



An
Bord
Pleanála

Inspector's Report

ABP-317559-23

Development	Retention of internal alterations to a protected structure, the retention of 2 no. existing sheds and a chicken coop
Location	Amber, Violet Hill House, Violet Hill, Herbert Road, Bray, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2360035
Applicant(s)	David O'Brien and Grainne Birdthistle
Type of Application	Retention Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Maria and Daniel Gallen
Observer(s)	None
Date of Site Inspection	11 th June 2024
Inspector	Elaine Power

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1.0 Site Location and Description

- 1.1. The appeal site is located in Bray, Co. Wicklow and forms part of Violet Hill House, a protected structure. The original house was previously subdivided into 4 no. residential units, in this regard Violet Hill House, Mandalay, Amber and Gallery. A former stables and coach house adjacent to the appeal site have also been converted to residential use. There are a total of 9 no. residential units within the overall Violet Hill site. All residential units are accessed from a private laneway via Herbert Road. The properties within the overall site are setback from the public road and well screened by mature trees and vegetation. which gives the site a sylvan character.
- 1.2. Amber, the subject of this appeal site is irregular in shape. It has a stated area of 0.119ha and contains a ground floor residential unit with a stated area of 179.5sqm. There is a large garden area to the north-west (front) and north-east (side) of Amber. The open space area located directly to the front of the property comprises a landscaped garden with seating area. The open space area located directly to the side of the property generally comprises a gravelled area with a hen house / chicken coop and seating area. To the north-east of the side garden is a large, gravelled driveway. Further north-east is a large area of grassed open space which currently accommodates 2 no. sheds and bin storage etc. The differing areas of open space are generally subdivided by planting and hedges and there are a number of mature trees within the sites.
- 1.3. Trees at Violet Hill are protected by Tree Preservation Order.

2.0 Proposed Development

- 2.1. The proposed development is for the retention of internal alterations to a protected structure approved under Reg. Ref. 17/544. The alterations include omission of an approved internal partition wall, retention of an existing internal wall and modifications to permitted spiral stairs. The retention works also include the demolition of 2 no. timber garden sheds (15.6sqm) and the provision of 2 no. replacement timber sheds with a combined gross floor area of 22.5sqm. and the retention of a chicken coop with a gross floor area of c. 18.6sqm.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 6 no. conditions. Condition no. 5 is considered relevant.

5. The chicken coop shall be used for 10 or less hen chickens and no male chickens (cock / cockerel / rooster) shall be kept on site.

Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report dated 26th June 2023 raised no objection to the works to be retained and recommended that permission be granted subject to conditions.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

Uisce Eireann: Report dated 6th June 2023 raised no objection subject to standard conditions.

3.4. Third Party Observations

A submission was received from Maria and Daniel Gallen, who are the owners / occupiers of The Gallery, which is the residential unit located above the appeal site 'Amber'. The concerns raised are similar to those outlined in the appeal below.

4.0 Relevant Planning History

There are a large number of applications relating to the overall Violet Hill site the most relevant are outlined below:

Appeal Site

Reg. Ref. EX 69/2022: A Section 5 determined that the provision of 2 no. sheds and a chicken coop were development and were not exempted development.

Reg Ref: 22/1102: Permission was granted in 2023 for a single storey extension to Amber and all associated site works. This decision is currently on appeal ABP 317733-23.

ABP 3116675-21, Reg Ref: 21/988: Permission was refused in 2022 for a single storey extension to Amber and all associated site works. The 2 no. reasons for refusal related to (1) due to the lack of information regarding the layout, extent and disposition of existing residential units within Violet Hill House (Protected Structure) the Board was not satisfied that the proposed development would not seriously injure the visual and / or residential amenities of adjoining dwellings and (2) by reason of form, materials and design the extension would have a detrimental impact on the architectural character and setting of the protected structure.

Reg Ref: 17/544: Permission was granted in 2017 for refurbishment and internal modifications to Amber.

Adjacent Sites within Violet Hill

ABP 314979-22, Reg. Ref. 22/151: Permission was granted in 2023 for the 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 at Mandalay, Violet Hill House.

ABP 315055-22, Reg. Ref. 22/1013: Permission was granted in 2023 for the conversion of existing attic to habitable space, restoration of roof, new roof structure and new stairs from first floor to attic and all associated site works at Mandalay, Violet Hill House.

ABP 318827-24, Reg. Ref. EX83/2023: Current referral regarding whether “the removal of paint from part of protected structure” is or is not exempted development at Violet Hill House.

