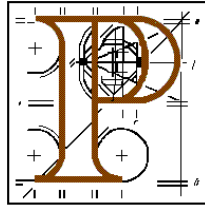


An Bord Pleanála



Inspector's Report

PL06D.246303

DEVELOPMENT: - Two-storey detached dwellinghouse with single storey wing, new entrance gate, wastewater treatment system, surface water drainage and fencing, retaining mature screen planting at site within the curtilage of Ardvarna Lodge, a protected structure at Falls Road, Shankill, Co. Dublin

PLANNING APPLICATION

Planning Authority: Dun Laoghaire-Rathdown County Council

Planning Authority Reg. No.: D15A/0826

Applicant: Patrick and Barbara Pierce

Application Type: Permission

Planning Authority Decision: Refuse Permission

APPEAL

Appellant: Patrick and Barbara Pierce

Type of Appeal: First v Refusal

Observers: None

DATE OF SITE INSPECTION: 9th June 2016

INSPECTOR: Mairead Kenny

1.0 SITE LOCATION AND DESCRIPTION

The site at Falls Road is within a low density area served by a narrow road network but located close to the N11. Access from the site to the wider context including the city centre and the nearby neighbouring facilities is by way of Stonebridge Road which traverses the N11 and then connects with the old Dublin road to the east. From that location the options are to travel northwards towards Loughlinstown / Cherrywood or in the other direction to Shankill / Ballybrack / Killiney.

The site is taken from the large garden associated with the protected structure 'Ardivarna Lodge', which is an Arts and Craft house dating to 1896. The stated site area is 0.132 hectares and it comprises about one third of the overall holding. It would appear that another house has been constructed in recent decades to the rear of the protected structure. This is visible in the distance from the rear of 'Ardivarna Lodge'.

The site contains a number of fine trees including at the roadside. The centre of the site where the proposed development is located is mainly under lawn.

Photographs of the site and surrounding area are attached.

2.0 PROPOSED DEVELOPMENT

Permission is sought for a two storey dwellinghouse with a single storey wing, for a new entrance, a wastewater treatment plant and surface water soakways.

The stated area of the proposed house is 173 square metres.

The new entrance is to be beside the entrance to a permitted house at the site to the east and a letter of consent from the adjoining owner is enclosed.

The wastewater treatment plant is to be served by a 72square metre soil polishing filter. The report of Michael Murphy Consulting Engineer refers. This includes a site characterisation form and calculations relating to surface water disposal.

Also submitted were an Arboricultural Assessment report and a Design Report.

The development involves demolition of a garage.

3.0 PLANNING HISTORY

There is a live appeal under PL06D.246223, which relates to a site to the north-west and a proposal for 15 houses.

Under PL06D.245768 the Board granted permission for a dwellinghouse at the lands to the east, where another house was permitted previous under PL06D.245271. It was considered that the proposed development would not endanger public safety, would not adversely affect

the use of Falls Road and would not give rise to an undesirable development precedent. The Board also had regard to the zoning and the pattern of development.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

The Conservation Officer indicates no objection to the proposal, noting that the development does not aim to imitate the Arts and Crafts style of the protected structure and that it does not have an adverse effect in terms of scale, height, massing and alignment.

The planner's report of notes infill development in built up areas is acceptable in principle subject to design in a manner that respects the character of the area. Falls Road is limited by the lack of a foul sewer. The site has adequate capacity to cater for an additional house without adversely impacting on the protected structure. Design acceptable. Concern expressed in relation to the removal of trees and the impact on the sylvan character of the area, which appears to be contrary to the design report. The EHO has identified a discrepancy in the details submitted with regard to the percolation area. Permission was granted on appeal by An Bord Pleanála for a house and another application under D15A/0308 is currently on appeal. Transportation Section has recommended refusal. Recommendation to refuse for that reason.

The report of the Transportation Planning section recommends refusal of permission for reasons related to prematurity and / or traffic hazard.

The report of the Senior Environmental Health Officer recommended that the application be referred to the Executive Engineer. This report follows inspection of the site and the location of surrounding (permitted and existing) wastewater treatment systems, 4 no. in all. The possible accumulative effect and density of wastewater treatment systems was noted.

