



An
Bord
Pleanála

Inspector's Report

ABP-307782-20

Development

Additional storey over approved two-storey extension currently under construction to the rear of nursing home and changes to approved development granted under planning register reference number 16/691

Location

Shannagh Bay Nursing Home, 2-3
Fitzwilliam Terrace, Strand Road, Bray

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

20380

Applicant(s)

Alan and Pauline Smith

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party V. Refusal

Appellant(s)

Alan and Pauline Smith

Observer(s)

Pat Behan

Date of Site Inspection

8th and 21st December 2020.

Inspector

Susan McHugh

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	5
3.0 Planning Authority Decision	7
3.1. Decision	7
3.2. Planning Authority Reports	8
3.3. Prescribed Bodies	10
3.4. Third Party Observation	10
4.0 Planning History.....	11
5.0 Policy Context.....	14
5.1. Wicklow County Development Plan 2016-2022	14
5.3. Natural Heritage Designations	17
5.4. EIA Screening	17
6.0 The Appeal	17
6.1. Grounds of Appeal	17
6.2. Planning Authority Response	18
6.3. Observation.....	18
6.4. Further Responses.....	18
7.0 Assessment.....	18
8.0 Recommendation.....	28
9.0 Reasons and Considerations.....	29

1.0 Site Location and Description

- 1.1. The appeal site is located within Fitzwilliam Terrace on Bray Sea Front. Fitzwilliam Terrace comprises 7 no. 2 and 3 storey over basement/ garden level Victorian buildings situated towards the northern end of the Seafront between Albert Avenue and Quinsborough Road. The frontage is continued by Marlborough Terrace to the south, whilst the building line of Marine Terrace to the north is set back. These terraces are located between the Dart line to the west and Strand Road and the Esplanade to the east.
- 1.2. Shannagh Bay Nursing Home (no. 2 & 3) and the adjoining building to the north (no. 1) are the only 3-storey buildings along this part of the Seafront. The nursing home has a stated area of 1,102.86 sq.m. There are 29 no. bedrooms located mostly in upper floors.
- 1.3. A reception, office, dining room, kitchen, smoking room and laundry room are located at ground level. At first floor level there are 2 no. relaxation rooms and a viewing room within a conservatory to the front which was added over the entrance porch.
- 1.4. The other main alteration to the original building was the construction of a 4-storey rear return with similar rear building line to adjoining properties. This structure appears as three stories at the rear owing to the split level of the site. It is centred on the rear elevation such that it is stepped back approx. 3.8m from the northern boundary and approx. 4.3m from the southern boundary.
- 1.5. The proposed development will be constructed above the partly constructed extension to the rear of the 4-storey rear return. The permitted blockwork walls and supporting steelwork have been constructed at upper ground floor level only. It is currently accessed from the existing nursing home via steps from the rear of the dining room located at ground floor level.
- 1.6. The northern side of the permitted extension is accessed via a temporary ramp from the existing yard. The existing tarmac yard which sits approximately 4.5m above the ground floor of the nursing home has been partly excavated to accommodate the permitted upper ground floor extension. A temporary external fire escape sits above the lift shaft with access to the existing rear yard.

- 1.7. A 2.6m high concrete block wall surrounds the yard to the west and north and there is a vehicular access to the north onto a laneway to Quinsborough Road. This yard wraps around the rear boundary of No. 1 Fitzwilliam Terrace. To the north of the yard is a low rise warehouse and to the west is a row of single storey terraced dwellings. The laneway to the north contains a mix of apartments, businesses and rear accesses to properties on Strand Road. Bray Dart Station is located to the west of this laneway and accessed from Quinsborough Road.
- 1.8. The site has a stated area of 860sqm.

2.0 Proposed Development

- 2.1. Permission is sought for the following;

(1) Proposed additional storey comprising of 6 No. additional bedrooms, circulation areas, stairway, lift & ancillary works over already approved 2-storey extension (Ref. 16/691) currently under the course of construction to the rear (west) of existing 4-storey Nursing Home, together with

(2) Minor changes to development approved under Ref.16/691 including revised lift location for fire safety reasons & the subsequent relocation of 3 No. existing windows in north elevation of existing building.

- 2.2. *Scale and capacity* - Details of existing, permitted, and proposed development are set out under Table No.1 below;

Table No.1

	No. of Floors	Gross Floor Area	No. of Beds	No. of Residents
Existing	4	1,102.86 sqm	29	43
Currently under construction PA.Reg.Ref.16/691	2	345.20sqm	+6	+6
Proposed	1*	182.30sqm	+6	+6
Total	6	+147sqm	41	55

*Additional storey in lieu of previously approved circulation space & roof terrace at same level.

- 2.3. *Amenity open space* - Private open space will be provided in the form of a landscaped garden area comprising of 240sq. metres in area as previously

approved. This space will be landscaped with paved areas and planting for the use of the nursing home residents as approved under planning permission Reg.Ref.16/691.

