



An
Bord
Pleanála

Inspector's Report

ABP-314979-22

Development

PROTECTED STRUCTURE:

Demolition of existing single-storey rear extension and construction of new single-storey rear extension, attic conversion, restoration of roof, new stairs from first floor to attic and all associated site works.

Location

Mandalay, Violet Hill House, Herbert Road, Bray, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

22/151

Applicant(s)

Peadar and Danielle Bruton

Type of Application

Permission (s. 34)

Planning Authority Decision

Grant Permission with Conditions

Type of Appeal

Third Party (s. 37)

Appellant(s)

Maria Gallen

Observer(s)

None

Date of Site Inspection

21st August 2023

Inspector

Philip Maguire

1.0 Site Location and Description

- 1.1. Located on the outskirts of Bray, the appeal site lies to the east of the N11, c. 2.3km southwest of the town centre. It is accessed via a private road off Herbert Road which serves a number of dwellings within the grounds of Violet Hill House. This neo-Gothic building is listed in the Record of Protected Structures (RPS ref. B25) and described in the National Inventory of Architectural Heritage (NIAH ref. 16400702) as *inter alia* a detached, multiple-bay, two-storey former country house of brick and stone block construction with a number of two-storey projecting bays. The window openings are a mixture of flat and pointed arch and generally have one-over-one timber sash frames. The pitched roof is finished with natural slate with overhanging eaves and decorative bargeboards. Chimneystacks are brick with corbelled caps and clay pots.
- 1.2. The protected structure is subdivided into four residential units and presents as a terrace. The appeal site, known as 'Mandalay' (or The Middle House), has a stated area of 0.2065ha and is the central unit within the terrace. It is served by a gated vehicular entrance and has private gardens to the front and rear. It would appear that the original features on the front elevation have been substantially retained. Rear access was not gained at the time of inspection. The adjoining properties to the north-east are 'Amber' (or The Garden Flat) and the appellants property, 'The Gallery' (or The Balcony Flat). The adjoining property to the south-east is 'Violet Hill House' (or The Main House). To the east lies former outbuildings which are now converted into residential units, including 'The Stable House', 'The Coach House' and 'The Studio'.
- 1.3. The wider property is sited within grounds containing a mix of small and large trees and shrubbery, which would have previously contributed to the overall demesne planting. The appeal site is setback from public roads and screened by this vegetation. Some of these trees within this vegetation are subject of a Tree Preservation Order (CDP ID B2, Violet Hill) including a cedar tree in the rear garden of the appeal site.

2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of an existing single-storey rear extension and the construction of a new single-storey rear extension, attic conversion, restoration of roof, new stairs from first floor to attic and all associated site works.

- 2.2. A Conservation Report by Ronan Rose-Roberts (Grade III Conservation Architects) including a photo survey of the building's interior was submitted with the application.
- 2.3. Unsolicited further information was submitted by the applicant on 1st April 2022. It addresses issues raised in a submission by the appellant to the Planning Authority.
- 2.4. The Planning Authority sought further information on 4th April 2022 in respect of the TPO trees at Violet Hill and sought a Tree Impact Report. A tree report by Independent Tree Surveys Ltd. and revised drawings were submitted on 13th September 2022.
- 2.5. The rear extension to be demolished is a pitched roof structure with a stated floor space of 13.20sq.m. Window and door openings dominate the northeastern and southeastern façades. The proposed rear extension is a flat roof structure with a stated floor space of 60.80sq.m. It is laid out in an L-shape which fills the width of the rear garden, creating an internal courtyard with the rear wall of the house. The extension has a finished floor level (FFL) of 61.070mAOD and a height of 3.170m above FFL. It accommodates an open plan kitchen / dining / living area with glazed openings to the courtyard (60.690mAOD) and rear garden (60.422mAOD). The latter is accessed via a set of steps. The roof structure is illustrated with a sedum planting finish and two roof lights. External walls are shown with red brick and lime mortar to match existing.
- 2.6. The proposed attic conversion includes a stated 28.30sq.m of habitable floor space and 38sq.m of non-habitable floor space. This is laid out as an attic bedroom to the rear of the house and attic store to the front. To achieve the required headroom and accommodate the new internal staircase, a new lead/zinc roof with fixed skylights is proposed in the roof valley. New conservation windows are also proposed on the rear roof slope in addition to new openable windows in the valley roof. New glazing to existing diamond shaped vents to the front and rear of the house are also proposed.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to **grant** permission for the proposed development on 5th October 2022, subject to 2 no. standard planning conditions relating to plans and particulars (Condition 1) and development contributions (Condition 2).

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report (31/03/22): Considered that the proposal was acceptable in principle, noting that the rear extension to be demolished did not form part of the original house, and the proposed extension was not likely to adversely impact on the character and setting of the protected structure nor result in significant new overlooking, overshadowing or overbearing impacts so as to significantly undermine the residential amenity of the adjoining properties. Regarding the proposed attic conversion, it noted that a similar proposal was previously granted by An Bord Pleanála and considered that the alterations will not be visible from the front of the property, won't significantly impact on the fabric of the building, adversely impact on the character or setting of the protected structure and there would be no significant new overlooking impacts on adjoining properties. Particular concerns related to the trees subject to the TPO at Violet Hill, including one in the rear garden of the appeal site. Further information was requested on this basis.
- Planning Report (05/10/22): Basis for the Planning Authority decision. It considered the applicant's response to the further information request, noting that the existing tree subject of the TPO won't be adversely impacted upon and accepted the consequential amendments to the rear extension including increased roof height. It concluded that the proposal would be compatible with the existing structure and would not impinge on the amenities of the area or adjoining residents.

