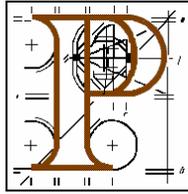


An Bord Pleanála



Inspector's Report

PL09.242624

Construction of 8No. three Storey 4 Bedroomed Houses and 3No. Two storey 3 Bed Houses and All Associated site works, Landscaping and car parking at Anna Villa, Oliver Plunkett Road, Ballymore Eustace, Co. Kildare.

PLANNING APPLICATION

Planning Authority: Kildare Co. Co.

Planning Authority Reg. No: 13/548

Applicants: Michael Mc Ginn

Planning Authority Decision: Refuse

APPEAL

Appellants: Michael Mc Ginn

Type of Appeal: First Party

Inspection: 31/01/2014

1.0 THE PLANNING APPLICATION

1.1 THE SUBJECT SITE

Ballymore Eustace is a small town in eastern Co. Kildare very close to the county boundary with Wicklow and easily accessed from the National Secondary Road N81, which is the main Dublin-Tullow Road. The town itself consists of a number of single storey terraces which give the village a vernacular appearance. It is located at the junction of the R411 and the R413 Regional Roads on the River Liffey. The town is served by Dublin Bus No. 65.

The subject site is on Oliver Plunkett Road, a one way street forming the northern site boundary. It is 0.272Ha and is currently a vacant site with a wire mesh along the roadside boundary. The site slopes steeply from north to south with an embankment in the middle of the site. There is a mature deciduous hedgerow along the southern site boundary. Flanking the site along its eastern and western site boundaries are two storey units, one being a dwelling located on a high ground level to the east, and the other being a public house to the west. On the opposite side of the road there is a terrace of cottages. I noted a cobbled drain along the roadside of the site at the eastern extremity.

1.2 PROPOSED DEVELOPMENT

The proposal includes for the construction of 8No. Three Storey Four Bedroom Houses and 3No. Two Storey houses including associated site works, landscaping and carparking. A total of 11No. dwelling on 0.272Ha

The site layout reveals a terrace 8No. houses along the street frontage, with a vehicular access midway along the streetscape to the on-site parking area to the rear of the dwellings (22No. spaces) and 3No. additional houses, and associated parking, at the southern extremity of the site.

The planning application documents state the site is located within the flood risk area of Ballymore Eustace. The site slopes from north to south i.e. a drop of 8metres from the back of the site to Oliver Plunkett road.

The layout is generally similar to the 2004 planning application, which was unsuccessful due to sewage disposal being unavailable, but the layout of the scheme was acceptable to the planning authority.

1.3 SUBMISSIONS

An Taisce made a general submission.

Residents from Oliver Plunkett road made a number of written submissions objecting to the proposal on the following grounds:-

- The development would damage the foundation of her cottage which is sinking gradually being built 150years ago on a sandbank with a sheer drop at the back of the stream.
- The design is far too removed from the traditional architecture of the area, perhaps a more modest development more in keeping with the style of the village would be suitable.
- The density will exceed the current guidelines for rural communities.
- The proposal will put an access directly across from Fushia cottage which will cause a lot of disturbance.
- Parking is a serious problem for residents in the area.
- Rear block of houses not shown in context of the front elevation.
- Ground floor circa 3.5metre above street level
- Severe overlooking
- Threat of stability to adjoining property
- Conflicts with Development Plan

1.4 PLANNING AUTHORITY'S REPORTS

Environment Section:

No objections

Fire Service

No objections

Conservation officer

A refusal is recommended pending assessment of the demolition of the structure on the subject site and the reinstatement of same. The house formed part of the National Architectural Inventory. The development is contrary to Vernacular Architectural Policy VA1, VA2, VA4 and VA5.

The streetscape has been negatively impacted upon.

Water Services

Additional Information is required in respect of sections, cross- sections, longitudinal sections and calculations regarding flows.

