



An
Bord
Pleanála

Inspector's Report ABP 316111-23

Development	Demolition of existing agricultural style buildings and construction of a detached house, garage and associated site works.
Location	Main Street, Blessington, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	22/1405
Applicant	Liam Carroll.
Type of Application	Permission
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant	Liam Carroll.
Observer	Patrick Quinn
Date of Site Inspection	25 th July, 2023.
Inspector	Jane Dennehy.

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1.0 Site Location and Description

1.1. The site has a stated area of 1,180 square metres and is located at the rear of buildings on the south-east side of Main Street and the south-west side of Kilbride Road in Blessington. To the northeast the site adjoins properties on Lakeside Downs, a small area of public open space and a carpark serving the bank located at the corner of Main Street and Kilbride Road. The site is accessed from Main Street by a lane from Main Street through an arch with granite facing and in a horseshoe shape which is built over at first floor level in Georgian style buildings. Within the site there are agricultural structures which are in a dilapidated condition. the total stated floor area of which is 186 square metres and open disused ground.

2.0 Proposed Development

2.1. The application lodged with the planning authority indicate proposals for demolition of the existing structures and for construction of a detached two storey house designed in a mock Georgian style which has a stated floor area of 219 square metres. In addition, the proposal includes detached garage adjacent to residential properties at Lakelands which adjoin the eastern boundary. Vehicular and pedestrian access to Main Street is to be over the laneway and through the Horseshoe Arch and connections to services within the laneway are included in the application. Surface water is to be disposed within the site to soak pits supplemented by underground attenuation for storage and control of flow. The site layout plan (Drawing LC/PLN-002) also shows trees and landscaped space over an attenuation tank along the south-west and south boundaries of the site and hard landscaping along the north-east and northwest boundaries.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 23rd March, 2023 the planning authority decided to refuse permission based on the following reason:=-

“The provision of a single dwelling on this site located centrally within Blessington Town Centre would in the absence of adequate justification contravene the Core strategy which seems to ensure compact growth and provide for a minimum of 30% housing growth targeted in any settlement to be delivered within the existing built up footprint, would further contravene density standards of the County Development Plan, would fail to provide for sustainable development and to ensure appropriate usage of existing services and transport modes. To allow such a development would be contrary to the proper planning and sustainable development.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer indicated acceptance of residential development in principle having regard to the zoning objective but states that the proposal is not a ‘best use’ for the site. He states that the proposal is not consistent with the density standards as provided for in Table 6.1 of the CDP for large towns in the County where there are public transport corridors or with the vision for regeneration in town centre areas. Reference is made to the policies in chapter 5. and in particular to objectives NPO3c of the NPF whereby a minimum of thirty per cent of new homes should be delivered within the footprint of existing towns and villages.

The constraints of the site having regard to the limitations with access are acknowledged and it is remarked that non car dependant development would be appropriate. The additional traffic generated by a single dwelling are considered acceptable but that further information would be required to address concerns as to construction stage implications or the access and horseshoe arch.

The location for the garage is considered inappropriate with regard to implications for access and the private open space provision, details of which are considered to be unclear. For the urban location there is no concern as to undue overlooking or negative impact on amenities of adjoining properties

With regard to connection to services in the lane, and as to issues as to entitlements to carry out works in the lane, reference is made to Section 34 (13) of the Planning and Development Act, 2000 as amended and the necessity for unresolved disputes over such matters to be addressed through the legal system. .

3.2.2. Other Technical Reports

The report of the Chief Fire Officer indicates that a recommendation that a request for further information regarding location of a fire hydrant and compliance with Fire Safety standards, and as to the ability for a fire tender to stop within forty-five metres of the principal entrance of a dwelling house.

The report of the Roads Department indicates issues of concern with regard to access for emergencies services.

The report of the Municipal Engineer indicated concerns as to intensification of traffic movements at an existing entrance on the N81. It is recommended that a revised site layout plan be provided to show sight lines at current design standards for the and details of measures for prevention of surface water runoff from the development.

The reports of Irish Water on the prior applications indicated no objection to provision for connections.

3.3. Third Party Observations

Submissions were lodged by three parties in which issues raised by one or more parties include concerns about:

Consent to connect to services.in third party lands.

Limitations for vehicular access due to restricted width of lane and arch

Public safety – owing to inability of fire tenders to access the site,

Construction stage impacts/potential damage.

Lack of details for protective measures for the Horseshoe arch.

Overlooking,

Inappropriate position for the garage

4.0 Planning History

P. A. Reg Ref. 22/1090: Permission was refused for demolition of the existing structure and erection of a two storey fourteen-unit apartment block on grounds that:-
it is not demonstrated that fire tenders could attend in the event of fire due to the restricted access.

serious injury to residential amenities and depreciation of value of adjoining properties due to excessive overlooking and, substandard attainable residential amenities and failure to satisfy standards within Sustainable Urban Housing, Design Standards for Apartment Guidelines for Planning Authorities 2020.

P. A. Reg Ref. 21/1182: Permission as refused for demolition of the existing structure and erection of a two storey eighteen-unit apartment block on grounds of;- endangerment of public safety and health owing to inability to provide for a fire tender to access the site satisfactorily, lack of foul sewer facilities, and, excessive overlooking impacting on amenities of adjoining properties.