3.2.2. Other Technical Reports

- Roads (09/03/22): No observations.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3.4.1. The Planning Authority received a total of 3 no. third-party observations from:

- G and D O'Brien ('Amber', Violet Hill)

- D and AM Lalloo ('Violet Hill House', Violet Hill)
- M Gallen ('The Gallery', Violet Hill)

3.4.2. Issues raised by the appellant are similar to the grounds of appeal – see section 6.1 below. The other submissions outline a general support for the proposed development.

4.0 Planning History

4.1. Appeal site:

PA ref. 22/1013: Permission **granted** in November 2022 for the conversion of existing attic to habitable accommodation, restoration of existing roof, new roof lights, new roof structure between existing ridges, new stairs from first floor to attic in existing dwelling and associated site works etc. Currently on appeal under **ABP-315055-22** which is identical to the subject appeal bar the demolition and replacement rear extension.

PA ref. 15/346: Permission **granted on appeal** (ABP ref. PL27.246000) in May 2016 for attic conversion with a new roof structure between ridges and new stairs etc. Condition 2 required all works to be carried out under the supervision of a qualified professional with specialised conservation expertise. This permission has lapsed.

PA ref. 10/630059: Permission **granted** in July 2010 for alterations to previously permitted conservatory extension to rear of existing dwelling, a protected structure, under PA ref. 05/294 etc. Condition 4 required *inter alia* a solid south-western elevation and reduced ridge height to that below the underside of the windowsill directly above.

PA ref. 06/630053: Permission **granted** in April 2006 for interior alterations to first floor level and conversion of existing attic to habitable accommodation with new roof lights and roof window etc. Condition 4 required the submission and agreement of method statement and specification in respect of works to the protected structure.

4.2. Adjacent sites:

'Amber', Violet Hill

PA ref. 23/60035: Permission **granted** in June 2023 for retention of existing sheds and construction of a chicken coop etc. Currently on appeal under **ABP-317559-23**.

PA ref. 22/1102: Permission **granted** in July 2023 for an extension to existing dwelling, a protected structure etc. Currently on appeal under **ABP-317733-23**.

PA ref. 21/988: Permission **refused on appeal** (ABP-311675-21) in February 2022 for an extension to existing dwelling etc. Having regard to the paucity of information in relation to the layout, extent and disposition of existing residential units within Violet Hill House (protected structure) and its adjoining outbuildings including information pertaining to their respective accesses and private amenity areas, the Board was not satisfied that the proposal would not seriously injure the visual and/or residential amenities of the adjoining dwellings contrary to proper planning and sustainable development etc. The Board also considered that, by reason of the form, choice or materials and design of the proposed extension, in particular the solid to void ratio and proportions of fenestration, the proposal would have a detrimental impact on the architectural character and setting of the protected structure and would, therefore, be contrary to AH1 of the Bray LAP and BH10 of the Development Plan 2016-2022 etc.

PA ref. 17/544: Permission **granted** in July 2017 for the refurbishment and reordering of interior features of a protected structure, refurbishment of all existing windows, the glazing of the existing dormer windows, the installation of an air / water heat pump in the garden and all associated site works etc. Condition 2 required the proposal to be carried out using best heritage practice for the protection and preservation of the original structure and surrounding grounds as set out in published heritage guidance.

'Violet Hill House', Violet Hill

PA ref. 18/1429: Permission **refused** in December 2019 for a detached two-storey house in the side-garden of Violet Hill House with access via Ballywaltrim Lane. It was considered that the proposal, by reason of its layout and design, would seriously injure the amenities of the area and would have an adverse impact on the protected structure and on protected trees (TPO ref. 2, Violet Hill), contrary to the objectives of the Bray LAP and Development Plan 2016-2022 for the protection of architectural heritage and for the protection of trees and to proper planning and sustainable development of the area. It was also considered that to permit the proposal, in the absence of information to demonstrate that a safe access could be provided from Ballywaltrim Road; in the absence of information regarding the impact of the driveway re-instatement on the TPO trees; and in the absence of information regarding safety measures along the new driveway, would be contrary to proper planning and sustainable development etc.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028

5.1.1. The current Development Plan (as varied) came into effect on 23rd October 2022. The Planning Authority decision of 5th October 2022 was made under the previous Plan for the period 2016-2022. This appeal shall be determined under the current Plan.

5.1.2. The main policy objectives relevant to the proposal are set out in chapters 6 (Housing), 8 (Built Heritage), 13 (Water Services), 17 (Natural Heritage & Biodiversity) and 18 (Green Infrastructure) of Volume 1 (Written Statement). Volume 3 sets out relevant design standards (Appendix 1) and the Record of Protected Structures (Appendix 4).