Transportation Department

Additional Information is required in respect of sightlines, indicated existing on street parking along the street, redesign of 22No. spaces to avoid reversing onto public road, turning space, width of proposed footpaths, junction design

Planning Report (02/10/13)

The key issues of the assessment were as follows:

- Permission refused under reference 13/548 for the demolition of Anna Villa on the subject site;
- The site should include an important vernacular detached dwelling, which could have been retained and reused as part of the overall development of the site;
- The proposal is premature pending the regularisation of the unauthorised development on the subject site;
- The private open space provision does not meet with basic development plan requirements. There is no public open space, there is no landscape plan and a gated entrance is contrary to paragraph 19.4.3 of the Plan;
- The 3No. dwellings proposed to the rear of the 8No. in the front terrace are 1.6metres to 4.5metres over the level of Oliver Plunkett Road, and would result in overlooking of the front dwellings.
- The proposal would require a considerable level of cutting into the site and removing material, and it may impact on the structural condition of adjoining properties;
- The internal reports raise serious concerns regarding surface water disposal, traffic and conservation;
- Anna Villa house formed part of the National Architectural Inventory. The development is contrary to Vernacular Architectural Policy VA1, VA2, VA4 and VA5. The Conservation officer's report is quoted. The visual setting of the streetscape has been negatively affected. The house should have been retained and reused. There was no reference to the new County Development Plan adopted since the Board's decision to refuse on the previous planning application. The fact the structure is not included on the Record of Protected Structures does not justify the demolition of the structure, which has been identified as being of Vernacular Importance.

1.5 **PLANNING AUTHORITY'S DECISION**

Kildare Co. Co. refused the proposed development for a total of 8No. reasons:

1. The layout, scale, design, height, orientation and floor levels would result in a congested haphazard layout, the residential amenities of the future occupants will be negatively impacted upon, and consequent impact on privacy. It is a substandard development.
2. It is seriously deficient in the provision of private and public open space
3. The subject site includes a development that has not been permitted under planning reference 13/548
4. Flood Risk Assessment should have been carried out
5. Insufficient information has been submitted regarding the servicing of proposed development in relation to surface water drainage systems to enable the planning authority to make an informed decision.
6. Insufficient information regarding the structural integrity of the entire site and proposed works to enable planning authority to make an informed decision.
7. It has not been demonstrated that there adequate sightlines, turning space, carparking, pedestrian safety within the overall development.
8. The proposed design, scale, height and form does not respect the historic two storey streetscape and does not have regard to the undulating nature of the village.

2.0 THE APPEAL

2.1 **THE GROUNDS OF FIRST PARTY APPEAL**

Dixon McDonnell has made an appeal on behalf of the applicant Mr. Michael McGinn. The appeal states it must be adjudicated with Appeal Reference PL09.242522 for the same site.

The grounds of the appeal are broadly similar in both appeals. The residents and the planning authority need to see the benefits of redeveloping this site. At a pre-planning meeting the proposed scheme was warmly welcomed.

- They were asked to put in an additional floor so that four bedroom units were achieved.
- The new treatment system for the village had double the capacity of the old one, therefore 11No. new houses would be of considerable financial benefit to the Council.
- Surface water disposal would be the subject of a different meeting
- The houses were considered fully compliant with the Building Regulations.
- Water supply was not a problem
- There was no problem with removing the derelict house to increase the density on the site.

The reasons for refusal are completely at variance with what was discussed and agreed at the pre-planning meeting. Many of the reasons for refusal are implausible.

Reason for Refusal 1 – Congested Haphazard Layout

It would appear the planner's have not studied the site survey nor do they appreciate that there is a very considerable rise in the site long the frontage. The road frontage is also curved, it was considered the houses should be slightly staggered in level and position and following the curve of the road.

The standard width of housing in Ballymore Eustace is approximately 6.0metres, and this has been followed. Under the previous file, PL09.216295, permission was refused for one reason, there was no sewage.

The only way each house is wheelchair accessible can be achieved by having different floor levels for each unit. The staggering of the units makes them more attractive as they appear as individual units. The layout is not haphazard but carefully designed.