- 2.4. *Site access* - Access to the existing Nursing Home and approved extension is from the public road (Fitzwilliam Terrace). Access to the proposed extension will be from the same direction through the existing building. A rear access is also available via the existing service road to the rear.
- 2.5. *Car parking* - There is existing on-street car parking to the front of the Nursing Home.
- 2.6. *Foul sewerage* - Existing foul drainage on site is/will be separated from the surface water drainage. This is currently connected into the existing public combined sewer located on the public road to the front of the building. Foul sewage from the proposed extension including the additional 6 bedrooms will be connected into this drain.
- 2.7. *Surface water* - Surface water run-off on site is/will be separated and discharged into the existing public combined sewer located on the public road to the front of the building. This can be diverted into a new surface water sewer in the future if one becomes available. Surface water run-off from the roof of the proposed extension will be directed into a rainwater harvesting system to be located below the sunken garden to the north of the extension, with an overflow into the surface water drain.
- 2.8. *Water supply* - Water supply for the existing nursing home is currently taken from the existing public watermain on Strand Road. The existing water storage facilities will be supplemented with further storage on the roof of the proposed extension to provide 24 hour storage for residents and staff.
- 2.9. *Rainwater harvesting* - Grey water tanks will be located below the sunken garden to the north of the extension with an overflow into the surface water drain.
- 2.10. *Plot ratio and site coverage* - Plot ratio of overall development is 1.855, site coverage unchanged and calculated as circa 54.8%.
- 2.11. *Boundary treatment* – Is as approved under planning permission PA Reg.Ref.16/691.

2.12. *Fire and Disabled access* - will be dealt with in future application for a Fire Safety Certificate and a Disability Access Certificate as required under the Building Control Regulations.

2.12.1. The application was accompanied by the following;

- Cover Letter from Agent - provides rationale for proposed development
- Shadow Analysis Study – James Horan Architectural Illustration
- Services Design Construction Management Report – PD Lane Associates

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to **refuse** permission for the above described development for 2 no. reasons.

1. *‘Having regard to:*

- a) The height, scale and massing of the proposed development,*
- b) Its proximity to site boundaries and adjacent residential properties,*
- c) The pattern of development in the area,*

It is considered that the proposed development would seriously injure the residential amenities of adjoining properties, particularly in terms of overbearing, visual intrusion and overshadowing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the nature and scale of the proposed development, which would increase the occupancy of the nursing home while reducing the quantum of amenity space for residents and the failure of the applicants to demonstrate that the proposed development would offer a satisfactory standard of amenity space for residents of the facility, it is considered that the proposed development would result in a substandard form of development. that would be contrary to proper planning and sustainable.’*

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 06/07/2020)

Basis for planning authority decision. It includes:

Refusal Reason No.1

- *Works proposed* - Substantially similar to those proposed under the previous planning application PA Reg.Ref.19/644.
- *Previous assessment under PA Reg.Ref.19/644* – Further information request in relation to a shadow/overlooking analysis considered, to allow an assessment of the potential impact of the proposed development on the amenities of the adjoining property, 1 Fitzwilliam Terrace. Concern also raised in relation to the potential impact on amenities of residential terrace to the west, in terms of overbearing and visual intrusion.
- *Shadow Analysis* – Notes submission under the current application and conclusion reached "there are no notable deviations on impacts on any other properties, including the residential terrace to the west, between the permitted and proposed layouts".
- *Overshadowing* – Considers that the proposed development would have an impact in terms of overshadowing on the adjoining properties to the north and west. Not satisfied, based on the limited amenity already afforded to these properties, that the potential impact would be insignificant.
- *Amenities of Residential Terrace to the west* - Applicants have failed to address specific concerns raised in refusal reason no. 1 regarding the potential impact of the proposed development on the amenities of the residential terrace to the west, in terms of overbearing and visual intrusion.

Refusal Reason No. 2

- *Quantum of amenity space* – Proposed development would result in loss of previously permitted outdoor terrace at roof level, although scale of area (c.18sqm) is not significant. Notes under previous assessment that its omission had the potential to adversely impact the amenities of residents, particularly as much of the remaining area of amenity space permitted on site

(in the form of a sunken garden to the north of the extension) is likely to be in permanent shadow.

- *Quality of amenity space*
 - Shadow analysis indicates that landscaped garden area within permitted development would be in shadow for substantial periods.
 - Proposed development would increase level of overshadowing of the landscaped garden and further reduce amenity value.
 - Proposed development would also result in the loss of the additional amenity space within the outdoor roof terrace.
- *Rational* – Notes applicants case for the proposed development having regard to the Covid-19 pandemic. Considers that restrictions placed upon residential care homes/nursing homes etc. during this crisis has highlighted the need to ensure that these facilities are provided with high standard open space areas for residents.
- Not satisfied that the proposed development would provide for a satisfactory standard of amenity space for residents of the facility.

