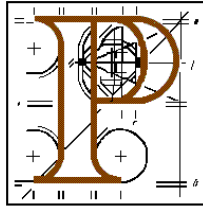


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL09.245543
Development: Dwelling at Sherlockstown Road, Sallins, County Kildare

Planning Application

Planning Authority: Kildare County Council
Planning Authority Reg. Ref.: 15/373
Applicant: Robert Turley and Lousie O'Brien
Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant(s): Robert Turley and Louise O'Brien
Type of Appeal: 1st v Refusal
Observers:
Date of Site Inspection: 22 December 2015
Inspector: Juliet Ryan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site has a stated area of c.0.8 hectares and comprises a corner plot at the eastern side of Sallins, County Kildare on Sherlockstown Road. It forms part of a larger plot associated with Sallins Lodge (the subdivision of the latter being subject to planning permission in this regard).
- 1.2 Sallins Lodge is a period (late 18th / early 19th century) detached bow-fronted two-storey over-basement dwelling. The subject site comprises a sizeable part of its southeastern grounds.
- 1.3 The subject site largely comprises an overgrown grassed area with a stone wall delineating its eastern boundary along Sherlockstown Road. Internal garden walls and planting define its other boundaries, which are within the overall Sallins Lodge plot. The existing period structure is some 20 metres, approximately, to the west of the subject site, with intervening single storey sheds (disused and in poor repair) and garden areas between. A more modern detached dwelling abuts the subject site to the north.
- 1.4 Access to the subject site is currently from the main Sallins Lodge splayed pillared and gated entrance located at Sallins Wood. The site lies adjacent to the gravelled access driveway.
- 1.5 The site lies at the edge of a residential area, with Sallins Wood to the south and Sallins Bridge and Straffan Way to the north and northeast. Further east is the Royal Canal, with the railway line further south and east (c.200 metres). A new housing development, "Willouise", is located at the opposite (eastern) side of Sherlockstown Road, the final phase of which was under construction at the time of the site inspection.

2.0 PROPOSED DEVELOPMENT

The proposed development comprises a large detached 1.5 storey four bed dwelling of some 308 sq m. The design was subject to minor modifications at additional information stage. The modified proposal is summarised herewith.

- The dwelling is an 'L' shaped structure aligned with the northern and eastern boundaries. Save for the single storey projecting sunroom, the ridge height is 7.5 metres above ground level.
- The front (eastern) elevation and the projecting sunroom at ground level are proposed to be clad in selected natural stone. Other elevations will be finished in painted render.

- Vehicular access is proposed via a new gated entrance at the southern end of the eastern boundary (Sherlockstown Road).
- Some three mature trees on site are proposed to be removed (2 no. ash, 1 no. willow), and replaced with four trees (1 no. oak; 1 no. copper beech; 1 no. Ash; 1 no. beech).

3.0 PLANNING HISTORY

There does not appear to be any recent planning history associated with the subject site.

[With respect to neighbouring sites, An Bord Pleanála granted permission in 2007 for residential development of a c.4 ha site to the east of the subject site PL.09.217842 (i.e. between subject site and Grand Canal – now occupied by the Willouise Housing Development).

4.0 PLANNING AUTHORITY DECISION

4.1 Submissions / Observations

A representation was received by the Planning Authority from Councillor James Lawless in support of the application.

4.2 Planning and Technical Reports

4.2.1 There was no objection to the proposal subject to condition in respect of water and transport.

4.2.2 The Heritage Officer's Report sought additional information (tree removal and archaeology).

4.2.3 The Area Engineer sought additional information (land ownership, and alternative combined access).

4.2.4 The Planner's Report noted issues relating to the following:

- Discrepancies in the site area & boundaries in the documentation submitted
- Proposal did not maintain the established building line (per Development Plan policy)

- Overlooking of adjoining dwelling
- Impact on archaeological and architectural heritage
- Failure to submit S.97 exemption certificate

4.3 Additional Information

4.3.1 Additional information was requested in respect of some eight issues, as follows:

- Arborist Report (tree removal)
- Landscaping Plan
- Archaeological Assessment
- Revised Plans to address overlooking
- Confirmation of exact site boundaries
- Section 97 certificate
- Map indicating lands in family ownership
- Alternative access

4.3.2 The Applicant's Response addressed all the issues raised, and included a brief Arborist Report, an Archaeological Impact Assessment Report, details of land ownership, a response from the landowners regarding alternative access arrangements (not supportive of same), and a revised design (omission of dormer windows at north elevation).