The houses to the front are two storey visually and similar in height to the previous planning application for dwellings on the site and the dwelling that was previously on the site which is the subject of appeal PI09.242522.

The 3No. units to the rear are at a 2.5metres level with a horizontal distance between the houses of 22metres, which meets with planning standards.

Reason for Refusal 2 – Public and Private Open Space

No reference has been made by the planners to the location and significance of the site in the village or at its edge.

This is an infill site with housing on one side and a public house on the other, it is not a housing estate. The open space provision is slightly deficient in some units, but in this almost urban setting the provision is satisfactory. The proposal is immediately adjoining shops and other services.

Reason for Refusal No. 3 – Retention of Demolition

This is covered under appeal No. PI09.242522

Reason for Refusal No. 4- Flood Risk Assessment

The site was designated as a 'flood risk problem' and the assessment took no account of the contours on the site. The site cannot and will not have a flood risk as there is a fall of over 8.00m from top to bottom. The flood risk is to the road from the site. The site should never have been included in this requirement.

Reason for Refusal No. 5- Surface Water Disposal

It is accepted that the application was deficient in the provision of the required information on the disposal of surface water from the site. It was agreed with the planning authority that the surface water would be disposed of on-site by means of infiltration. The stringent requirement of preventing surface water from flowing onto Oliver Plunkett Road required the excavation of numerous trial trenches, and this meant clearing the site in order to carry out the requirement.

The applicant has been assured by experts in the field of drainage that the requirements of Kildare Co.Co. can be complied with. Drainage sections, manhole details, and levels can be provided. Foul drainage disposal is not a problem and this can be addressed in a condition of the permission.

Reason for Refusal No. 6 – Structure of Building

There is no major special structural needs in respect of the development of this site. The ground conditions are very good and there will be no need for retaining walls greater than 1.5metres in height. There is a requirement to provide a retaining wall for part of the boundary between Knock Avon at a higher level and the applicant site, but the wall will be designed by specialist engineers

Reason for Refusal No. 7- Traffic Management and Sightlines

The previous planning application in 2004 is referred to in respect of access, sightlines and traffic. There were numerous requests for further information on the issue which was did not form part of the refusal in that instance. The access has been kept in the exact same place and the same footpaths are proposed. The gated road can be omitted. The access to the rear will be private, and not required to be taken in charge, and it is possible for public service vehicles.

No street parking will be permitted onto Oliver Plunkett Road, and therefore 2No. parking spaces per unit have been provided on site. The houses have been setback to enable adequate access ramps to conform with Part m of the Building Regulations, and to make way for rainwater harvesting (Part L).

Oliver Plunkett Road is one way. The entrance is over 30metres from the village centre, and traffic speed is greatly reduced. A road entrance to the west would be a greater hazard.

Reason for Refusal No. 8 – Summary

The height, scale and form of the proposal does respect the historic two storey and single storey streetscape. There are site constraints, the rise in the road frontage, the curved road and the application presents a visually attractive, modern interpretation of the village architecture and provide much needed housing for families.

2.2 PLANNING AUTHORITY’S RESPONSE TO APPEAL

The following points were made:

- Under the legislation any pre-planning consultations does not prejudice the planning authority. The 8No. reasons for refusal are justified in terms of :
- The appellant has submitted drawings as part of their appeal which was submitted under planning reference ABP 216295 and are considered irrelevant to the current proposal
- The allocation of private open space is completely inadequate and does not comply with the required development plan standards. None of the 8No. dwellings have the required 75sq.m. of usable private open space. There is no public open space . The site is not located in an ‘urban’ location but a village setting.
- The proposal is premature pending the regularisation of the unauthorised development on the subject site
- The applicant has not submitted a Flood Risk Assessment
- The water Services report on appeal states the applicant has not demonstrated that surface water can be disposed of on site. It is noted a different site layout drawing has been submitted Drawing No. 00131 P03.01A, prepared by the applicant in 2004, and this drawing does not detail a drainage proposal which complies with the requirements of the Greater Dublin Strategic Drainage Study nor does it propose to use any SUDs facilities.
- There is no report from a structural engineer in terms of the cutting into the site and removal of material.

