other Relevant Sections / Policies:*

Chapter 4: Economic Development & Employment:

E8: Office Developments and Small-Scale Service Industries:

To encourage and facilitate the provision of office developments and small-scale service industries at appropriate locations. The most suitable location for local or small-scale office developments and small-scale service industries is generally in above-ground floor commercial premises at appropriate locations in town / village centres and neighbourhood centres. The development of these types of uses in neighbourhood centres can reinforce the existing service function of these centres, as well as create new opportunities for local employment in locations that are accessible to residential areas. The Council will permit office development in appropriate employment zoned locations that are deemed suitable with regard to sustainable traffic and land use considerations.

5.3. **Natural Heritage Designations**

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Bray Head Special Area of Conservation (Site Code: 000714), approximately 670m southeast of the site.
- The Bray Head Proposed Natural Heritage Area (Site Code: 000714), approximately 670m southeast of the site.
- The Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately 3.0km west of the site.

- The Ballyman Proposed Natural Heritage Area (Site Code: 000713), approximately 3.0km west of the site.
- The Dargle River Valley Proposed Natural Heritage Area (Site Code: 001754), approximately 3.3km southwest of the site.

5.4. EIA Screening

5.4.1. Having regard to the minor nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- There is an established and unequivocal precedent for the commercial use of properties along Meath Road. While the case planner has acknowledged the presence of nursing homes and a doctor's surgery in close proximity to the application site, there are many other examples of a variety of commercial businesses operating on Meath Road, including office uses. In this regard, the Board's attention is drawn to the following examples of commercial usage in the surrounding area:

- | | |
|-----------------------------|-----------------------------|
| - 41 Meath Road: | Nursing home |
| - Raheen House, Meath Road: | Financial services provider |
| - St. Helen's, Meath Road: | Medical practice |
| - 49 Meath Road: | Nursing home |
| - 47 Meath Road: | Nursing home |
| - 26 Meath Road: | Bed & Breakfast |

- Claremount Terrace, 26 Meath Road: Hotel
 - 'Jilba', Meath Road: Architect's office
 - 7 Trafalgar Terrace, Meath Road: Accommodation
- The proposed development fully accords with Objective E8 of the Bray Local Area Plan which states the following:

'most suitable location for local or small scale office developments and small-scale service industries is generally in above-ground floor commercial premises at appropriate locations in town / village centres and neighbourhood centres'.
 - A total of 6 No. car parking spaces are to be provided on site (as detailed on Drg. No. LPD 19 LS 1.4: '*Proposed Site Plan*'), which will include 1 No. disabled space and 1 No. space for residential use, with sufficient area remaining to accommodate the turning of vehicles thereby avoiding any necessity for cars having to reverse onto the public road. These arrangements accord with the requirements of the Bray Municipal District LAP, 2018-2024 and the Wicklow County Development Plan, 2016-2022 and will not result in a traffic hazard.
 - Bicycle parking can be provided on site through the removal of some of the planted area to the front of the property.
 - The Local Authority Roads Engineer has not objected to the proposed development and has stated that '*The availability of on-street parking and public transport negate the requirements for on-site parking in line with the County Development Plan*'.
 - No public transport services traverse Meath Road, although the site is located approximately 500m from Bray Dart Station and its associated bus terminal.
 - There are multiple public parking facilities available within a short distance of the train & bus stations.
 - Item No. 3 of the description of the development as set out in the public notices states the following:

'permission is further sought for the preservation of the extant period property to omit the requirement for wheelchair access and wheelchair facilities in order to conserve the property in its original condition'.

The existing period property known as 'Sans Souci' was constructed c. 1875 and has many admirable intact architectural features as were detailed in the Conservation Report provided with the planning application. Accordingly, the applicant wishes to maintain the 'character' of the existing structure whilst ensuring compliance with the requirements of its Fire Safety Certificate and Access for People with Disabilities Certificate (DAC).

It is unclear why the case planner did not seek to clarify this matter by way of a request for further information.