5.1.3. The following sections are relevant to the proposed development:

- 6.4 – Housing Objectives (Existing Residential Areas)
- 8.3.1 – Record of Protected Structures (RPS)
- 17.2.2 – Woodlands, Trees and Hedgerows (Map No. 17.05B, Schedule 17.05)
- Appendix 1 – House extensions (3.1.8) and Architectural heritage (9.2)

5.1.4. I consider the following policy objectives particularly relevant:

CPO 6.21 In areas zoned ‘Existing Residential’, house improvements, alterations and extensions etc. in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space). While new developments shall have regard to the protection of the residential and architectural amenities, houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

CPO 8.14 To positively consider proposals to alter or change the use of protected structures so as to render them viable for modern use, subject to architectural heritage assessment and to demonstration by a suitably qualified Conservation Architect etc. that the structure, character, appearance and setting will not be adversely affected and suitable design, materials and construction methods will be utilised.

- CPO 8.15** All development works on or at the sites of protected structures, including any site works necessary, shall be carried out using best heritage practice for the protection and preservation of those aspects or features of the structures / site that render it worthy of protection.
- CPO 8.16** To support the re-introduction of traditional features on protected structures where there is evidence that such features (e.g. window styles, finishes etc.) previously existed.
- CPO 8.17** To strongly resist the demolition of protected structures or features of special interest unless it can be demonstrated that exceptional circumstances exist. All such cases will be subject to full impact assessment and mitigation.
- CPO 17.4** To contribute, as appropriate, towards the protection of designated ecological sites including *inter alia* Tree Preservation Orders (TPOs).
- CPO 17.7** To maintain the conservation value of all proposed and future Natural Heritage Areas (NHAs) and to protect other designated ecological sites (including TPOs) in Wicklow.
- CPO 17.18** To promote the preservation of trees, groups of trees or woodlands in particular native tree species, and those trees associated with demesne planting, in the interest of the long-term sustainability of a stable ecosystem amenity or the environment generally etc.

5.2. Bray Municipal District (MD) Local Area Plan (LAP) 2018-2024

- 5.2.1. The Bray MD LAP came into effect on 10th June 2018. In addition to the current Development Plan, this appeal shall be determined under the provisions of the LAP.
- 5.2.2. The appeal site is zoned 'Existing Residential' with a zoning objective '*To protect, provide and improve residential amenities of existing residential areas.*' The vision for this zoning includes for the provision for house improvements, alterations, extensions etc. in accordance with principles of good design and protection of residential amenity. Uses generally appropriate for residential zoning include houses, apartments etc.

- 5.2.3. The LAP details the RPS pertaining to the MD including Violet Hill (Kilbride) (RPS ref. B25). It is also rated in the NIAH as regionally significant and of architectural and social interest. Schedule 10.08 lists existing TPOs including Violet Hill (CDP ID B2).
- 5.2.4. The main policy objectives relevant to the proposal are set out in chapter 3 (Residential Development) and 9 (Built & Natural Heritage) of the Written Statement. I consider the following policy objectives particularly relevant:

AH2 To positively consider proposals to improve, alter, extend or change the use of protected structures so as to render them viable for modern use, subject to consultation with suitably qualified Conservation Architects etc., suitable design, materials and construction methods. All development works on or at the sites of protected structures, including any site works necessary, shall be carried out using best heritage practice for the protection and preservation of those aspects or features of the structures / site that render it worthy of protection. To support the re-introduction of traditional features on protected structures where there is evidence that such features (e.g. window styles etc.) previously existed, while not compromising the need for energy conservation.

B3 To maintain the conservation value of all proposed and future Natural Heritage Areas (NHAs) and to protect other designated ecological sites (including TPOs) in Wicklow.

5.3. **RSES**

- 5.3.1. The Eastern and Midland Regional Spatial and Economic Strategy (RSES) 2019-2031 sets the regional planning policy context. Regional Policy Objective (RPO) 9.30 seeks to support the sensitive reuse of protected structures.

5.4. **NPF**

- 5.4.1. Project Ireland 2040, the National Planning Framework (NPF), sets the national planning policy context. National Policy Objective (NPO) 17 seeks to enhance, integrate and protect the special physical, social, economic and cultural value of built heritage assets through appropriate and sensitive use now and for future generations.

5.5. Architectural Heritage Protection Guidelines

- 5.5.1. The Architectural Heritage Protection Guidelines for Planning Authorities (DAHG, 2011) contains supplementary guidance to support planning authorities in their role to protect the architectural heritage when a protected structure etc. is subject of works.
- 5.5.2. Section 6.8.1 notes that it will often be necessary to permit new extensions to protected structures in order to make them fit for modern living etc. Where the existing exterior appearance of a structure is of special interest, and its interior is of sufficient size, it may be possible to incorporate new functions or services within the existing envelope of the structure. With flexibility and imagination, it may be possible to use secondary spaces within the building, obviating the need to extend, where there would be minimal impact on fixtures and features of special interest. The cumulative effect of minor additions can compromise the special interest of a structure etc. and the planning authority should consider this when assessing a proposal for even small extensions.
- 5.5.3. Section 6.8.2 outlines that the new work should involve the smallest possible loss of historic fabric and ensure that important features are not obscured, damaged or destroyed. In general, principal elevations of a protected structure (not necessarily just the façade) should not be adversely affected by new extensions. The design of symmetrical buildings or elevations should not be compromised by additions that would disrupt the symmetry or be detrimental to the design of the protected structure.
- 5.5.4. Section 6.8.3 provides that attempts should not be made to disguise new additions or extensions and make them appear to belong to the historic fabric. The architectural style of additions does not necessarily need to imitate historical styles or replicate the detailing of the original building in order to be considered acceptable. Careful consideration of the palette of materials can mediate between a modern design and the historic fabric. Extensions should complement the original structure in terms of scale, materials and detailed design while reflecting the values of the present time.
- 5.5.5. Section 6.8.4 notes that modern extensions to a protected structure do not have protected status themselves unless they contribute to the character of the structure. Therefore, works to such an extension which do not affect the character of the protected structure itself would come within the normal rules relating to exemptions. However, new openings proposed from the principal structure into the extension would