5.0 Policy Context

5.1. Bray Municipal District Local Area Plan 2018-2024

The appeal site is zoned RE Existing Residential with the associated land use objective to *protect, provide and improve residential amenities of existing residential areas*. The aim of this zoning objective is to provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity.

The record of protected structures in Bray list Violet Hill – Structure (Ref. B25). The Green Infrastructure Map indicates that there is a Tree Preservation Order on the appeal site.

Chapter 9 Built and Natural Heritage sets out objectives and standards for architectural heritage. The following objectives are considered relevant.

AH1 To ensure the protection of all structures (or parts of structures) contained in the Record of Protected Structures

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 and / or other relevant experts, 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, finishes etc) previously existed, while not compromising the need for energy conservation.

5.2. Wicklow Development Plan 2022 - 2028

Appendix 1 of the development plan sets out development and design standards. Section 3.1.8 sets out basic principles for house extensions. These include the following:

- The extension should be sensitive to the existing dwelling and should not adversely distort the scale or mass of the structure.
- The extension shall not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed.
- New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in day or sunlight entering into the house comes about. In this regard, extensions directly abutting property boundaries should be avoided.
- While the form, size and appearance of an extension should complement the area, unless the area has an established unique or valuable character worthy of preservation, a flexible approach will be taken to the assessment of alternative design concepts.

The following objectives are also considered relevant:

CPO 6.21 In areas zoned 'Existing Residential' house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted...

CPO 8.13 To ensure the protection of all structures, items and features contained in the Record of Protected Structures.

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 / or other relevant expertise that the structure, character, appearance and setting will not be adversely affected and suitable design, materials and construction methods will be utilised.

5.3. **Section 28 Ministerial Guidelines**

- Architectural Heritage Protection Guidelines, 2011

5.4. **Natural Heritage Designations**

The appeal site is not located in or immediately adjacent to a designed site.

5.5. EIA Screening

5.6. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required. Please refer to Appendix 2: EIA Preliminary Examination below.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from Maria Gallen, who occupies The Gallery, the residential unit above Amber. The grounds of the appeal relate to the shed and the chicken coop only and are summarised below: -

- The structures to be retained have a negative visual impact on the protected structure due to their scale, layout, positioning, form and use of materials.
- The sheds are too large and visually incongruous, especially in winter due to a lack of screening.
- The avenue and front gardens form part of the curtilage of a protected structure and should be kept free from development.
- A key element of the protected structure is the surrounding open space. The number, layout and positioning of the structures, in combination with the existing car parking, are visually incoherent in the context of the protected structure.
- The structures would set an undesirable precedent. The Board have previously refused permission for structures in the gardens of protected structures.
- There is no comparison between the previous sheds (7.8sqm) and larger sheds to be retained (22.5sqm) and the chicken coop (18.3sqm). Combined they have a gross floor area of over 40sqm.
- The structures represent ad hoc development in and around a protected structure and were carried out in the absence of planning permission.

- The applicant's Conservation Report does not address the visual impact on the protected structure.
- The chicken coop has a serious negative impact and detrimental impact on the residential amenity of adjoining properties, with particular regard to on-going noise.
- The retention of the chicken coop would devalue adjacent residential properties.
- There is a concurrent application for a house extension, which conflicts with the location of the chicken coop.
- The sheds negatively impact on the Tree Preservation Order. Concerns are raised regarding the previous loss of trees within the overall site.
- The application should be invalidated as the public notices are invalid. There are errors and omissions in the planner's report.
- Concerns that the conditions attached by the planning authority are not enforceable.

6.2. **Applicant Response**

The applicant's response to the appeal is summarised below:

- The sheds are located in a large garden c. 22.7m from the main house. They are under the dense cover of trees. The sheds are painted black. Due to the colour and tree cover they have no significant visual or planning impact.
- The structures do not overshadow or overlook other properties.
- The sheds and the internal works were considered by Wicklow County Council to be minor in nature.
- The chicken coop is the most transparent structure. It is bound by a hedge which obscures its view from the driveway. It is minor in scale and has no material effect on other properties.
- The chicken coop is light weight and moveable with a chicken wire cover. It has no foundation. It has not been used to house chickens since 2022 and is

currently used to grow fruiting plants, herbs and vegetables. The applicants are happy to agree that chickens would not be housed in the structure.