- In terms of the access, layout, and traffic issues it is not sufficient to refer to the previous appeal. The layout and nature of the development is not the same as 2004, and full details are required regarding vehicles and pedestrians
- The proposal would be highly prominent from a number of vantage points in the village by reason of its height, scale, design, and it does not respect the historic character of the area.

2.3 APPELLANT'S RESPONSE TO PLANNING AUTHORITY'S SUBMISSION

There were no new issues raised in the submission. The applicant emphasises the importance of the pre-planning meeting. The applicant is fully aware of Section 247(3) of the Planning Act, but to reverse all the points agreed at the meeting is very difficult to understand. At the meeting, the proposal was welcomed as it provided new family homes in the area, there was no problem with demolishing the derelict structure, the houses were increased to four bedroom units, parking to the rear, the access to the rear was granted in 2004, and services were available.

The proposed separation distance between the dwellings is 22metres, and overlooking may be ameliorated by planting. The disabled carparking space adjoins the public house, it has been well thought out. Units 9,10 and 11, all three bed units require only 60sq.m. private open space. It is proposed to remove the three units at the rear of the site which would achieve 75sq.m. open space / unit, eliminate the perceived overlooking, and provide public open space.

The demolition of the structure on site is addressed in the other appeal. The Flood Risk Assessment has also been addressed under 13/623. Surface water disposal is more achievable with a reduced density. The Council has not read the levels correctly in terms of the road. Each dwelling is raised in line with the road gradient, therefore the requirement for extensive ground works is reduced. There will be a requirement for a short retaining wall at the rear of dwellings. The position of the entrance to the rear carpark and houses is in exactly the same position to that approved by the Engineers in 2004. By removing the houses to the rear the proposal is not as prominent. The proposal will enhance the village.

3.0 PLANNING HISTORY

PL09.242522

Retention of the demolition of a previous structure – Anna Villa, Oliver Plunkett Road, Ballymore Eustace, Co. Kildare. Kildare County Council refused the retention of the demolition. The appeal is currently with the Board for consideration. I also reported on that case.

PL09.216295

An Bord Pleanála refused planning permission for the demolition of Anna Villa and the construction of 4 No. two storey blocks consisting of :

Block 1 : Childcare unit and one shop with two offices overhead

Block 2: Two shops with offices overhead

Block 3: Two No. two bedroom apartments

Block 4: Two No. two bedroom apartments

Kildare Co. Co. and the Board refused it due to deficiencies in the existing sewerage facilities serving Ballymore Eustace.

4.0 STATUTORY FRAMEWORK

Kildare County Development Plan 2011-2017

The site is zoned A - Village Centre under Map Ref. 17.4. The site is located on lands that require a specific Flood Risk Assessment appropriate to the type and scale of development being proposed.

VRS 4 : To generally permit density levels in accordance with indicative levels outlined in Table 4.2 of the Plan. Proposals shall conform to the development Management Standards contained in Chapter 19 of the Plan.

VRS 8: To require submission of a design statement for any scheme within villages and settlements for 10 or more units. A set of criteria for the statement is outlined.

VRS 9: Social Infrastructure Assessments to be provided for with scheme over 10 units.

Table 4.2 The general density parameters outlined are 30-40 units per ha, and it would appear the proposal is within the density requirement.

17.5.3.10 Village Plan Principles

New development should have regard to the character, form and scale of buildings in the village and should reuse where possible existing buildings and out buildings in order to promote sustainable development.

Chapter 19 : Development Management Standards

The house formed part of the National Architectural Inventory. The development is contrary to Vernacular Architectural Policy VA1, VA2, VA4 and VA5.

Chapter 19 Development Management Standards

19.4.6 Public Open Space for Residential Areas

Requirements per size of house and layouts

Three bedroom House – 60sq.m.