affect it. Care should be taken where works are proposed to extensions to ensure that they do not have an adverse effect on the character of the structure or its curtilage.

- 5.5.6. Section 6.8.5 outlines that careful consideration needs to be given to proposals for rear extensions to protected structures etc. in urban areas. Rear elevations sometimes contain fabric that is useful in reading the history of the structure, for example surviving older windows or doors. The effect of extensions may have considerable impact on the appearance of buildings or on the setting of neighbouring buildings, or indeed on the appearance of the structure when viewed from a distance (or a set of similar structures such as in a terrace), and this should be considered.
- 5.5.7. Section 9.2.7 notes that roofs of protected structures should retain their original form and profile and not be radically altered e.g. to provide extra accommodation within a mansard roof. The insertions of lift-motor/plant rooms and dormers can also materially alter the character and profile of a historic roof and should be carefully scrutinised.
- 5.5.8. Finally, section 6.8.7 provides that there may be cases where additions cannot be permitted without seriously compromising the architectural significance of a protected structure or its setting etc. In such cases the proposals should not be permitted.

5.6. **Trees in Relation to Design, Demolition and Construction**

- 5.6.1. This British Standard publication (BS 5837:2012) came into effect on 30th April 2012. Clause 7 deals specifically with demolition and construction close to existing trees.
- 5.6.2. Subclause 7.4 relates to permanent hard surfacing within the Root Protection Area (RPA), but it does not apply to veteran trees¹, where it is recommended that no construction, including the installation of new hard surfacing, occurs within the RPA. It notes that where permanent hard surfacing within the is considered unavoidable, site-specific and specialist arboricultural and construction design advice should be sought to determine whether it is achievable without significant adverse impact on trees to be retained (Subclause 7.4.1). New permanent hard surfacing should not exceed 20% of any existing unsurfaced ground in the RPA (Subclause 7.4.2.3).

¹ A tree that, by recognized criteria, shows features of biological, cultural or aesthetic value that are characteristic of, but not exclusive to, individuals surviving beyond the typical age range for the species concerned (Subclause 3.12)

5.6.3. Subclause 7.5 relates to special engineering for foundations within the RPA. It notes that the use of traditional strip footings can result in extensive root loss and should be avoided but the insertion of specially engineered structures within RPAs may be justified if this enables the retention of a good quality tree that would otherwise be lost (usually categories A or B). It states that in order to arrive at a suitable solution, site-specific and specialist advice regarding foundation design should be sought from the project arboriculturist and an engineer. I also note; in shrinkable soils, the foundation design should take account of the risk of indirect damage (Subclause 7.5.1); root damage can be minimized by using *inter alia* piles or beams, cantilevered as necessary etc. (Subclause 7.5.2); and where a slab for a minor structure (e.g. shed base) is to be formed within the RPA, it should bear on existing ground level, and not exceed an area greater than 20% of the existing unsurfaced ground (Subclause 7.5.3).

5.7. Natural Heritage Designations

5.7.1. None relevant.

5.8. EIA Screening

5.8.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. 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

6.1.1. A third-party appeal has been lodged by RML Planning on behalf of the appellant, Maria Gallen of 'The Gallery', Violet Hill. This is the adjacent first-second floor apartment to the northeast. The grounds of appeal generally reflect the observations made to the Planning Authority and can be summarised as follows:

- It is submitted that the proposed extension will seriously compromise the architectural significance of the protected structure contrary to the Development Plan, LAP and the Architectural Heritage Guidelines (AHG). The proposal fails to

take account of the entire elevation and destroys the original design from 1862, in particular the projecting bay window which is one of a pair. The proposal would set a precedent for future *ad hoc* extensions.

- It is stated that the special architectural character of the protected Tudor-Gothic building includes the steeply pitched roofs. The proposed new roof profile will seriously compromise the special architectural character and original design of the protected structure and is contrary to the AHG regarding interventions to roofs. The proposal would set a precedent for future *ad hoc* extensions.
- It is suggested that the proposal would have a severe negative visual impact on the open character of the curtilage of the protected structure by creating an extension into lands that form an inherent component of the curtilage.
- It is submitted that the proposal would result in overlooking, noise and inconvenience between the properties by reason of proximity, size and design. The proposal will cause a serious negative impact on the residential and visual amenities of The Gallery and on the applicant's property.
- It is stated that the proposal would create a tunnelling effect on the existing ground floor open space associated with The Gallery, it will be overbearing and result in overshadowing and serious loss of residential and visual amenities.
- It is suggested that the proposed rooflights will overlook the existing attic conservatory windows in The Gallery. The proposed new roof will have a serious negative impact on the adjacent roof of The Gallery owing to the lack of detail of how the appellant's roof will be protected by the new roof profile.
- It is submitted that the proposal materially impacts on a TPO by building on a root protection area and the applicant fails to provide an overriding justification of same. It is stated that the process of assessing the planning application was fundamentally flawed for this and other reasons, including non-compliance with the Planning Regulations; no bat survey was sought; cross-referenced drawings in the arborists report were missing; unsolicited further information was accepted; and further information was not deemed significant requiring re-advertisement.
- It is stated that the Board has a strong track record of refusing permission for development that detracts from the visual character of a protected structure and/or