- The smaller shed sits on a timber frame on loose concrete blocks and would have less of an impact on the root protection area of the trees than a car travelling on the driveway.
- The larger shed is built on raft foundation c. 150mm deep. There is no noted impact on any tree.
- The removal of trees within the overall site are not relevant to this application.
- The applicants are happy to provide additional planting around the sheds.
- In the event of planning permission being granted for the house extension, the chicken coop would be removed. The intention of this application is to regularise works carried out.
- The public notes clearly describe the extent of the planning application.

6.3. Planning Authority Response

None

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

- 7.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, the report of the local authority and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Residential and Visual Amenity

- Built Heritage
- Tree Preservation Order
- Other Issues

7.2. ***Principle of Development***

7.2.1. The appeal site is zoned RE Existing Residential with the associated land use objective to *protect, provide and improve residential amenities of existing residential areas*. The aim of this zoning objective is to provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In my opinion the proposed development comprises 2 no. distinct elements. In this regard the retention of internal works to the protected structure and the retention of 2 no. sheds and the chicken coop / hen house in the garden of the protected structure. I am satisfied that all uses are permissible under the sites zoning objective.

7.3. ***Residential and Visual Amenity***

- 7.3.1. It is proposed to retain the demolition of 2 no. timber garden sheds, with a total floor area of 15.6sqm and the provision of 2 no. replacement timber sheds with a total floor area of 22.5sqm. The sheds to be retained are located at the sites western boundary, with the private open space of the adjoining property, Mandalay. They are in a similar location to the 2 no. timber sheds that were demolished.
- 7.3.2. The larger shed is c. 5m in length by 3m in width (15sqm). It has a pitched roof with a maximum height of 2.8m. This shed is located c. 27m from the protected structure. The smaller shed is c. 4.2m in length by 1.8m in width (7.5sqm). It has a pitched roof with a maximum height of 2.3m. This shed is located c. 22m north west (front) of the protected structure. Both sheds are timber clad and painted black. They are extensively screened by mature trees, hedging and planting.
- 7.3.3. The chicken coop / hen house to be retained is located c. 8m north-east (side) of the protected structure, in the private amenity space associated with Amber. It is a metal framed structure, c. 3.1m in width by 6m in length (18.6sqm), with a maximum height of c. 2.2m. It is covered in a mesh wire. It is currently used to grow fruiting plants,

herbs and vegetables. In response to the appeal the applicant states that the structure has not been used to house chickens since 2022.

- 7.3.4. Concerns are raised by the third party that the sheds to be retained, in combination with the chicken coop, would be visually incongruous and would negatively impact on the residential amenities of adjacent properties. The concerns of the third party are noted and it is acknowledged that the sheds and chicken coop are visible from The Gallery, the residential unit above Amber, however, given the small scale and nature of the sheds and chicken coop, the separation distances from the adjacent residential properties and the extensive screening within the site I am satisfied that they would not be visually obtrusive, or have a negative impact on the existing residential amenities of adjacent properties in terms of overshadowing, overlooking or overbearing impact.
- 7.3.5. The third party also raised concerns that the keeping of hens would negatively impact on the existing residential amenities in terms of noise and would devalue adjacent properties. Given the small scale of the chicken coop, I am satisfied that it would be ancillary to the residential use and that the keeping of a small number of hens would not generate an unacceptable level of noise or negative impact on the existing residential amenities. The planning authority attached a condition that the chicken coop shall be used for 10 or less hen chickens and no male chickens (cock / cockerel / rooster) shall be kept on site. While it is noted that the hen house is not currently used for housing hens, it is recommended that a similar condition be attached to any grant of retention permission.
- 7.3.6. The third party also notes that there is a concurrent application for a house extension, which conflicts with the location of the chicken coop. In response the appeal the applicant clarified that this application is to regularise works previously carried out on the site and that if permission is granted for a residential extension approved under 22/1102 and currently subject to a third-party appeal ABP 317733-23 the chicken coop would be removed. It is noted that the chicken coop is light weight and moveable. I am satisfied that there is no conflict between the 2 no. applications.