The report of the Executive Engineer following above recommends that the applicant submit a report from a hydrogeologist that demonstrates that the wastewater system will not adversely impact on the assimilative capacity of the receiving groundwaters. The report should identify existing wastewater treatment systems and percolation areas on neighbouring properties and should include a drawing identifying locations and separation distances.

The report of the Parks and Landscape Services states that the tree survey is inadequate but an initial appraisal suggests that 80% of the trees on site are to be removed and that this is not acknowledged in the report nor are recommendations for compensatory planting set out. The loss of trees is of concerns specifically in relation to the total removal of trees on the eastern boundary. Falls Road is an important green corridor due to the contribution of mature trees. The recommended

further information includes proposals for planting and a timescale for implementation – conditions along this line and a tree bond alternatively.

A submission from An Taisce notes the extent of tree removal which is undesirable.

4.2 Planning Authority Decision

The Planning Authority decided to refuse permission for a single reason related to intensification of traffic, prematurity and lack of safe pedestrian facilities.

5.0 GROUNDS OF APPEAL

The first party appeal includes the following points:

- Falls Road is not a through route
- the proposed development will generate minimal traffic and the layout of the road reduces speeds – a 3 tonne limit is in place
- the applicant would be willing to accept the conditions recommended by the Parks and Landscape Services Department
- the application details included a site suitability test and details of the proposed wastewater treatment and polishing filter
- the Board has granted permission for houses at the adjacent sites in the context of the Council's refusals which were identical to the current application
- the principle of development was considered acceptable by the Planning Authority in all respects other than traffic
- under the 2016 plan there is no objective relating to an upgrade of Falls Road – the issue of 'prematurity' has to be considered in that context
- regarding intensification of traffic the nature of the Falls Road is outlined and one house would not result in an intensification of traffic
- the Board has previously concluded that public safety would not be endangered
- there are no issues relating to vehicular or pedestrian sightlines
- the development of a single dwellinghouse would not give rise to an undesirable precedent
- taking into account the zoning and the recent decisions of the Board a similar decision should issue
- an Appropriate Assessment Screening is provided.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The Planning Authority consider that no new issues to justify a change in the recommendation are presented in the appeal.

6.2 Prescribed bodies

No comments have been received from the prescribed bodies to which the appeal was referred.

7.0 POLICY CONTEXT

The site is governed by the provisions of the Dun Laoghaire –Rathdown County Development Plan 2016-2022. The site is zoned objective A “to protect and/or improve residential amenity”.

‘Ardvarna Lodge’ is a protected structure.

There are objectives to retain trees in the general vicinity but not on this specific site.

The Luas Extension line is indicated to the north.

8.0 ASSESSMENT

I consider that the main issues in this appeal relate to

- traffic safety,
- impact on the protected structure and tree protection
- wastewater treatment
- other issues.

Traffic Safety

The Board is referred to the previous two decisions to grant permission on the adjacent sites and to the current live appeal. The proposed development now before the Board was flagged as a potential development proposal under a previous appeal and the shared entrance making provision for the three houses was previously indicated also. Having regard to the planning history related to those sites I consider that notwithstanding the road conditions and the comments of the Transportation Department of DLRCC, there are no particular circumstances arising in this case for the Board to make a different decision when considering this appeal related to a single house. I have previously outlined the narrow nature of the road network and the absence of footpaths. There is no option in this case to access Stonebridge Road other than along the Falls Road. I have previously suggested to the Board that consideration be given to a special contribution for a footpath. Having regard to the planning history and the identical circumstances prevailing in terms of the use of the shared entrance it would appear to me that a grant of permission would be consistent with the Board’s previous decisions in this area.

Protected Structure and Tree Protection

I note the contents of the Design Report which refers to the significance of ‘Ardvarna Lodge’ as the only known Irish built work of Charles Harrison Townsend a noted English Arts and Crafts architect. The house retains much of its original features.

Regarding the impact of the proposed development I accept the comments in the Design Report which describes the site of the new house as distinct having been used as a lawn tennis court in recent decades. I agree with the report of the

Conservation Officer of DLRCC who comments favourably on the development. I consider that the Board can be satisfied that the development of a well-designed relatively modest scaled house at this separation from the existing house would be compatible with the retention of the character of the protected structure.