Refusal Reason No.3

- *Previous application* - Standalone development to be carried out independently of the development permitted under PA Reg.Ref.16/691 considered problematic, as applicant sought permission to construct a third storey extension above a two storey extension which had not yet been constructed.
- *Drawing anomalies* - 2 storey extension permitted under PA Reg.Ref.16/691 not detailed correctly on plans submitted in support of PA Reg.Ref.19/644. Notes lift shaft permitted under PA Reg.Ref.16/691 was to be located within the main body of the 2-storey extension however, as detailed on the submitted drawings it was to be located within a new three storey addition to the side (north) elevation. Works proposed under PA Reg.Ref.19/644 did not include for alteration to the development permitted under PA Reg.Ref.16/691 for the construction of the lift shaft extension.

3.2.2. Other Technical Reports

- **Bray Area Engineer:** No objection subject to requirements, and condition in relation to a special contribution for public parking.
- **CFO:** No objection subject to requirements.

3.3. Prescribed Bodies

- **Irish Water:** No objection.
- **Irish Rail:** No objection subject to requirements.

3.4. Third Party Observation

A submission was lodged by BPS planning consultants on behalf of Pat Behan, no. 1 Fitzwilliam Terrace, the observer in the current appeal. Issues raised can be summarised as follows;

Background

- Proposed development is identical to previous application PA Reg.Ref.19/644.
- Previous decision refused by WCC and not appealed to the Board.
- Only difference between most recent and current application is the submission of a shadow analysis.
- Previous reasons for refusal still apply.
- Raises a number of issues with respect to description of the development.
- Technical issues cited in reason for refusal No. 3 of WCC decision under PA Reg.Ref.19/644 have not been addressed. Reason for refusal No. 3(c) still applies.

Principle of development

- Object in principle to the proposed development, which is contrary to section 7.1 of the LAP.
- Additional storey has been repeatedly refused, with a building height 2m taller than previously refused applications.

Negative Impact on residential amenity

- Negative impact on residential amenity.
- Overshadowing and reduced sunlight to adjoining nearby properties.
- Increase in overlooking.
- Unauthorised relocation of a lift shaft unacceptable.
- Relocation of windows would cause overlooking.
- Cumulatively constitutes overdevelopment.
- Reduction in amenity space granted under PA.Reg.Ref.16/691.
- Recommended reasons for refusal provided.

4.0 Planning History

PA Reg.Ref.19/644: Permission **refused** August 2019 for additional storey over already approved 2 storey extension (Ref.16/691) currently under the course of construction to the rear (west) of existing 4 storey Nursing Home comprising of 5 no. additional bedrooms, circulation areas, stairway, lift and ancillary works. The additional storey will be in lieu of previously approved circulation space & roof terrace at same level.

1. *'Having regard to:*

- a) the height, scale and massing of the proposed development*
- b) its proximity to site boundaries and adjacent residential properties*
- c) the pattern of development in the area*

It is considered that the proposed development would seriously injure the residential amenities of adjoining properties particularly in terms of overbearing and visual intrusion. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the nature and scale of the proposed development which would increase the occupancy of the nursing home while reducing the quantum of amenity space for residents and the failure of the applicants to demonstrate that the proposed development would offer a satisfactory*

standard of amenity space for residents of the facility it is considered that the proposed development would result in a substandard form of residential development that would be contrary to proper planning and sustainable development.

3. *Having regard to:*

- a) The development proposed under this application as set out in the public notices*
- b) The development permitted under PRR16/691 which has not yet been constructed*
- c) the plans and particulars submitted in support of this application which detail alterations to the design and layout of the development permitted under PRR16/697 and the fact that these proposed alterations have not been included as part of this planning application*

It is considered that to permit this development would be contrary to proper planning and development.’ (see file attached)

PA Reg.Ref.16/691: Permission **granted** August 2016 for two storey extension (345.2 sqm) to rear (west) of existing 4 storey nursing home (1,102.86 sqm) comprising of 2 full storeys over sunken garden level together with a small roof terrace / circulation area. The development will include staff facilities, administration, storage, treatment room and recreational areas at upper ground floor level, 6 no ensuite bedrooms and ancillary areas at first floor level, circulation areas, lift and stairway at each level together with rainwater harvesting and ancillary site development works including sunken garden. (see file attached)

PA Reg.Ref.16/513: Permission **granted** August 2016 recreational garden to the rear of existing premises for the use of nursing home residents comprising of the lowering of ground level of part of the existing yard by circa 1.6 metres (to coincide with first floor level of existing building), including retaining structures, hard and soft landscaping, planting, steps and ancillary site development works.