Four bedroom House – 75sq.m.

5.0 ASSESSMENT

- 5.1 The Board is advised that there is a concurrent appeal on the subject site which is related to the current proposal. I reported on the other existing appeal file, An Bord Pleanála reference PL09.242522, and it should be noted I recommended the Board uphold Kildare County's Council decision to refuse retention of demolition of the structure 'Anna Villa' on the subject site. I would advise that both cases are examined together.
- 5.2 The subject site is located in the heart of Ballymore Eustace, almost opposite a major junction in the village of Main street and Church Coad/ Oliver Plunkett Road. It is a substantial village infill site, 0.272Ha, considering there was only one dwelling on it up until recently. It has a northern orientation, with a long road frontage onto Oliver Plunkett Road, a one way street. The site is not level it rises steeply into the site towards the southern rear boundary, and along the road frontage, west to east. There is a public house immediately adjoining the site along its western site boundary, and a two storey dwelling located above the site along the contiguous eastern site boundary. There is a notable terrace of vernacular cottages on the opposite side of the road to the site. There is a footpath and limited parking in front of the cottages. Along a section of the road frontage there are remnants of an old pebble surface drain fronting the site to the east, but this has been removed closer to the village. The site is vacant and overgrown looking, there is a wire mesh fence fronting the site with mature vegetation to the rear. The change in site levels is noticeable from the street as the site is much higher along the rear and eastern site boundary.
- 5.3 I do not intend dwelling on the removal of the two storey dwelling from the site, as this is dealt with in detail in the other appeal. The applicant made a planning application to construct eleven houses on the site, eight houses along the roadside boundary and three to the rear of the site. There is an access proposed at a midpoint between the terrace of houses proposed along Oliver Plunkett Road. This access serves the three

houses to the rear and the onsite parking facilities. Kildare County Council refused the proposed development for eight reasons. In my opinion, the vast majority of the reasons for refusal could have been addressed by way of a further information request in terms of a Flood Risk Assessment, Surface Water Drainage, structural integrity of the site, traffic and access. I note the applicant has addressed a number of these issues on appeal, however not in great detail as explained in the following paragraph.

- 5.4 The applicant applied for a similar, but not an identical development on the site in 2004. It was refused by the planning authority and An Bord Pleanála because of the lack of sewerage infrastructure in Ballymore Eustace at that time. The applicant has made a very strong assumption that all other issues relating to the proposed development were acceptable because the design, access, principle, and other factors did not form part of the decision to refuse. I note the content of the Inspector's Report on file at that time, and Wastewater Treatment and Disposal was the crux of the appeal. The reporting Inspector considered the layout to be satisfactory. However planning policy has changed since the original planning application over a decade ago. In addition, there has been radical changes to the economy and the housing market since then, and I consider any new planning application on the subject site should have regard to the current planning policy for the area and national planning guidelines. In this respect, I do not accept the applicants argument on any of the eight reasons for refusal that the issue was acceptable ten years ago and should therefore be automatically accepted under the current application.
- 5.5 On appeal, submission dated 17th of December 2013, the applicant revised the proposed development from 11No. dwellings to 8No. dwellings in order to address a number of the reasons for refusal relating to private open space, public open space, privacy, turning areas and parking. I would advise the Board to examine the appeal in the context of this revised drawings as I do believe the original layout submitted is seriously substandard in terms of provision of residential amenities, open space, privacy, and traffic safety. I would concur with the planning authority's view the original site layout was haphazard and opportunistic and it did bear any relationship to the site levels and site context or the wider village.
- 5.6 The proposed revised development consists of two blocks of four dwellings laid out in a staggered terrace formation along Oliver Plunkett Road. There is a gated access between both blocks providing access to the rear, to the private and public open space areas and carparking. The front of terraces are setback into the site with a railing along the roadside boundary. The terraces are 9.6metre in ridge height with high pitches roofs accommodating a second floor in the roof space with south facing velux windows in the roof to the rear. In my opinion, the proposed street elevation is not correctly proportioned in the context of the existing buildings adjoining the site and opposite the site, and completely out of character with the vernacular dwelling that originated on

