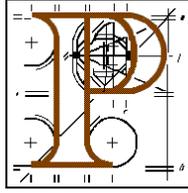


# An Bord Pleanála



## Inspector's Report

**PL 28. 220958.**

**DEVELOPMENT:** The change of use of a gate lodge (protected structure) to office / residential use, at The Gate Lodge, Atkins Hall, Lee Road, Cork.

### PLANNING APPLICATION

**Planning Authority:** Cork City Council  
**Planning Authority Reg. No:** TP06 / 31269.  
**Applicants:** Michael and Mary P. Brady.  
**Application Type:** Permission  
**Planning Authority Decision:** Refusal of permission.

### APPEAL

**Appellants:** Michael and Mary P. Brady.  
**Type of Appeal:** First Party.  
**Observers:** None  
**DATE OF SITE INSPECTION:** 29<sup>th</sup> March 2007.  
**INSPECTOR:** Derek Daly

## **Introduction**

I have read the file, inspected the site, during which I took photographs and these are included at the end of the report, as Appendix 1. considered the grounds of appeal and assessed the proposal in the context of the proper planning and sustainable development of the area.

## **Site location and description**

The proposed site is the gate lodge of the former Our Lady's Hospital, built in 1852 as the Cork Asylum but which is now Atkins Hall a residential development of primarily apartments. The site fronts onto the Lee Road, which runs parallel to the northern bank of the river Lee. The site and area is on the western fringe of the built-up area of Cork City with little development other than the former hospital complex, which is located on the steeply rising northern escarpment of the River Lee valley.

## **Proposed Development**

The proposed development as originally submitted to the planning authority is for the change of use of the gate lodge, which is a protected structure to office / residential use. No physical changes to the building are proposed. The change of use relates to the ground floor of a building from residential to office use retaining the residential use on the first floor and stated floor area affected by the change of use is 78 sq. metres.

## **Planning History**

### **P.A. Ref. No. TP. 96 / 20699**

Permission granted for change of use of hospital building to a hotel and apartments and conversion of outbuildings to conference / function / leisure uses and to mews residential uses.

### **P.A. Ref. No. TP. 97 / 21136.**

Permission granted for demolition of building on the eastern part of the site and replacement with 31 apartments.

### **ABP PL 28.110889 / P.A. Ref. No. TP.98 / 22189.**

Permission granted the conversion of existing building to apartment and construction of new apartment block at rear of existing building (total number of apartments 216), refurbishment of existing Mews building to provide townhouses and refurbishment / extension of existing gate lodge to provide for residential usage together with refurbishment / extension to existing church for commercial usage.

**P.A. Ref. No. TP. 05 / 29366.**

Permission granted for restoration / extension and change of use of the church at the former Our Lady's Hospital.

**Planning Authority Reports**

The conservation officer's report dated the 5<sup>th</sup> of October 2006 indicates no objections in principal to the development.

The planning report dated the 13<sup>th</sup> of November 2006 refers to the planning history of the site, the provisions of the development plan, pre planning discussions indicating office use would be unacceptable and that the arguments presented in relation to policies on protected structures are not relevant in a situation where conservation works have already been carried out. The use as offices is not acceptable and the proposal would not constitute home based working and refusal was recommended.

**Planning Authority's Decision**

The Planning Authority decided to refuse planning permission for the development. One reason was stated, which refers to the site's location in an area of Landscape Protection Category A and office uses are excluded in this area and the development constitutes a material contravention of the zoning objective of the area.

**Appeal Submissions**

**First Party Appeal.**

The appellants in the grounds of appeal state,

- The reason for refusal refers to materially contravenes the plan
- Section 37(2) of the 2000 Act the appellant contends indicates the Board may consider a grant of permission notwithstanding the wording of the refusal.
- The office use is insignificant in a wider policy context.
- There is no change in the external appearance of the property or impact on adjacent properties.
- The site is located behind a high wall and pedestrians passing outside would probably be unaware that any change of use had taken place.
- Reference is made to the zoning of the area and the landmark building in relation to this zoning is Our Lady's Hospital.
- Reference is also made to paragraph 8.20 and to policy NH4 and it is contended that there is no specific restriction on changes of use of existing structures within the Landscape Protection Zone.
- Reference is made to paragraph 10.10 and it is contended that reference to acceptable uses are in the context of the types of new development which might be permitted and Landscape Protection Zones are in suburban areas generally surrounded by Residential, Community and Local Services zonings and new development should be consistent with adjoining residential properties.

- It should not be necessary to restrict changes of use of existing structures where it would have perceptible impact on visual character or residential amenity.
- In paragraph 10.2 other uses are open for consideration having regard to chapter 3 of the plan.
- Reference is made to policies E13 and E14 and the interpretation of the planning authority is restrictive.
- Reference is also made to policies BE 8 and BE 14 of the plan relating to protected structures.
- There is no specific land use zoning for the site though the planning authority has deemed it within the Residential, Community and Local Services zoning
- The Residential, Community and Local Services zoning has many non-residential uses such as hospitals, third level educational institutions, Cork County Hall and other, which are offices and predominantly employment uses.
- Permission was granted under TP 05 / 29366 on the site to the east to convert the former church to a pub / restaurant and policy BE 8 was only referred to in considering that development.
- The area is not residential in character.
- Given the floorspace involved 78 sq. metres it is unreasonable to treat the proposal as a material contravention of the plan.
- The impression given is considerable threat to the policy on office location.
- There is also a letter from the owners of the property in support of the proposed development.

### **Responses to Grounds of Appeal**

#### **Planning Authority.**

The planning authority in a response is of the opinion that the residential use be retained

#### **Development Plan.**

The operative Development Plan is Cork City Development Plan 2004.