4.3.3 The Heritage Officer had no further comments.

4.3.4 The Area Engineer had no objection subject to condition.

4.3.5 The Conservation Officer recommended refusal on the basis that the proposal contravened policies of the Development Plan (VA1 VA4 and VA5).

4.3.6 The **DoAHG** made a submission in respect of the proposal outlining concerns regarding physical and visual impact on the architectural heritage of Sallins Lodge, and recommended that an architectural heritage and visual impact assessment be prepared in this regard.

4.3.7 The Planner's Report consequent to the receipt of Additional Information concluded that the proposal was not sensitive to its historic setting and was contrary to the architectural policies of the Development Plan and the zoning objective of the LAP, and recommended refusal.

4.4 Planning Authority Decision

The Planning Authority decided to refuse permission for four reasons, which may be summarised as follows:

1. Negative visual impact on Sallins Lodge
2. Inappropriate infill dwelling contrary to zoning objective of 2009 LAP and material contravention of policy VA 4 (preservation of character and setting of vernacular buildings) of County Development Plan.
3. Contravene materially building line policy of County Development Plan
4. Inappropriate design, contrary to 2009 LAP zoning objective, undesirable precedent

5.0 GROUNDS OF APPEAL

The grounds of the First Party Appeal may be summarised as follows:

- Reasons No. 1 is unreasonable in that it classifies Sallins Lodge as vernacular architecture; which it is not
- Notes that KCC's Conservation Officer's Report states that Sallins Lodge merits inclusion on RPS
- Submits that Sallins Lodge was on RPS until c.2009 and was then removed. Subject proposal was made in this policy context – i.e. not on RPS and not an example of vernacular architecture
- Reason no. 2 for refusal is unreasonable given that site is zoned for infill residential development
- Notes that outline permission was granted for 10 no. houses and associated works (Reg Ref 93/1025) on the grounds of Sallins Lodge in 1994, and a further application for a dwelling and garage on the grounds was granted in 1995.
- Regarding Condition No. 3, First Party submits that neighbouring houses and housing estate opposite all disrupt the 18.5m building line, therefore establishing a precedent for contravening this policy in the vicinity of the subject site.
- Submit that concerns re. urban design (i.e. Reason no. 4) were not raised by Planning Authority as part of their Additional Information

request, thereby preventing the applicant with the opportunity to have a Conservation Architect address same. They are therefore inappropriate to raise in a reason for refusal.

- Queries why no internal report prior to Additional Information stage was prepared by the Conservation Architect, noting that the only internal report that recommends refusal is that of the Conservation Architect.
- Notes that proposal was referred to DAHG subsequent to the request for Additional Information. Questions timings and procedures in this regard.

6.0 RESPONSES / OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

The Planning Authority has stated that it has no further comment and refers the Board to the Planning and Technical Reports.

6.2 Section 131 – Prescribed Bodies

Due to the site's proximity to a recorded monument, the Board invited observations from the following:

- An Taisce
- DAHG
- The Heritage Council
- An Comhairle Ealaíon
- Fáilte Ireland

One responding submission was received from **DAHG**, noting that it had reviewed the Archaeological Impact Assessment at Additional Information stage and had no further comment to make.

7.0 POLICY CONTEXT

7.1 SALLINS LAP

7.1.1 The site is B – Residential in the 2009 Sallins LAP. The LAP is currently under review and the Sallins LAP 2016-2022 is at Stage 3 (public display until January 8th 2016). The site remains zoned for infill residential development in the Draft LAP (excerpt appended).

7.1.2 There is a recorded monument immediately west of the site at Sallins Lodge. This monument (KD019-062) comprises two storeys of a small tower incorporated into the western elevation of Sallins Lodge.

7.2 Kildare County Development Plan 2011-2017

7.2.1 Chapter 4 of the County Development Plan sets out its housing policy. It has an emphasis on high quality design, noting that inner suburban and infill development should not compromise the existing residential amenity or residential character of the area. It also notes that residential proposals must have regard to the architectural and archaeological heritage of the area (Chapter 12).