I also accept that the removal of the trees along the eastern side of the site is acceptable due to the nature of these evergreen species and I note that An Taisce acknowledges the required removal of other trees. As the future place of residence of the applicant who has cared for the protected structure for decades, I consider that significant weight should be given to the stated intention to retain as many trees as possible on site. I note that the Parks and Landscape services while regretting the extent of tree removal has not recommended that permission be refused but rather that a detailed landscape scheme be secured by a request for additional information.

I conclude that the development of an additional house is compatible with the protection of the sylvan character of the area subject to a condition regarding new landscaping and the character of the protected structure would not be adversely affected.

Wastewater treatment

I also note the absence of any information regarding the location of wastewater infrastructure in the area, which was referenced also by the HSE. The Planner's report report incorrectly references the report of the HSE and does not deal with the recommendation of the Executive Engineer regarding the submission of a report by a hydrogeologist including in relation to separation distances.

The Board will wish to consider whether there is an excessive density of individual wastewater treatment systems in this area. In this regard I note that the area is served by public water supply and I consider that having regard to the results of the site suitability assessment and the existing pattern of development the statement of the approved site assessor submitted with the appeal should be accepted. It would appear to me reasonable to conclude that the requirements of the code of practice relating to separation distances can be met in this instance.

I recommend attachment of the standard condition.

Other issues

S49 scheme

The applicant cover letter dismisses the need for a Luas B1 contribution, which TII considers is relevant. The application includes a map showing the site within the scheme boundary – PL-02-084 prepared by DLRCC. It is argued that the site is not within 1km and that the payment should not apply. I consider that the inclusion of the site within the defined area of the scheme as described on the map is a material

factor. I do not consider that the merits of the area defined on that map is a matter for the Board. I note that under the previous appeal the s49 contribution was required under condition. The same approach is appropriate in this case if permission is granted.

Appropriate Assessment

I consider that the screening report submitted is adequate for the purpose having regard to the nature and scale of the proposed development and the site context. There is sufficient information available to the Board to carry out an Appropriate Assessment.

The nearest European Sites *Rockabill and Dalkey Island SAC, South Dublin Bay SAC, South Dublin Bay and Tolka River SPA and Dalkey Islands SPA* are designated for porpoise, reef habitat, mudflats and sand flats and a range of birds including Brent Geese and tern species. Due to the distance from the site, the lack of significant watercourses on site and the nature of the proposed development I am satisfied that there will be no impact directly, indirectly or in combination on the qualifying interests.

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

9.0 CONCLUSIONS AND RECOMMENDATION

I recommend that the Board grant permission for the reasons and considerations and subject to the conditions below.

REASONS AND CONSIDERATIONS

Having regard to the zoning objective 'A' on the site, as set out in the current Development Plan for the area which seeks to 'protect and/or improve residential amenity', to the pattern of development in the area, to the limited scope for a significant increase in the density of residential development in the Falls Road area, to the recent planning history on nearby sites and to the limited additional traffic and pedestrian movements that would arise from the proposed dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not endanger public safety by reason of traffic hazard or obstruction of road users, would not be premature pending the determination of a road layout for the area, would not adversely affect the use of Falls Road by traffic, would not give rise to an undesirable development precedent, would not seriously injure the residential or visual amenities of the area or of property in the vicinity or detract from the character of the protected structure and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed 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. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2.
 - (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document "Wastewater Treatment Manual: Treatment Systems for Single Houses", Environmental Protection Agency (current edition). No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
 - (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
 - (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
 - (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
 - (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) the recommendations pertaining to tree retention, tree protection and tree works, as set out in the Arboricultural Assessment submitted to the planning authority on the 31st day of March, 2016

(b) full details of a planting plan and planting schedule detailing as appropriate the species quantities and sizes

(c) any hard landscaping works, including car parking layout, and specifying surfacing materials.

(d) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established.

(d) A timescale for implementation of the planting scheme which shall provide for the planting to be completed within six months of the occupation of the dwelling.

(e) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of amenity and to ensure that the sylvan character of the area is protected.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between the hours of 0800 and 1400 on Saturdays and not at all on Sundays, Public or Bank Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the

area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

8. The developer shall pay to the planning authority a financial contribution in respect of 'the extension of Luas Line B1 – Sandyford to Cherrywood' in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Mairead Kenny

Senior Planning Inspector

17th June 2016