PA Reg.Ref.13/45 ABP Ref. PL39.242547: Permission **refused** March 2014 for extension of 1,006.75sqm to rear of existing 4-storey Nursing Home comprising of 4 full storey's (2.5 storeys over garden level). Reasons for refusal;

1. *'Having regard to the design and layout of the proposal and to the pattern of development in the area, it is considered that the proposed development, by reason of its scale, bulk and proximity to site boundaries, would seriously injure the residential amenities and depreciate the value of adjoining properties through visual obtrusion and overshadowing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the design, height, scale and massing of the extension, it is considered that the proposed development would result in an unsatisfactory standard of residential amenity for future and existing occupants of the nursing home and result in overdevelopment of the site. The proposed development would give rise to an inadequate provision of good quality open space by reason of excessive site coverage, would result in internal conflicts between the need to provide for residential amenity and the need for adequate service provision and would, therefore, be contrary to the proper planning and sustainable development of the area'. (see file attached)*

PA Reg.Ref.13/15: Permission **refused** April 2013 for extension of 1,063.10 sq. metres to rear of existing 4-storey Nursing Home (1,102.86 sq. metres) comprising of 4 full storeys (2.5 full storeys over garden level) with a roof terrace/relaxation room above. Reasons for refusal referred to overshadowing and overbearing and impinge on residential and visual amenity of the area.

PA Reg.Ref.96/146: Permission **granted** June 2010 construction of extension to the rear (west) of the existing 4-storey nursing home, by five floors (4 floors over garden level) to contain the following: 24 new ensuite bedrooms & ancillary facilities; partial demolition of existing rear (west) annex and reconfiguration into 8 ensuite bedrooms; modifications to front (east) to replace existing sunroom with new communal room and new additional sunroom/communal room above, and extension of existing bay window upwards to 1st & 2nd floors on right-hand side of front (east) elevation; reconfiguration of existing internal layouts & levels and associated elevation modifications; together with ancillary site works necessary to facilitate the development.

Condition No. 6 required the allocation at upper ground floor level, the proposed (rear) roof garden, and omission of the proposed rear additional second and third floors.

The reason cited the reduction of overbearing and overshadowing to the adjoining properties immediately to the north and to the west, orientation of the proposed development, that the second and third floor plans would result in overshadowing to the internally proposed roof garden area which would have a detrimental impact on residents amenity, and visual amenities of surrounding areas.

5.0 Policy Context

5.1. Wicklow County Development Plan 2016-2022

The applicable Development Plan is the Wicklow County Development Plan 2016-2022.

Chapter 8 refers to **Community Development**

Section 8.3.2 refers to **Health, Care and Development**

Residential and Day Care Objectives include the following:

CD18: To facilitate the development and improvement of new and existing residential and day care facilities throughout the County.

CD19: Residential and day care facilities shall in general be required to locate in existing towns or villages and shall be located close to shops and other community facilities required by the occupants and shall be easily accessible to visitors, staff and servicing traffic; locations outside of delineated settlement boundaries shall only be considered where:

- the site is located in close proximity to a settlement and would not comprise an isolated development;
- there are excellent existing or potential to provide new vehicular and pedestrian linkages to settlement services; and
- the design and scale of the facility is reflective of the semi rural location.

CD21: Clinically managed / supervised dwelling units, such as 'step down' (i.e. post-acute care) accommodation or semi-independent housing provided as part of a medical facility, nursing home or other care related facility, will be considered strictly only on the following basis:

- The units are associated with an already developed and established medical facility, nursing home or other care related facility; the units are held in single ownership with the overall medical / nursing home / care facility; no provision is made for future sale or subdivision; and a strict management agreement is put into place limiting the use of such structures to those deemed in need of medical supervision or care related facility will be considered strictly only on the following basis;
- The number of such units on any such site shall be limited to 10% of the total number of hospital / nursing / care home bedrooms unless a strong case, supported by evidence, can be made for additional units;
- Such units shall be modest in scale and limited to single bedroom units only and independent facilities such as car parking and gardens shall not be provided to each unit (in order to ensure such units are not rendered suitable for standalone use as private dwellings).
- Facilities shall be so laid and designed to meet standards and obligations specified in Nursing Homes (Care and Welfare) Regulations, (1993) and the Building Regulations, in particular Part M.

Appendix 1 - Development and Design Standards Document

Density/Plot Ratio standards - Requirement that all planning applications provide a table of data showing site area, development area, building footprint, total building floor area and a calculation of plot ratio. Plot ratio standards for areas zoned Town Centre and at edge of town and greenfield sites included.

Table 7.1 Car Parking standards– Nursing Home - 0.5 spaces per bed.

Table 7.2 Bicycle parking standards - Nursing Home - 20% of employee no's.

5.2. Bray Municipal District Plan 2018-2024

The subject site is zoned '**SF** Bray Seafront', the objective for which is '*To provide for the development and improvement of appropriate seafront uses.*'

Description attached to the subject zoning objective:

'To protect and enhance the character of the seafront area and to provide for mixed-use development including appropriate tourism, retail, leisure, civic and residential uses. The Seafront area shall be promoted as the primary tourist, recreational and leisure centre of Bray.'

Section 7.1 Bray Seafront and Esplanade

The vision for this area is for it to remain an inviting, animated and attractive seafront area, with a vibrant commercial leisure sector supervised by permanent residences, that functions as the primary tourist, recreational and leisure centre of the town.