7.2.2 Policies VA1 VA 4 and VA 5 (appended) seek to preserve vernacular buildings and their settings and to encourage the appreciation of the vernacular heritage of the county.

7.2.3 Policies AH1 and AH2 (appended) seek to protect recorded monuments and to ensure that development is not detrimental to archaeological heritage.

7.2.4 Policy PS 16 (appended) has a stated aim to protect and retain important elements of the built heritage (including, *inter alia*, historic gardens and curtilage features).

7.2.5 Policy AAO 14 (appended) seeks to safeguard sites / features / objects of archaeological interest.

7.2.6 Chapter 19 of the Development Plan sets out its site development standards, with Section 19.4.4 (appended) emphasising the importance of context.

7.2.7 Chapter 19.6.2 (appended) delineates the various standards in respect of building lines, with a setback of 18.5 metres applicable in the instant case.

8.0 ASSESSMENT

8.1 Matters Arising

I consider the key planning considerations to be as follows:

- Appropriate Assessment
- Principle of Proposal
- Design & Layout

- Architectural Heritage
- Archaeological Heritage
- Other Issues

8.2 Appropriate Assessment

Having regard to the nature and scale of the development proposed at this suburban serviced site, and to the nature of the receiving environment, and given the distance to the nearest Natura 2000 site (and the absence of any source-pathway-receptor link thereto), no appropriate assessment issues arise.

8.3 Principle of Proposal

8.3.1 The subject site is zoned for infill residential development in the 2009 Sallins LAP and the draft 2016-2022 Sallins LAP. As such, I consider the principle of the proposed development to be acceptable. I am cognisant, however, that the site is a prominent corner site and part of the historic grounds of Sallins Lodge. Whilst the latter is not a protected structure, it is of architectural merit and its grounds are integral to its character and to that of the surrounding area. I would thus consider it important that any proposal for the subject site have particular regard to this context.

8.3.2 I note that the residential zoning objective seeks to “*protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services*”. The Planning Authority’s refusal reasons no. 2 and 4 both state that the subject proposal would be contrary to this zoning objective. In principle, I would not agree; insofar as an infill residential development accords with the residential zoning. As a matter of degree and detail, it may be that the specifics of the subject proposal do not accord with the aim of providing “appropriate” infill residential development. This will be determined below. At the outset, however, and notwithstanding the specifics to be examined below, I consider that the subject proposal does not represent a material contravention of the Development Plan having regard to the site’s residential zoning objective, and that S.37 (2)(b) does not, therefore, apply.

8.4 Design & Layout

8.4.1 The subject site is constrained in terms of development potential being part of the garden of a period dwelling and having regard to various site development standards and requirements. The design and layout of the dwelling is generally acceptable in and of itself. However it does not

demonstrate any regard to its setting or relationship to Sallins Lodge, which is inappropriate. I would be particularly concerned that its size and layout combined with its 1.5 storey nature produces an overbearing roof profile in this sensitive location.

- 8.4.2 The Planning Authority includes non-compliance with its building lines policy as a reason for refusal. This policy requires that new houses shall conform with the established building line and that minimum setbacks of 18.5 metres shall apply at urban/county/distributor roads (KCDP S.19.6.2 p.502 – excerpt appended). This policy is considered reasonable. The subject proposal does not achieve such a setback (it achieves some 4 metres).
- 8.4.2 The First Party submits that there is precedent for contravention of the Development Plan's building line policy in the vicinity of the site. I would note that each application must be judged on its own merits, and whilst I would agree that there does not appear to be an established building line within the immediate vicinity, that the proposed dwelling is located unacceptably close to the road and would be incongruous in this location, particularly having regard to its size and bulk.
- 8.4.3 It is proposed to access the development from Sherlockstown Road. The Planning Authority requested the Applicant to explore alternative access arrangements at additional information stage (on foot of the Transportation Department's Report, which suggested a combined entrance with Sallins Lodge – i.e. existing entrance on Sallins Wood Road). In response the Applicant included correspondence from the landowner, stating that the sharing of the entrance would not be desirable given that the latter formed an integral element of the character of the dwelling. As such no alternative arrangements were proposed. The Planning Authority appeared satisfied in this regard.
- 8.4.4 I consider that a shared access from Sallins Wood Road would be preferable, particularly given the considerable degree of housing development (and consequent traffic movement) from the Willouise Development opposite. Whilst I would fully agree that the existing entrance is fundamental to the character of Sallins Lodge, I consider that provided there is an appropriate and sensitive design response that this would be preferable to the creation of a new entrance on Sherlockstown Road. Notwithstanding this, I would not consider access / traffic issues a reasonable ground for refusal (nor did the Planning Authority include any).