has a detrimental and irreversible impact on the essential qualities of the curtilage of a protected structure. It is noted that the Board recently refused permission for an extension to this protected structure.

6.2. Applicant Response

6.2.1. Ronan Rose-Roberts (Grade III Conservation Architects) responded on behalf of the applicants, Peadar and Danielle Bruton. It can be summarised as follows:

- Regarding the submission that the proposed extension will seriously compromise the architectural significance of the protected structure, the applicant submitted additional drawings as detailed below and suggests that the proposed extension is subservient to the overall protected structure. They also state that it takes up the same footprint as the existing extension where it joins the original building, creating a courtyard around the bay window and ensuring its architectural features are respected. Referring to section 6.8.3 of the AHG, they also note that the proposed extension is deliberately contemporary with a carefully considered palette of materials, and no attempt has been made to disguise it. Referring to the schematic elevation drawing, they also submit that the overall façades of the protected structure are not symmetrical as suggested by the appellant.
- Regarding the submission that the proposed attic conversion will seriously compromise the architectural significance of the protected structure, the applicant submits that the southwest ridge only becomes visible from ground level at a distance of c. 60m from the front façade and the proposed metal roof spanning the internal valley only becomes visible from ground level at a distance of c. 75m from the front façade. They therefore contend that the proposed change is almost imperceptible from ground level and suggest that the attic conversion is not a radical alteration and will have limited impact on the special character of the roof.
- Regarding the suggestion that the proposal would have a negative impact on the open nature of the curtilage of the protected structure, the applicant states that the lands to the south-west (presumably south-east) of the original house have been subdivided into private gardens and submits that a single-storey extension in the rear garden of the appeal site will not have a significant impact on the protected structure or the appellants residential amenity.

- Regarding the submission that the proposal would result in overlooking, noise and inconvenience etc., the applicant submits that no new or substantial overlooking is created by the proposal other than that which already exists, there are no new directly opposing windows, the proposed new windows facing towards the external terrace of The Gallery match the existing extension windows. They also state that there will be no intensification of use and the appellants views across the rear garden of the appeal site and Violet Hill House will be unaffected.
- Regarding the suggestion that the proposal would be overbearing etc., the applicant states that the height of the extension has been minimised to ensure that there is no substantial tunnelling, overbearing, or overshadowing caused.
- Regarding the suggestion that the new roof would negatively impact on The Gallery, the applicant states that the roof of the appellants property does not share a valley gutter with that of the appeal site and the proposal will have a negligible effect on the appellants roof drainage. In response to the appellant's concerns that the proposed roof windows will overlook their rooflight, the applicant is happy to make these obscured or reduce their number if deemed necessary by the Board.
- Regarding the submission that the rear extension materially impacts on a TPO, the applicant refers to the tree report and revised drawings submitted under further information and notes that all pertinent information including the outline of the RPA was transposed onto the drawings. The report recommends that specialist foundation design must be adopted and overseen by an arborist to ensure that no damage is done to the tree. The arborist notes that the extension will represent a small encroachment into the nominal RPA and therefore a raft foundation system may be adequate but also notes that alternative systems could be explored to support the structure. Referring to *BS 5837:2012*, the arborist provides a rationale for as to why soil assessments were not required and also notes that the ground protection measures could apply to either a patio or steps to the rear of the extension. The applicant also notes that the proposed sedum roof has a dual purpose as both a water attenuation method and as an aesthetic roof finish.
- Regarding the suggestion that the process of assessing the application was fundamentally flawed, the applicant notes the new site layout plan at 1:500 scale shows the entirety of the site outlined in red with additional dimensions showing

distances of structures from the site boundary. They submit that the consideration of the significance of the submitted further information is a matter for the Planning Authority and reject the appellants suggestions regarding the unsolicited further information. In relation to bats, they state that no bat roost or presence of bats were found during the applicants' inspections of the attic space and a bat survey would not normally be required for alterations to a domestic attic nor would an EIA be required. Finally, they suggest that the precedent refusals referenced by the appellant are not relevant to this planning application.

6.2.2. The applicant's response was accompanied by the following:

- Site location map (1:1000) and layout plan (1:500) showing extent of the curtilage of the protected structure and appeal site with dimensions and RPA overlain;
- New schematic drawing illustrating the curtilage of the protected structure, subdivision of ownerships and amenity spaces at Violet Hill along with contiguous elevation of front and rear of the protected structure;
- Arborist response (Independent Tree Surveys Ltd.);
- Tree survey plan; and
- Tree protection plan.

6.3. **Planning Authority Response**

None.