- The Board is referred to the applicant's previous restoration and preservation of a listed Georgian building at No. 27 Fitzwilliam Square South, Dublin 2, from where it has traded as a shipbrokers / managers for over 40 No. years.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Overall design and layout
- Traffic implications

- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

- 7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is located in an area zoned as '*RE-Existing Residential*' in the Bray Municipal District Local Area Plan, 2018-2024 with the stated land use zoning objective '*To protect, provide and improve residential amenities of existing residential areas*'. Moreover, from a review of the explanatory note describing the purpose of the '*RE-Existing Residential*' land use zoning, it is apparent that the Local Area Plan places a considerable emphasis on the need to protect existing residential amenity within these areas.
- 7.2.2. The proposed development involves the change of use of the ground and first floor levels of an existing dwelling house (and former 'Bed & Breakfast') from residential to office use whereas the lower ground floor / basement level accommodation will continue to be used for residential purposes as a self-contained apartment. Although the Local Area Plan does not include a land use zoning matrix, some guidance is provided as to the types of use which would typically be considered appropriate for '*RE-Existing Residential*' zoned lands. For example, uses generally considered to be appropriate within residentially zoned areas include houses, apartments, retirement homes, nursing homes, health centres, guesthouses, bed and breakfasts, and home-based economic activity. The Plan further states that while proposals will be considered on their merits, only uses which enhance, complement, are ancillary to, or are neutral to the zoning objective will be permissible and that uses which are materially inconsistent with and detrimental to the zoning objective will not be permitted.
- 7.2.3. Having reviewed the available information, I am in broad agreement with the assessment of the Planning Authority that the commercial nature of the office space proposed (which is intended for use by the applicant as part of its shipping brokerage / management business) would be at variance with the '*Existing Residential*' land use zoning objective and the prevailing residential character of the surrounding area. Whilst I would acknowledge that there are several examples of commercial premises operating from within the general vicinity of the application site, including the Bray

Manor Nursing Home and the 'St. Helen's' doctor's surgery to the immediate southeast and northwest respectively, these uses (such as nursing homes, health centres, guest houses, bed and breakfasts, and home-based economic activity) are all generally considered to be appropriate in residentially zoned areas on the basis that they are compatible with and complementary to the residential character of the area. In my opinion, there is a clear distinction to be drawn between the aforementioned uses and unrelated commercial office space such as that proposed which is stated in the Plan to be more generally appropriate to lands zoned as 'Town Centre', 'Neighbourhood Centre' and 'Employment'. This would seem to find further support by reference to Objective E8: '*Office Developments and Small-Scale Service Industries*' of the Local Area Plan which expressly states that '*The most suitable location for local or small-scale office developments and small-scale service industries is generally in above-ground floor commercial premises at appropriate locations in town / village centres and neighbourhood centres*' and that '*The Council will permit office development in appropriate employment zoned locations that are deemed suitable with regard to sustainable traffic and land use considerations*'. Furthermore, although the applicant has sought to suggest that a precedent may have been set for commercial office use given the presence of an architectural practice and a financial brokers elsewhere along Meath Road, it is unclear whether these premises are used solely for office purposes or if they are perhaps more representative of a 'home-based' activity. Similarly, the planning status of these uses is unknown and thus I would caution against placing any undue reliance on the presence of same.

- 7.2.4. Therefore, on the basis of the foregoing, I would concur with the Planning Authority that the proposed change of use would contravene the applicable land use zoning objective, would be contrary to the protection and preservation of the residential amenity and character of the surrounding area, and would set an undesirable precedent for similar development in the area.

7.3. Overall Design and Layout:

- 7.3.1. The internal modifications and works associated with the proposed change of use are relatively limited and are generally confined to the removal of a ground floor bathroom situated adjacent to the front reception area, the upgrading of the intermediate floors for fire protection purposes, assorted repair works (e.g. to the

gable and the arch-headed window which has been identified as potentially suffering from rot to the internal linings) and certain works as regards compliance with the Building Regulations / Technical Guidance Parts B (Fire Safety) & M (Access and Use). The proposed development has also sought to preserve the built heritage value of the existing building.