In the SF zoned 'Seafront' area, a proposed development will only be permitted where it does not negatively impinge on: (1) the amenity and character of the area; (2) its natural and built heritage; (3) protected views and prospects; and (4) protected structures.

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

In the SF zone, the following objectives shall apply:

- The design of new buildings shall draw reference from and complement the historic Victorian style of the seafront all applications shall be accompanied by a 'design statement' setting out how consideration of the historic character and style influenced the design of the development and how it complements and enhances the area;
- Generally new buildings shall not exceed the 4 storeys height; where a new structure is proposed to exceed the height of immediately adjacent structures by more than 1 storey detailed justification and assessment of impact (visual, overlooking, over shadowing etc) shall be required;
- New buildings will be expected to follow the established building line; where a set back from the road is prevalent, such spaces shall generally be laid out as amenity spaces / gardens rather than car parking, and all efforts shall be made to locate car parking underground or to the rear of new developments; where car parking to the front cannot be avoided, the quantum of spaces shall

be minimised, the appearance of hard surfacing shall be ameliorated by use of innovative materials and significant landscaping shall be required;

- It is the overriding objective of the Council to promote the seafront area as the primary tourist, leisure and recreational centre of the town and the quality of residential amenity must be viewed in light of this objective and the long standing use of this area for leisure activities;

5.3. Natural Heritage Designations

Bray Head NHA/SAC is located c. 1.1km to the south-east of the site.

5.4. EIA Screening

Having regard to the nature and scale of the proposed development, the separation of the site from European and other designated sites, the proposed connection of the development to public water and foul drainage connections, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal against the decision to refuse permission by the planning authority has been lodged by PD Lane Associates on behalf of the applicants. In summary the appeal states:

Rationale for Proposed Development - Letter submitted by applicants outlines need for the proposed development having regard to the ongoing Covid-19 pandemic.

Site Location - Excellent location with significant public transport services and connections. Residents can avail of the Bray seafront and various services and community facilities which area within walking distance.

Height Scale and Massing - Shadow Analysis concludes no notable deviations on impacts on any other properties, including the residential terrace to the west between permitted and proposed layouts.

Visual Impact - Development not visible from the seafront area, behind Bray Dart Station and will not in any way negatively impact on the amenity and character of the seafront area or adjoining area.

Amenity Space - Refers to planners report reference to loss of amenity area as not significant. Private open space in the form of a landscaped garden area comprising 240 sqm in area as previously approved.

Shadow Analysis - Concludes little deviation in terms of overshadowing from the permitted development.

6.2. **Planning Authority Response**

None.

6.3. **Observation**

An observation to the first party appeal was lodged by BPS planning consultants on behalf of Pat Behan, no. 1 Fitzwilliam Terrace. The issues raised are comparable to those raised in the third party observation to the planning authority summarised in section 3.4 above.

In summary the observation refers to the planning history of refusals, and requests that previous refusals be upheld.

6.4. **Further Responses**

None.

7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Policy and principle of development
- Scale and nature of development
- Impact on amenities of adjoining properties
- Impact on amenities of residents of the development
- Other Matters
- Appropriate Assessment

7.1. Policy and principle of development

- 7.1.1. The appeal site is zoned 'SF' – Bray Seafront in the Bray Municipal District Plan 2018-2024, the stated objective for which is 'To provide for the development and improvement of appropriate seafront uses'.
- 7.1.2. Nursing homes are not listed as being 'permitted in principle' or 'open for consideration' under this zoning objective. However, there is an established nursing home at this site and any extension should be considered on its merits and having regard to the amenities of the area.
- 7.1.3. I accept that the subject site which addresses Bray seafront is ideally located for use as a nursing home both in terms of aspect and amenity. It also provides easy access to public transport, various services and community facilities for residents, staff and visitors alike.
- 7.1.4. The suitability of the site location, however, also needs to be balanced against the overall capacity of the site to accommodate further development.
- 7.1.5. It should be noted that the zoning objective seeks to provide for mixed-use development including residential uses, and that new developments will only be permitted where they do not negatively impinge on the amenity and character of the area. Therefore, developments which would significantly depreciate the quality of residential amenity enjoyed by residents will not be permitted.

7.2. Scale and nature of development

- 7.2.1. Planning permission for an additional storey over the approved extension (under Reg.Ref.16/691) was refused under PA Reg.Ref.19/644 in August 2019 for three reasons. The current application seeks to address these reasons for refusal.

- 7.2.2. The current application differs from the previous application refused under PA Reg.Ref.19/644, in that development permitted under PA Reg.Ref.16/691 is currently under construction, (to wall plate only), and a shadow analysis has been submitted. There are also a number of changes including the revised lift location and subsequent relocation of 3 No. existing windows in north elevation of existing building. A number of other minor internal alterations are also proposed.
- 7.2.3. The PA and third party observer to the appeal assert that the proposed development is substantially similar to the previously proposed development refused under PA Reg.Ref.19/644 in August 2019. In this regard the PA have refused planning permission for two of the same reasons for refusal previously.
- 7.2.4. There is a long planning history associated with this site. It is useful, therefore, from the outset to compare developments proposed under recent applications to the current proposal. In this regard I have set out the main details in table 2 below.