7.0 **Assessment**

7.1. **Preliminary Points**

7.1.1. I am aware that there is a concurrent appeal with the Board under ABP-315055-22. The attic conversion under that appeal is identical to that element of this proposal.

7.1.2. I also note the concerns raised by the appellant regarding the processing of the application including the lack of certain drawings, the submission of unsolicited further information, and the subsequent determination of the submitted further information etc. The Planning Authority accepted the application and did not raise any concerns regarding validation. Therefore, I do not propose to deal with this matter any further.

7.1.3. I am satisfied that there is adequate information available on the file to consider the proposal and grounds of appeal, notwithstanding my somewhat restricted inspection.

7.1.4. Having examined the application details and all other documentation on the appeal file, including the appeal submissions, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Built Heritage
- Residential Amenity
- Natural Heritage
- Appropriate Assessment

7.2. **Built Heritage**

7.2.1. The crux of the appeal centres on the impact of the proposal on the architectural character of the protected structure (RPS ref. B25). The applicant's conservation report assesses the house and the proposed interventions and concludes that the proposal will not adversely impact on the historic fabric or character of the house. The appellant disagrees and suggests that the impacts on the overall building were not considered. There is some merit to this. The applicant's appeal response provides a rebuttal to each of the issues raised by the appellant and includes drawings to contextualise the impact of the proposed extension on the rear of the overall building.

The Protected Structure

7.2.2. As elegantly documented by the appellant, Violet Hill House was originally built in the 1860s as a large country house in a neo-Gothic style. It is no longer in use as a single dwellinghouse, as noted in the NIAH (ref. 16400702). The main building appears to have been subdivided into four dwellings in the 1970s. This is agreed by the parties. Two of the dwellings are apartments², one of which, 'The Gallery', is the appellants.

7.2.3. The building's curtilage was similarly subdivided creating new entrances and private gardens for each dwelling as detailed on the schematic plan accompanying the

² Referred to as 'The Garden Flat' (now 'Amber') and 'The Balcony Flat' (now 'The Gallery') in an Indenture dated 24th November 1976 on the appeal file. I also note that the appeal site is referred to as 'The Middle House' and the remainder of the building as 'The Main House'.

applicant's response. The RPS designation relates specifically to the "structure". This includes the whole of the building and lands lying within its curtilage etc., not just the appeal site, as per section 8.3.1 of the Development Plan, as noted by the appellant.

- 7.2.4. Violet Hill House now reads as a terrace of dwellings and the appeal site is located centrally therein. The building is an assemblage of varied elements, reflective of a later 19th century extension. The roof has a variety of heights and levels with large roof skylights on both the front and rear elevation. The façades are mix of two-storey projecting gabled bays which in turn are faced with a mixture of single and two-storey square and canted bays. Window openings are a mixture of flat and pointed arched.

The Appeal Site

- 7.2.5. 'Mandalay', or the part of the protected structure within the appeal site, is three bays wide, and comprises of a double-bay, gable fronted section with rectangular sliding sash windows, and a single-bay with a pair of pointed arched, stained-glass windows with pointed arch front entrance door below. The rear façade is two bays wide and comprises of a gable-fronted section with a double window at first floor level and a triple bay window at ground floor level. A pitched roof rear extension, in a broadly similar style to the original house and protected structure, was built in or around 2011.

The Proposed Development

- 7.2.6. The proposal involves the demolition of this rear extension and the construction of an L-shape flat roof structure with a stated floor space of 60.80sq.m as detailed in para. 2.5 above. The applicant states that the existing rear extension was built as a pastiche of the Victorian neo-Gothic style of the original house. I agree, and whilst I was unable to view the extension during my inspection, I am fully satisfied that the proposed demolition would not adversely impact on the historic fabric or character of the building, having regard to the conservation report and other photos on the appeal file. The appellant has not raised any concerns regarding the proposed demolition works and I can conclude that this element does not fall within section 57(10)(b) territory³.
- 7.2.7. The proposed attic conversion is described generally in para. 2.6 above. It includes a new section of zinc/lead roof with 2 no. fixed skylights, valley gutter and side cladding

³ S. 57(10)(b) of the Planning and Development Act 2000 (as amended) "A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances."

to the central area of the roof between the front and rear ridges; the installation of 2 no. recessed windows, with vertical centre bar, in the southeast fall of the rear ridge; and 3 no. openable windows located in the northwest fall of the rear ridge, the southeast fall of the front ridge and the northeast fall of the central ridge, respectively.

Impact on Setting

7.2.8. I consider the setting of the building to be tightly contained by the degree of mature planting, both within, and on the boundaries of the curtilage. Inter-visibility between the appeal site, the remainder of the building and wider area is therefore limited by this planting, with the most striking view presumably on approach to 'Violet Hill House' which occupies c. 50% of the building. Most of the significance of the building derives from its historic fabric and façades, with the setting contributing a small amount.

7.2.9. Whilst the NIAH states that the building is of architectural and social interest, and regional significance, it also notes that its original condition has been 'somewhat spoiled' by the subdivision. This is undisputable from my inspection, and whilst I fully agree with the appellant's suggestion that the façades were 'designed to be seen' and form the main feature of special interest, the reality is that they have been negatively impacted upon through the delineation of private garden areas with various forms of boundary treatment. Regrettably, this has diminished the building's setting, in my opinion, and any 'open character' or inter-visibility is limited. The proposal therefore represents a substantial change to the interior and exterior of the applicant's house, 'Mandalay', and to a lesser extent, the overall of setting of the protected structure.