7.4. Built Heritage

- 7.4.1. Amber, the residential unit subject to this appeal, forms part of Violet Hill House, a protected structure (Ref. B25). The house is also listed on the NIAH with a Regional rating. The house is described as a multiple bay, 2-storey former country house built in 1862 which is still an important asset to the architectural heritage of the area.
- 7.4.2. The third party raised concerns that the 2 no. sheds and chicken coop in combination with the existing car parking area negatively impact on the setting and character of the protected structure. While these concerns are noted, I am satisfied that the minor nature and scale of the proposed structures to be retained, which are ancillary structures to an existing residential property and are located in a large amenity space associated which is heavily screened with mature trees and vegetation would have a negligible impact on the character and setting of the protected structure.
- 7.4.3. With regard to the internal works to the protected structure it is noted that planning permission was granted in 2017 under Reg. Ref. 17/544 for the refurbishment and alterations of interior features, refurbishment of all existing windows, the glazing of the existing dormer windows and the installation of a heat pump in the garden at to Amber. The internal changes to the protected structure to be retained as part of this application consist of modifications to the approved spiral stairs, to avoid clashing with existing roof truss. An approved partition wall and door were not constructed and a wall to be demolished was retained. The revisions are indicated on drawing no. 2205.3.PL.02.
- 7.4.4. The information submitted in the applicants Conservation Report indicates that Violet Hill House has undergone changes and alterations over the years. The Architectural Heritage Protection guidelines acknowledge that the best method of conserving a historic building is to keep it in active use and that a degree of compromise is required to accommodate modern living. I agree with the assessment of the planning authority that the nature of the works to the interior of the protected structure to be retained are minor and would not impact on the character of the protected structure or any special features within the protected structure. The applicants Conservation Report notes the amendments have a positive effect as less existing fabric was demolished. It is also noted that the third party raised no objection in principle to the interior works to be retained.

7.5. *Tree Preservation Order*

- 7.5.1. There are a number of mature trees on the site which are subject to a Tree Preservation Order. Concerns are raised by the third party that the proximity of the sheds to mature trees could negatively impact on the root protection zone and the viability of the protected trees. The smaller shed sits on a timber frame on loose concrete blocks. The larger shed is built on raft foundation c. 150mm deep. It is also noted that the chicken coop is a moveable structure and does not have any foundations. As noted in the planner's report, the exact location of the root protection zone is unclear. However, given the minor nature and scale of the sheds and their foundations and as they are already in place with no visible impact any tree. I am satisfied that the retention of the sheds would not negatively impact on the Tree Preservation Order.

7.6. *Other Issues*

- 7.6.1. The appellant raised concerns that the public notices should be invalidated. Having regard to the information available on the file I am satisfied that the site notices were provided in accordance with the legislation and the application was deemed to be valid by the planning authority.
- 7.6.2. Concerns were also raised regarding errors and omissions in the planner's report. I am satisfied that any error or omission is minor in nature and that a full and comprehensive assessment was carried out by the planning authority.

8.0 *AA Screening*

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The appeal site is not located in or immediately adjacent to a designed site. It is located c. 1.5km south of Ballyman Glen SAC (000713), c. 2.5km east of Knocksink Wood SAC (000725) and c. 2.7km west of Bray Head SAC (000714).
- 8.3. A description of the project is summarised in Section 2 of my report. In summary, the proposed development comprises the retention of internal alterations to a protected structure approved under Reg. Ref. 17/544 and the retention of 2 no. timber sheds

and a chicken coop. The surrounding area is suburban in nature. The site is serviced by public water supply and foul drainage networks. The development site is located in an urban environment close to noise and artificial lighting. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

- 8.4. No concerns were raised in the appeal regarding the impact of the proposed development on any designated site.
- 8.5. Having considered the nature, scale and location of the development to be retained, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is due to the small scale and nature of the works, the separation distance between the appeal site and the nearest designated sites and the lack of a hydrological connection. It is noted that the planning authority were satisfied that the development is unlikely to give rise to any adverse impacts on the qualifying interests and conservation objectives of any designated sites.
- 8.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.7. Likely significant effects are excluded and, therefore Appropriate Assessment, (stage 2) under Section 177V of the Planning and Development Act 2000 is not required.

9.0 Recommendation

It is recommended that permission be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the provisions of Wicklow County Development Plan 2022-2028 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 small scale and nature of the development to be retained 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 development to be retained does not materially or adversely affect the protected structure, does not seriously injure the amenities of the area or of property in the vicinity and does 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.

11.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The sheds shall not be used for human habitation, commercial use, industrial use or for any other purpose other than a purpose incidental to the enjoyment of the dwelling.

Reason: In the interests of residential amenity.

3. The chicken coop shall be used for 10 or less hen chickens and no male chickens (cock / cockerel / rooster) shall be kept on site.

Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.

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.

Elaine Power

Senior Planning Inspector

17th June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317559-23			
Proposed Development Summary	Retention of internal alterations to a protected structure, the retention of 2 no. existing sheds and a chicken coop.			
Development Address	Amber, Violet Hill House, Violet Hill, Herbert Road, Bray, Co. Wicklow			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes		
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No			Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____