Table 2

	Site Coverage	Plot Ratio	Floor Area in sqm	No. Floors	Open Space in sqm
Refused under PA Reg.Ref.13/45 ABP Ref. PL39.242547.	78%	2.45	1,006.75	4 full storeys (2.5 storeys over garden level)	236.8
Permitted under PA Reg.Ref.16/691	54.8%	1.68	345.2	2 storeys over sunken garden level	240*+18**
Refused under PA Reg.Ref.19/644	54.8%	1.855	182.3	1 storey over permitted 2 storeys	240
Proposed	54.8%.	1.855	182.3	1 storey over permitted 2 storey	240

*Sunken Garden to the NE

**Roof Terrace

It is clear to me from the broad comparison outlined above, that the current proposal is substantially similar to the recent application under PA Reg.Ref.19/644.

7.3. Impact on amenities of adjoining properties

- 7.3.1. Reason for refusal No.1 refers to the potential impact of the proposed development on the amenities of adjoining properties, particularly in terms of overbearing, visual intrusion and overshadowing.
- 7.3.2. The first party submits that relative to the permitted layout, height, scale and massing the proposed development would not result in further impacts on the residential amenities of any other properties, including the residential terrace to the west.
- 7.3.3. To assess the potential impact of the proposed development, it is first necessary to understand both the particular context and overall development of the subject site to date.
- 7.3.4. As already noted, the existing nursing home is located within a terrace of 2 and 3 storey over basement /garden level buildings with rear returns. Buildings along the terrace benefit from sea views to the front (east) and are characterised by relatively narrow plots to the rear (west).
- 7.3.5. The appeal site which comprises two no. 3 storey properties within the terrace benefits from an unusually large (860sqm) 'L' shaped plot, including a generous rear yard area. This yard area provides vehicular access along its northern boundary to a rear laneway which runs northwards towards Quinsborough Road. The rear laneway also continues along the north western and western boundary of the appeal site.
- 7.3.6. The rear (north eastern) part of the appeal site also extends along the entire rear (western) boundary of the adjoining 3 storey property to the north No. 1 Fitzwilliam Terrace. This property similar to others within the terrace have previously extended to the rear beyond the original 2 and 3 storey rear returns.
- 7.3.7. To the rear (north west) is a low rise warehouse which contains a mix of apartments, and to the rear (west) is a row of single storey terraced dwellings. These single storey dwellings which back onto Bray DART station benefit from windows on the front (east facing) elevation only.

Overbearing Impact

- 7.3.8. I can confirm from my site visit that works have commenced on the 2-storey extension approved under PA Reg.Ref.16/691. I can also confirm that the permitted lift shaft has already been relocated to the northern boundary, extending the footprint of the permitted development on each floor.
- 7.3.9. The approved 2 storey extension extends from and connects internally with the existing 4 storey rear return at upper ground and first floor level. In order to achieve the required internal finished floor levels, lowering of existing ground levels on site is required.
- 7.3.10. At upper ground floor level, the extension has a stated floor area of 137.9sqm compared to the larger floor area at first floor which has a stated floor area of 172sq.m. This larger floor area is achieved by cantilevering over the floor below along the southern and western elevations.
- 7.3.11. The proposed additional storey at second floor level mirrors the permitted first floor, and with the addition of the relocated lift and associated lobby area has a stated floor area of 182.30sqm.
- 7.3.12. I would just note that the floor plans submitted indicate the dimensions of the relocated lift shaft at upper ground floor and first floor level, but the additional area is not included in the stated floor areas.
- 7.3.13. The overall parapet height of the approved and proposed extension combined as indicated on Drawing No. S-37-63 is stated as 11.399m. The additional height of the proposed second floor appears, therefore, to be approx. 3.4m.
- 7.3.14. Again, a comparison of floor plan and elevational drawings with those submitted under PA Reg.Ref.19A/644 indicate the same arrangement and dimensions.

Impact on residential properties to the west

- 7.3.15. The proposed development would result in a three storey rear extension and reads as approx. 9.8m in height from the adjoining laneway and single storey residential properties to the west.
- 7.3.16. The permitted extension runs for a length of approx. 17m, such that it is set off the rear (west) boundary at upper ground floor level by 0.85m along its entire western elevation which is approx. 9.8m. in width.