8.5 Architectural Heritage

- 8.5.1 I have noted above that the design of the dwelling does not appear to respond to its policy or physical context. The former is evident in its contravention of building line policy. The latter is evident from a lack of any

demonstrable regard to Sallins Lodge. That Sallins Lodge is not on the Record of Protected Structures does not mean that it can be ignored, particularly when the development concerned is located within what is part of its garden and setting. In this regard I note that the County Development Plan expressly notes that context is an important design consideration (S.19.4.4 appended).

- 8.5.2 The Board's attention is drawn to the submission by the DAHG to the Planning Authority in respect of Architectural Heritage. The Department was concerned that insufficient consideration appeared to have been given to the physical and visual impact of the proposal on Sallins Lodge and its setting. These concerns were echoed by the Planning Authority's Conservation Officer, who noted that Sallins Lodge merits inclusion on the Record of Protected Structures given its social historic and architectural merit. I would share these concerns.
- 8.5.3 The Department recommended that an architectural heritage and visual impact assessment be prepared. I would concur, and would consider same to be necessary for an assessment of the appropriateness of any proposed development at the subject site.
- 8.5.4 There is a dispute as to whether the building should be classed as a vernacular structure or not. I do not consider this material to the assessment of the instant case. Sallins Lodge is a structure of local character and historic interest and therefore an important contextual and architectural consideration for any development in its vicinity, let alone in part of its grounds.

8.6 Archaeological Heritage

- 8.6.1 Given the existence of a recorded monument incorporated into the Sallins Lodge structure, an archaeological assessment was undertaken (7 no. test trenches) and a report was submitted at Additional Information stage. This finds that no archaeology of interest is contained within the subject site and that the proposal will therefore not have any direct impact on archaeological heritage. This is considered acceptable.

8.7 Other Issues

- 8.7.1 As noted above, the proposed development of a single dwelling on a site zoned for residential development is acceptable in principle. In its reasons for refusal, the Planning Authority states in various places that the proposal would 'materially contravene' specific policies of the Development Plan (e.g. in relation to vernacular heritage and building lines). I would not consider this to be the same as a material contravention within the meaning of Pt III

s.34(6)(a) of the *Planning and Development Act, 2000*, as amended, insofar as the proposed development does not contravene the land use zoning objective of the Development Plan. As such, any contraventions of policy are matters of degree rather than materiality, and I therefore do not consider that S.37 (2)(b) provisions apply.

8.7.2 The First Party has raised issues regarding procedures and timings of internal reports at Planning Authority stage. The Planning Authority has not responded to these. The internal administration of planning applications at local authority stage is not a matter for An Bord Pleanála. In any case, all statutory requirements appear to have been satisfied.

8.7.3 The applicant considers an opportunity to have been missed by the Planning Authority in not issuing a clarification request regarding DAHG concerns. Given the substantive reasons for refusal, I would not concur with the applicant in this regard. Further, I would note that the applicant has not availed of the opportunity to submit any information from a suitably qualified Conservation Architect with the appeal submission.

9.0 CONCLUSION AND RECOMMENDATION

It is considered that the proposed development should be refused for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

1. Having regard to the location of the subject site within the garden and attendant grounds of an historic structure, which are an important part of its character, and given its prominent corner location, it is considered that the proposed development by reason of its inappropriate design would be visually obtrusive and have a detrimental impact on the historic building and its setting and be out of character with the area. The proposed development would seriously injure the visual amenities of the area, would be contrary to the stated policy of the planning authority, as set out in the current Development Plan, in relation to infill development, and, therefore, be contrary to the proper planning and sustainable development of the area.
2. The Kildare County Council Development Plan has a stated objective of requiring new structures to achieve a setback distance of 18.5 metres from the road in urban routes. This policy is considered reasonable. The proposed development is within some 4 metres of the road, which is significantly below the required setback distance. The proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

Juliet Ryan
Senior Planning Inspector
6 January 2016