Impact on Character

7.2.10. Regarding the impact of the rear extension on the overall original building, I agree with the applicant that the asymmetrical arrangement that forms the essential character of the building allows for discrete physical interventions. Such additions and extensions, including the contemporary nature of that being proposed, can politely integrate into the overall structure with negligible impact on its character and features of special interest, including the bay windows and roof. Furthermore, the interface with the fabric of the original building coincides with the 2011 extension and therefore the bulk of the proposed extension will be remote and subservient to the façades of the structure.

7.2.11. Regarding the impact of the proposal on the roof and rear façade generally, and adjacent bay window specifically, which is one of a pair, and the appellant suggests is

contrary to section 6.8.2 of the AHG, I agree with the applicant that the new courtyard ensures that the architectural features of the roof and rear façade generally, and bay window specifically, are respected. Referring to section 6.8.3 of the AHG, they note that the proposed extension is deliberately contemporary, and I consider the discordant approach of the proposed design would be appropriate, as any attempt to ape the grandeur of the building would likely fail at the scale of a domestic extension.

- 7.2.12. Moreover, I consider that the flat roof structure of the proposed rear extension will read with the adjacent flat roof balcony at the appellant's property, and the existing roof valley of the overall building will not be radically altered to the extent envisioned in section 9.2.7 of the AHG. I am therefore satisfied that the proposal would not visually compete with, or fundamentally fail to harmonise with, the building in terms of height, scale, massing and materials etc. to the detriment of the original form or appearance of the building, its established character, or the wider visual amenities at Violet Hill.
- 7.2.13. Regarding the visibility of the new section of roof from the front of the building, I refer to the applicant's calculations which suggest that the existing rear ridge only becomes visible from ground level at a distance of c. 60m from the front of the building. This is consistent with my site observations. They indicate that the proposed metal roof spanning the internal valley, which will be located below both the front and rear ridge levels, would only be visible from ground level at a distance of c. 75m from the front of the building. At these distances, the views of the building are effectively obscured by large mature trees in the front garden and limited to private views as the once open character of the curtilage is limited. To suggest otherwise would be unreasonable given my inability to freely access the rear of the appeal site during my site inspection.
- 7.2.14. Regarding the comment that there is sufficient space within the existing house to provide for the applicant's future accommodation needs, I respectfully suggest that this is difficult for the appellant to determine or for me to fully assess other than to note the bedroom sizes on the submitted floor plans and illustrated in the photographic survey. In this regard, I accept that the applicant appears to have a growing family and requires additional space to ensure that their family home is future-proofed.

Conclusion on Built Heritage Impacts

- 7.2.15. Given the intervention into the historic fabric and façade of the building would be minor, and the majority of significance, in the case of this protected structure, is derived from

these special features rather than its setting, the resulting harm would be negligible and in accordance with CPO 8.14 of the Development Plan and AH2 of the Bray LAP.

7.2.16. I do not therefore consider the proposed alterations and interventions will detract from the significance or value of the structure, and I do consider that the extension is appropriately scaled, complimentary and subsidiary to the original protected structure.

7.2.17. On balance, I am satisfied that the proposal reconciles the need to maintain the architectural character of this protected structure with the ambition to provide a modern family dwelling and does so without compromising on this character or features of special interest. The proposal would also bring public benefits by securing the optimal viable use of this part of the protected structure which will help secure the overall conservation effort for future generations in accordance with NPO 17 of the NPF.

7.3. Residential Amenity

7.3.1. The appellant has also raised a number of residential amenity concerns including overlooking, overbearing and overshadowing in addition to noise and inconvenience.

Overlooking

7.3.2. Regarding overlooking the appellant suggests that there are two potential sources. Firstly, from the appellant's property (flat roof balcony and principal bedroom) towards the applicant's rear extension and courtyard, which I find to be an odd proposition but may constitute overlooking, nonetheless. Secondly, from the proposed (openable roof) windows on The Gallery side towards the appellant's conservatory. I refer to the drawings submitted and note that the 3 no. windows, identified as No. 2 on the roof plans, and serving the attic store and ensuite, are closest to The Gallery property.

7.3.3. I note that the applicant has indicated that they are willing to install obscure glazing or reduce the number of windows proposed. I do not consider their removal necessary, given their maintenance function, however, to ensure that there is no overlooking it is recommended that a condition be attached requiring that the glazing is obscured. Regarding the overlooking from the appellant's property towards the rear extension, I agree with the applicant that no new or substantial overlooking is created. The proposed courtyard area appears to be currently used for a similar purpose and I don't find it credible that residential amenity of the appellant, or indeed applicant, will be

adversely impacted upon by new or significant overlooking. The louvre panelling to the outside of the opes, as suggested by the appellant, is also unnecessary in my view.

Overbearing etc.

- 7.3.4. Regarding overbearing and overshadowing impacts, including the suggestion that the proposal will give rise to “tunnelling”, it is my view that the proposed single-storey extension, with the flat roof structure, will give rise to negligible impacts on the appellant’s ground floor amenity space, having specific regard to the orientation and height of the overall building, nor will it impact on the amenity quality of their balcony.