- 7.3.17. The first floor element of the approved extension extends for a similar length from the existing rear return, but in contrast immediately abuts the rear (west) boundary along a section of the western elevation of approx. 5.83m in width. The remaining section (approx. 5.2m in width) of the western elevation is set off the western boundary by approx. 1.2m.
- 7.3.18. The additional floor at second floor level follows the same layout as the first floor element. Given the limited width of the lane (approx. 4.8m) onto which these single storey dwellings directly address, I am in little doubt that the proposed additional floor would be seriously overbearing as viewed from these residential properties.
- 7.3.19. I would further note that the permitted second floor roof plan Drawing No. S-37-35 which provided an enclosed stairwell providing access to the permitted outdoor roof terrace, was set back from the western boundary by approx. 4.1m. I am satisfied that this element of the permitted development under P.A.Reg.Ref.16/0691 is materially different to the current proposal and will not be visible from these properties.
- 7.3.20. I am satisfied, therefore, that the proposed development would result in an overbearing impact on the adjoining single storey dwellings to the west.

Impact on property to the North

- 7.3.21. The proposed development provides for a number of minor internal changes to the layout of the development permitted under PA Reg.Ref.16/691. It is also proposed to relocate the lift housed internally within the permitted extension, to affectively an external standalone structure as an extension along the northern side boundary.
- 7.3.22. It is proposed to extend the lift shaft with associated lift access and lobby area vertically at first and second floor, with a single window on the west facing elevation at each floor. The overall height of this structure is in line with the eaves height of the existing 4 storey rear return, with the top of the lift shaft exposed overhead. In my opinion this is a significant structure in terms of its scale and massing over three floors.
- 7.3.23. This structure is located immediately abutting the northern side elevation of the existing and permitted rear return, and marginally (approx. 0.6m) set off the northern side boundary with No.1 Fitzwilliam Terrace. The structure measures approx. 5m in length and extends beyond the rear boundary of this property by approx. 1.2m.

- 7.3.24. Given the proximity, length, height and location of this structure to the south west corner of the adjoining dwelling, in my opinion would be seriously overbearing as viewed from the rear of No. 1 Fitzwilliam Terrace. I am also of the opinion that the structure would have an impact in terms of overshadowing of the rear of this property.
- 7.3.25. I am satisfied that in this instance the proposal to relocate the lift to be to the detriment of the residential amenities of the adjoining residential property.
- 7.3.26. I can confirm from my site visit that the subject lift, entrance door and lobby has already been constructed/installed at upper ground floor with access from the external yard area.
- 7.3.27. The revised lift location requires the relocation of 3 No. existing bedroom windows along the north facing elevation of the existing 4 storey rear return. The windows are located at upper ground floor, first and second floor level and address the rear of the adjoining property No.1 Fitzwilliam Terrace. The third party and observer to the appeal asserts that the relocation of these windows would give rise to overlooking of this adjoining property.
- 7.3.28. I would note that there are two sets of existing vertical and relatively narrow bedroom windows on each floor located along the north facing elevation which are set off the northern boundary by approx. 2.9m. The corresponding south facing elevation of the rear return of No. 1 Fitzwilliam Terrace includes windows also and is set off the common boundary by approx. 3m.
- 7.3.29. While I accept that the relocation of these side windows will be more closely aligned with those side windows of the adjoining property, I do not consider that they will give rise to significantly more overlooking that currently exists. As these windows serve north facing single aspect bedrooms, in my opinion the use of opaque glazing would not be appropriate in a nursing home context.
- 7.3.30. Otherwise, I am satisfied that there will not be significant overlooking of this adjoining property from the bedroom windows proposed along the north elevation of the additional floor.

Visual Intrusion

- 7.3.31. The first party submits that as the proposed development is not visible from the seafront area and situated to the rear of Bray Dart station, it will not negatively impact on the amenity and character of the seafront area.
- 7.3.32. While I concur with the applicant in terms of the limited visual impact on the wider public realm, I cannot agree that the proposed development will not result in a significant visual impact on the immediately adjoining residential properties and immediate area.
- 7.3.33. In my opinion, given the proximity, height and massing and orientation of the proposed development relative to adjoining residential development, which vary in height and scale, the proposed development would represent a significant visual intrusion.
- 7.3.34. I would argue that the visual impact (most notably from the lane to the rear, adjoining which are terrace of single storey residential units) would be seriously detrimental to the residential amenities of these properties.
- 7.3.35. This impact would be exacerbated by the fact that these units are single aspect with windows on the east facing elevation only.
- 7.3.36. I am satisfied, therefore, that the proposed development would negatively impact on the amenities of adjoining properties, particularly in terms of overbearing, visual intrusion and overshadowing.
- 7.3.37. The first reason for refusal, therefore, should be upheld.

7.4. Impact on residential amenity for residents of the development

- 7.4.1. Reason for refusal No.2 refers to concerns regarding the nature and scale of the proposed development which would increase the occupancy of the nursing home while reducing the quantum and quality of amenity space afforded to existing and future residents.
- 7.4.2. The applicant has provided a justification for the proposed extension/additional rooms in light of the current Covid-19 pandemic. I would argue however that any further expansion of the existing nursing home facility, and consequent increase in

number of residents, cannot be at the expense of amenity provided to existing residents, staff and visitors alike.