- 7.3.2. At this point, I would advise the Board that the applicant has sought planning permission to omit any requirement to provide wheelchair access and wheelchair facilities as part of the proposed development in order to preserve the existing architectural character of the property. In my opinion, the determination of any such 'exemption' from the requirements of Technical Guidance Document M: '*Access and Use*' of the Building Regulations is carried out under a separate regulatory code (as distinct from the planning process) and is a matter for the building control authority (in reference to the 'determination of practicability' in the case of material alterations or the change of use of existing buildings where the adoption without modification of the guidance may not be appropriate e.g. buildings of architectural or historical interest are especially likely to give rise to such circumstances). Accordingly, I do not propose to comment further on this issue.
- 7.3.3. With regard to the proposal to convert the lower ground floor / basement level accommodation into a self-contained apartment, whilst the overall size and layout of this unit is generally acceptable, I note that it will be linked by an internal staircase to the upper office area and thus it will be necessary to ensure a suitable arrangement by which to secure the privacy of both uses / properties. It is also unclear how the uppermost first floor rear return is to remain in residential use given its physical separation from the proposed apartment and I would suggest that it is more likely that this area will be used for storage purposes associated with the office space or that it will simply become defunct. By way of further comment, it would be preferable to provide some form of private open space to serve the proposed apartment unit and in this regard I would suggest that some degree of privacy will need to be afforded to part of the rear garden area given its apparent open access to users of the proposed offices.

7.4. Traffic Implications:

- 7.4.1. The proposed development site is accessed directly from Meath Road via an existing vehicular entrance arrangement and presently accommodates limited off-street car parking within the gravel surfaced area to the front of the property. Notably, this particular section of Meath Road only provides for one-way (north-bound) traffic and whilst on-street parking is available along the eastern side of the carriageway there is likely to be a high level of demand for public car parking in the area due to the proximity of the seafront and the DART station.
- 7.4.2. In an effort to reduce the impact of the proposed development on the demand for on-street parking locally, the submitted proposal includes for the provision of 6 No. car parking spaces within the site curtilage (one of which will be allocated for use by the occupants of the proposed apartment). This will entail the formalisation of the existing parking area forward of the main building to provide for 2 No. spaces (through the provision of a new planted area) and the use of that area to the side of the property for the parking of 4 No. vehicles in a linear format. In this regard, I would refer the Board to the car parking standards set out in Table 7.1 of Appendix 1: *'Development and Design Standards'* of the Wicklow County Development Plan wherein it is stated that ground floor offices will necessitate the provision of 5 No. spaces per 100m² (Gross Floor Area) with offices above ground floor level requiring 4 No. spaces per 100m² GFA. Accordingly, it can be calculated that the proposed office use will generate a demand for 11 No. parking spaces as follows:
- Ground floor: 119.65m²: 6 No. spaces
 - First floor: 117.76m²: 5 No. spaces
- 7.4.3. When account is taken of the need to provide a further parking space for the new apartment unit, the development as a whole will generate a demand for a total of 12 No. parking spaces.
- 7.4.4. Therefore, it is apparent that there will be a considerable shortfall (i.e. 50%) in on-site parking provision as a result of the proposed development and whilst I would acknowledge that a relaxation in the parking requirement may be warranted given the proximity of local bus and DART services in addition to the availability of public parking facilities along Meath Road and in the wider area (such as along the seafront), I am also conscious that the introduction of a commercial office use at this

location will likely give rise to increased pressure for parking on roads in the vicinity to the detriment of local residents.

- 7.4.5. Furthermore, I would have concerns regarding the practicality of the linear element of the parking arrangement proposed and the lack of a dedicated turning area within the proposed car park. Although the applicant has asserted that there is adequate space for turning within the confines of the application site, given the restricted nature of the property and, in particular, the parking layout proposed whereby multiple vehicles would have to be manoeuvred in order to allow cars parked to the rear of the property to exit the site, I am not satisfied that the development would not result in an unacceptable increase in the number of cars having to reverse from the site onto the public road and footpath with consequent impacts in terms of traffic and pedestrian safety. The situation is complicated further by the fact that Meath Road is one-way.

7.5. Appropriate Assessment:

- 7.5.1. Having regard to the nature and minor scale of the proposed development, the availability of public services, the nature of the receiving environment within the built-up confines of Bray, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The proposed development site is zoned as 'RE-Existing Residential' in the Bray Municipal District Local Area Plan, 2018-2024 with the stated land use zoning objective 'To protect, provide and improve residential amenities of existing residential areas'. This objective is considered reasonable. Having

regard to the nature of the proposed development and the site location in a predominantly residential area, it is considered that the proposed office development would not represent an appropriate use in this instance and would contravene materially the zoning objective as set out in the local area plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the car parking arrangements for the proposed development, including the lack of sufficient on-site car parking spaces and a dedicated turning area, are seriously deficient and inadequate to cater for the parking demand generated by the proposed development, and would, therefore, be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity and would tend to create serious traffic congestion. It is also considered that the traffic turning movements generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

7th May, 2020