Conclusion on Residential Amenity

- 7.3.5. Other residential amenity concerns regarding noise etc. have not been sufficiently substantiated to warrant further consideration other than to note that the entire building is in residential use in an area zoned ‘Existing Residential’ where house extensions etc. are permissible under CPO 6.21. The proposed development will not materially intensify this use and I am therefore satisfied that it will not adversely impact on the residential amenity of the appellant or other dwellings at the former Violet Hill House. Indeed, I note that the other occupants of the building have supported the proposal.

7.4. Natural Heritage

- 7.4.1. The appellant has raised natural heritage concerns which I will address as follows.

Trees

- 7.4.2. Regarding the construction of part of the proposed rear extension in the RPA of a tree subject to a TPO, the appellant raises a number of specific issues with the tree report submitted under further information, as noted above. I have reviewed the report and I note that the subject species, *Cedrus atlantica* (Atlas Cedar), has a height of 28m and single stem diameter of 1.6m, giving a nominal radius RPA of 15m (or 707sq.m), as per Annex D (Table D.1) of *BS 5837:2012*. I specifically note that this mature tree is in good overall condition and categorised as A1 (high value/quality), and whilst the associated drawings illustrate a categorisation of A2, this is largely immaterial.
- 7.4.3. Section 6.0 of the report details the main arboricultural impacts of the proposal and notes that the use of a floating floor slab, or raft foundation, will remove the need for conventional strip foundations which can be very damaging to tree root systems. The report notes that this is suitable for ‘comparatively minor structures’. The appellant

disputes that the entire rear extension can be considered a minor structure and suggests that it should be constructed with ventilation between the slab and soil. The applicant's appeal response includes a separate submission from the arborist who appears amenable to alternative systems including those that provide a void below the structure to allow for gas diffusion etc. Unfortunately, the applicant has not considered a cantilevered structure which may have provided a solution given the topography.

- 7.4.4. Section 7.0 of the report outlines a rather perfunctory arboricultural method statement including tree protection measures prior to demolition and during construction. It is stated that all tree protection measures will be overseen by an arborist etc. but is generally light on contingency measures should roots be exposed or become evident close to the surface. Such a scenario may require a void between the slab and soil.
- 7.4.5. Notwithstanding the various issues highlighted by the appellant including the noted limitations of the tree survey and lack of soil assessment, for which the arborist did provide an adequate rebuttal, I accept that the tree survey is a robust assessment of the subject TPO tree on the appeal site. I also accept that the new permanent hard surfacing will not exceed 20% of any existing unsurfaced ground within the RPA of the tree and the slab to be formed within the RPA can be considered a minor structure.
- 7.4.6. I am satisfied that, subject to a suitably worded condition requiring detailed measures in relation to the subject tree and other TPO trees, there will be no significant adverse impact on trees and the proposal will not materially impact on the TPO. The proposal therefore accords with CPO 17.7 and CPO 17.18 of the Plan and B3 of the Bray LAP.

Bats

- 7.4.7. I note the concerns raised regarding bats generally and a lack of a survey specifically. The applicant submits that an inspection of the attic was carried out and states that no bat roost or presence of bats were found, and I accept these findings. I also note that the demolition works are limited, a bat survey would not normally be required, and the applicant is also bound by other statutory codes for such works within the attic space.

Conclusion on Natural Heritage

- 7.4.8. I am therefore satisfied that the proposed development would not have any unacceptable impacts on natural heritage and no significant impacts are likely to arise.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, which is for a house extension (Protected Structure) including attic conversion and the demolition of an existing extension, in an established and serviced urban area, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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**

- 8.1. I recommend that permission be **granted** for the reasons and considerations below.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the provisions of Wicklow County Development Plan 2022-2028 (as varied) and the Bray Municipal District Local Area Plan 2018-2024, the location of the proposed development within the settlement boundary of Bray on zoned 'Existing Residential' lands, the relatively small scale nature of the proposal in the context of the appeal site and overall protected structure and the prevailing pattern and character of development in the area, 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 and would not negatively impact on the natural heritage of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **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 th day of September, 2022, 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
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	<p>planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interests of clarity.</p>
2.	<p>Prior to commencement of development, the developer shall provide for the following:</p> <p>(a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.</p> <p>(b) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.</p> <p>All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric <i>in-situ</i> including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.</p> <p>Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.</p>
3.	<p>The glazing to the 3 no. openable roof windows, identified as No. 2 on the proposed roof plan, shall be manufactured opaque or frosted glass and shall be permanently maintained. Details shall be agreed in writing with the planning authority prior to commencement of work on site.</p> <p>Reason: In the interest of residential amenity.</p>

4.	<p>(a) Detailed measures in relation to the protection of trees at Violet Hill that are subject to a Tree Preservation Order (CDP ID B2), including an Arboricultural Method Statement, shall be submitted to, and agreed in writing with the planning authority prior to commencement of work on site.</p> <p>(b) All demolition and construction works shall be carried out under the supervision of a qualified arborist.</p> <p>Reason: To ensure the protection of the natural heritage on site.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contributions Scheme made under section 48 of the Planning and Development Act 2000 as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the scheme.</p>

	Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Philip Maguire

Planning Inspector

29th September 2023