- 7.4.3. The applicant asserts that the area of private open space to be provided which is in the form of a landscaped garden area is as previously approved.
- 7.4.4. This sunken garden area which has a stated area of 240sqm. is located to the north east of the appeal site and was previously permitted under PA Reg.Ref.16/691.
- 7.4.5. As part of that permission which provided for an extension to the nursing home at upper ground floor and first floor level, (which is being implemented on site currently) a roof terrace/covered walkway with an area of 18sqm was also permitted.
- 7.4.6. The current proposal for an additional storey does not include a roof terrace, and thereby reduces the available area of outdoor amenity space.
- 7.4.7. While I note that Wicklow County Development Plan does not include standards for minimum areas of private open space in respect of new nursing homes. I would also note, that as part of the current proposal, which provides for an additional 6 no. bedrooms, no additional private open space is proposed.
- 7.4.8. The proper planning and sustainable development of the area would require that residential properties, including nursing homes, would afford their occupants with a reasonable amount of private open amenity space. The guidelines for nursing homes issued by HIQA also refers to this need.
- 7.4.9. While the reduction in the quantum of external open space would appear relatively minor, I would argue that the impact of the proposed development on the quality of the remaining open space is more problematic and this is examined in more detail below.
- 7.4.10. In light of the above I am not satisfied that the proposed quantum of external private open proposed to serve the existing and proposed development is sufficient.
- 7.4.11. I would note from my site inspection that the 'recreational garden area' permitted under PA Reg.Ref.16/513 has not yet been implemented on site and is currently in use to accommodate construction works.
- 7.4.12. In terms of quality of the proposed open space I share the concerns of the planning authority.

- 7.4.13. In my opinion the impact of the additional floor proposed in terms of its height and massing would be overbearing as viewed from the sunken garden. In addition, the additional floor would result in additional overlooking of this outdoor space.
- 7.4.14. In my opinion the impact of the additional floor proposed directly south of the sunken garden area would negatively impact on the amenity of this private open space for the nursing home residents of the extended facility. The degree of overshadowing of this sunken garden would be exacerbated by the relative height (rising to 11.39m) and massing of the additional floor.
- 7.4.15. The applicant contends that the shadow analysis submitted with the current proposal demonstrates otherwise. I have examined the shadow analysis and concur with the planning authority that this area would be overshadowed by the additional floor proposed.
- 7.4.16. I do not accept as advocated that the additional floor would result in little deviation in terms of overshadowing from the permitted development particularly of the sunken garden area. An examination of the comparison between the permitted and proposed developments in terms of overshadowing during the spring equinox 20th March, demonstrates a significant increase in overshadowing between the hours of 10am and 2pm. During the autumn equinox 22nd September, a similar pattern emerges.
- 7.4.17. A similar comparison between the permitted and proposed development during the summer solstice 20th June, clearly indicates a marked increase in overshadowing between the hours of 11am and 3pm. During the winter solstice 21st December, the sunken garden area is in shade throughout the day.
- 7.4.18. I do not consider that the shadow analysis submitted has adequately addressed the previous reason for refusal under PA Reg.Ref.19/644.
- 7.4.19. I accept that the existing nursing home benefits from attractive views towards the seafront, including from the conservatory to the front. I also accept that the adjoining seafront provides a significant area of public amenity space, however, this does not compensate for the inadequate and substandard provision of private open space afforded to occupants of the nursing home.

7.4.20. I am satisfied, therefore, that the proposed development would result in a substandard form of residential development and would be contrary to the proper planning and sustainable development of the area.

7.4.21. The second reason for refusal, therefore, should be upheld.

7.5. Other Matters

7.5.1. *Car Parking* – Public car parking is located along the seafront. No car parking is proposed as part of the current application. The subject site is however very well served by public transport. The Transport Section of the PA had no objection to the proposal subject to a special contribution in lieu of car parking which I consider reasonable. If the Board are minded to grant permission an appropriate condition therefore can be applied.

7.5.2. *Description of Development* – The third party and observer to the appeal raise a number of issues with respect to the description of the development. I note that the description of the proposed development was considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making presentations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

7.6. Appropriate Assessment

Having regard to the nature and scale of the proposed development being in an established urban area and the proximity to the nearest European site no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that permission be **refused** for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the design and layout of the proposal and to the pattern of development in the area, it is considered that the proposed development, by reason of its scale, bulk and proximity to site boundaries, would seriously injure the residential amenities and depreciate the value of adjoining properties through visual obtrusion and overshadowing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the design, height, scale and massing of the extension, it is considered that the proposed development would result in an unsatisfactory standard of residential amenity for future and existing occupants of the nursing home and result in overdevelopment of the site. The proposed development would give rise to an inadequate provision of good quality open space by reason of excessive site coverage, would result in internal conflicts between the need to provide for residential amenity and the need for adequate service provision and would, therefore, be contrary to the proper planning and sustainable development of the area'.

Susan McHugh
Senior Planning Inspector

11th January 2021