the site. I do welcome development on the site as it is currently a redundant area, however the proposed development does not respect, acknowledge or improve the existing neighbourhood character. The design and layout of the terrace is completely out of character with the village. The applicant did suggest removing the gate from the proposal, however this does not improve the legibility of the development in terms of bulk and massing, as it is significantly out of scale with the single storey terrace on the opposite side of the street. In my opinion, the visual bulk of the proposed development is unacceptable in this vernacular village setting. The development should be refused on this basis. I quote from section 17.5.3 Ballymore Eustace Village Plan of the Kildare County Development Plan 2011

The village development an association with a mill in the early 19th century and the street layout and many of the houses date from this period. This has resulted in Ballymore Eustace having a unique character derived from the traditional building form and streetscape. It is important that the scale and form of new developments in the village respect the historic streetscape.

I firmly believe, with its strategic and central location in Ballymore Eustace, the subject site has potential, but only with an appropriately designed and scaled development. To simply rehash a development proposal that was refused on the site back in 2006 is unacceptable.

- 5.7 The revised site layout ensures adequate private and public open space has been provided throughout the scheme, therefore reason for refusal No. 2 has been addressed satisfactorily on appeal. In terms of reason for refusal No. 3 which relates to the demolition of the two storey dwelling on the site, I believe there is on-going and an outstanding enforcement issue relating to this site which precludes the Board from granting planning permission for any new development on the subject site. The demolition of the dwelling/ structure on the site should have been agreed in writing or perhaps the subject of a section 5 Declaration prior to its demolition, as it was included on the National Architectural Inventory, and was considered to be of architectural significance along the streetscape. In my own opinion, the structure should have been maintained instead of allowed to fall into ruins, in the interests of sustainable principles, its should have been retained and refurbished.
- 5.8 Issues relating to Flood Risk Assessment and disposal of surface water on site are significant issues, given that the site is located at the bottom of a hill, and there is significant cutting and removal of material from the site in order to accommodate the proposed development. The applicant did not furnish the Board or the planning authority with the required information on this planning application. The applicant has been unable to carry out the require infiltration tests on site to establish if the surface water can be disposed of on site, this is a grave concern having regard to the level of

development proposed on the site and associated hard surfaced areas proposed. Due to the presence of the Liffey in the village it is important to ensure when any planning applications are received for new development in the village, that flooding issues have been fully considered. The applicant has asked the Board to refer to another planning application on the site in relation to Flood Assessment, which is totally unacceptable. Although the omission of this material is a substantive issue, these issues do not warrant refusing the proposed development.

- 5.9 The applicant has not provided sufficient information regarding the required sightlines at the proposed entrance, in addition to accurate calculations and technical data on traffic turning movements at the entrance and within the carparking area. The applicant claims the entrance is the same as that proposed in 2004, however the proposed nature and extent of the proposed development differ radically from the 2004 proposal, and the applicant should have supplied full details to ensure safe access and service for vehicles and pedestrians in line with current development plan requirements.

6.0 RECOMMENDATION

I recommend the planning authority's decision to refuse is upheld by the Board

REASONS AND CONSIDERATIONS

1. Having regard to section 17.5.3 Ballymore Eustace Village Plan of the Kildare County Development Plan 2011-2017 where it is stated Ballymore Eustace has a unique character derived from the traditional building form and streetscape, and it is important that the scale and form of new developments in the village respect the historic streetscape. It is considered the proposed development is disproportionate, inappropriate and out of character with its village setting and site context in terms of its scale, design, height, bulk and layout, and would therefore seriously injure the visual and streetscape amenities of the area, and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the unresolved enforcement issue of an alleged unauthorised demolition of a structure/ dwelling on the subject site, the Board is precluded from granting planning permission for a new development on the site.

Caryn Coogan
Inspector
27/02/2014