The site is zoned Landscape Protection Zone Category A, on Figure 10.1 of the plan and which in table 8.1 is defined as “visually important land, including land forming the setting for existing landmark buildings”. The landmark building in this context is Our Lady’s Hospital.

Paragraph 8.20 indicates a general presumption against developments in Landscape Protection Zones unless “by means of a landscape assessment and appropriate landscape and building design proposals that the proposed development will enhance the overall landscape character of the site and its visual context”. The emphasis is on landscape integration. It is also indicated that, “development proposals that have a negative impact on landscape character will not be permitted”.

Paragraph 8.21 continues the emphasis on visual and landscape issues and indicates, “Policy NH4 provides the means for assessing development proposals” and the

criteria in NH4 refer to the landscape, local character, setting historic value of the landscape, ecological value and local and strategic views.

Landscape Protection Zones are also referred to in chapter 10 relating to suburban areas. In paragraph 10.10 it is indicated that the objective is “to conserve and enhance the distinctive landscape character of the City”.

In paragraph 10.11 it is indicated, “recreational uses and those permitted under the Residential, Community and Local Services zoning may be open for consideration in Landscape Protection Zones subject to the criteria set out for development in such zones”.

In relation to the Residential, Community and Local Services zoning paragraph 10.3 indicate offices and office based industry are not generally open for consideration in this zone.

There is also reference in chapter 6 on the Built Environment and Urban Design to the conservation of the built heritage. There is reference in Policy BE8 to positively encourage and facilitate the careful refurbishment of the historic built environment for sustainable and economically viable uses, in Policy BE13 to the setting of a protected structure and in Policy BE14 to changes of use of protected structures

Protected structures are also referred to in Policy E3 for conversion of houses currently in poor standard to offices and in Policy E13 there is reference to home based economic activity

Volume 2 of the plan is the record of protected structures and Our Lady’s Hospital is a listed protected structure (PS 620).

## **Assessment**

### **Section 37(2).**

The planning authority in refusing the development refers in the wording to the development materially contravenes the plan. Section 37(2) of the 2000 Act indicates that the Board can only grant permission subject to four criteria. Subsections (i) relating to strategic or national importance and (iii) refers to the regional planning guidelines and I would not submit that these criteria do not apply in this appeal. Subject (ii) refers to conflicting objectives in the plan and subsection (iv) to permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the development plan.

The appellant in the grounds of appeal has made reference to subsections (ii) and (iv) and that the board having regard to these provisions may grant permission.

The appeal site is zoned within the Landscape Protection Zone Category A, on Figure 10.1 of the plan and which in table 8.1 is defined as “visually important land, including land forming the setting for existing landmark buildings”. The landmark building in this context is Our Lady’s Hospital. Within this designation there is a

general presumption against developments in Landscape Protection Zones unless “by means of a landscape assessment and appropriate landscape and building design proposals that the proposed development will enhance the overall landscape character of the site and its visual context”.

The primary rationale of this zoning, I consider, is landscape conservation and that any permitted development integrates into the landscape integration and also the preservation of the character of the landscape. There are provisions in relation to protected structures in the plan and the policies largely relate to the conservation and active use of these structures including in some circumstances conversion to office use. Generally in such circumstances it relates to the restoration of buildings in poor condition, which does not apply in relation to the structure on the appeal site.

The basis of not permitting the development relate to paragraph 10.11 where it is indicated, “recreational uses and those permitted under the Residential, Community and Local Services zoning may be open for consideration in Landscape Protection Zones subject to the criteria set out for development in such zones” and in relation to the Residential, Community and Local Services zoning paragraph 10.3 indicate offices and office based industry are not generally open for consideration in this zone.

The basis of applying restrictions in a Landscape Protection Zone and in particular the appeal site based on the criteria the Residential, Community and Local Services zoning is I consider unclear. The pattern of development specific to the appeal site and vicinity it is not a residential area and there is I consider a reasonable case for consideration of the development under subsection (ii).

In relation to subsection (iv) I would refer to P.A. Ref. No. TP. 05 / 29366 where permission was granted for the restoration / extension and change of use of the church to a bar / restaurant on the site adjoining the appeal site and this permission was granted within the period of the current plan and taken in conjunction with the pattern of development in the area there is I consider a reasonable case for consideration of the development under subsection (iv).

Issues specific to the development.

The development is located in a protected structure. There are no physical alterations to the building and the proposal it is for the change of use of a building from residential to office use on the ground floor and retaining residential use on the first floor. The stated floor area affected by the change of use is 78 sq. metres.

Given the nature and pattern of development in the area I consider that the development could be permitted. The area is rather unique and stand alone and is separated from the built-up area. It is not a residential area and granting permission would not set precedence for other areas. Permitting the development would not I consider have perceptible impact on the landscape character or the policies relating to the location of offices. The permitting of a bar / restaurant on the adjoining site reflects that a diversity of uses can be considered in the area and in the unique landscape once the primacy of the zoning objective is retained.

### **Recommendation**

I would therefore recommend that the application be granted.

### **Reasons and considerations**

It is considered that the change of use would not adversely impact on the on the landscape character, would not seriously injure the amenities or depreciate the value of properties in the vicinity of the site and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions.**

1. The placement of any sign, advertising material or nameplate on the building, site boundary or site curtilage shall be the subject of a grant of planning permission.

**Reason:** In the interests of orderly development and to safeguard the integrity of the Protected Structure and its surroundings.

**Derek Daly**

**31<sup>st</sup> March 2007**

**Inspectorate**