A prior application for five dwellings was withdrawn prior to determination of a decision following receipt of an additional information request.(P. A. Reg Ref. 20/543 refers.)

5.0 Policy and Context

5.1. The operative development plan is the Wicklow Development Plan, 2022-2028. Blessington is a Level Three Sustaining Growth Town Policies and objectives for town and village centres, with reference to NPF are within Chapter 5. Infill and brownfield development are in section 5.4.2. and 5.3 providing for the viability of town centres and flexibility for consideration of and focus on design led infill development. Policies reflect those in the NPF and in particular, objective NPO3c providing for a minimum of thirty percent of new homes to be delivered within the footprint of existing towns and settlements.

Housing policy and objectives are within Chapter 6 according to which Residential development should be directed into historic town and village centres and the primary zones to provide for efficient land use, densification, infill and brownfield development. Blessington is one of the five large towns according to the settlement hierarchy for which density standards are set out in Table 6.1 according to which

development at net densities less than thirty dwellings per hectares should be discouraged especially for site areas in excess of 0.5 hectares in size.

Development and Design Standards are in Appendix 1.

Built Heritage is within Chapter 8.

The Horseshoe Arch is included on the record of protected structures.

5.2. Blessington Local Area Plan, 2013-2019.

There is no official record of the plan's statutory period being extended and it is noted that the Review of the Plan is at Pre-Draft Stage.

According to the land use zoning map, the site lands are within the area subject to the zoning objective: 'Town Centre 'and an indicative road line is shown extending between Main Street and Kilbride Road at the site location.

The Town centre is designated as a statutory Architectural Conservation Area adjacent to the site area.

5.3. EIA Screening

5.4. Having regard to the nature and modest scale of the proposed development, its location in an urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by the applicant's agent on 22nd March, 2023 and a solicitor's letter in which it is stated that there is confirmation that the applicant has a right of way over the lane (although it is not yet registered with the Land Registry) and entitlement to develop the site is attached. According to the appeal:-

- The planning authority had continually insisted on a multi-unit development for the central brownfield site but effectively, due to poor forward planning for the site the lands have ended up being landlocked and further to the prior unsuccessful applicants the current proposal is for one house.
- The only access is through the granite horseshoe arch, a protected structure which is suitable for access for the proposed house, and it is used by vans jeeps and cars. A construction management plan would provide for the protection of the arch and the applicant would accept an appropriate condition if permission is granted.
- There is a solution for access for a fire tender which would provide for a Fire Certificate and compliance with Part B of the Building Regulations as the house would be within forty-five metres of the arch. It would be 45.5 metres from a public access point as shown on Plan LC/PLN-002a.
- The reason for refusal is based on lack of justification for low density development. The current proposal is made in the light of the prior refusals of permission for multi-unit development.
- The legal issues raised by objectors can be dealt with through the legal process.
- The single house development would provide for attainment of a fire certificate, access to the public sewer, access with minimal impacts and is consistent with the scale and pattern of development in the area.

6.2. Planning Authority Response

There is no submission from the planning authority on file.

6.3. Observations

A submission lodged on behalf of Patrick Quinn in which it is stated that Mr Quinn is the owner of the Horseshoe Arch and Arch House a property divided into apartments and known as Arch House Apartments. Mr Quinn is the sole owner of part of the Right of Way over the lane accessing the site from Main Street. According to the submission:

- There is no dispute as to the entitlement to 'pass over' the laneway but the claim as to the applicant's right to conduct any works or carry out excavation or construction over the laneway is contested on grounds that there is no right to interfere with this Right of Way. The existing foul sewer would not be suitable to serve the development and consent would not be given for installation of any facilities in the laneway .The lane is in private ownership and not maintained by the local authority. There are concerns as to implications for the structural integrity of the lane and of properties a cobbled section having been laid twenty-four years ago.
- The lands are not brownfield as there are gardens and the sheds within it.
- The prior unsuccessful applications have led to the current proposal for a single house. The placement is too close to the property to the north-east – The applicant intends to add further developments. There is a lack of transparency about the intentions for the site. There are implications for overlooking for the cobbled the laneway,
- A fire tender would need be positioned against the arch if it is to be within forty-five metre and other vehicles would not be able to access the site.

7.0 **Assessment**

7.1. The issues central to the determination of a decision are set out below under the following subheadings.

Entitlement to Right of Way Through the Horseshoe Arch and over the Lane

Construction Stage Impacts

Vehicular Access and Emergency Services.

Strategic and Local Policy and zoning objectives.

Site Layout

Appropriate assessment

Entitlement to Right of Way Through the Horseshoe Arch and over the Lane

7.2. There is no dispute that between the parties as to the applicant's right to pass through and over the lane whereas there is dispute as to the entitlement to carry out

works such as excavation works to provide for connections to services in the laneway which would have serious implications for the implementation of the development in the absence of alternative options. If the construction stage traffic routing is via the Horseshoe Arch and laneway, clarification of this matter is essential for both parties. As indicated in the planning officer report, resolution of this issue is a matter for the legal remit and the board's attention is drawn to section 34.(13) of the Planning and Development Act, 2000 as amended regarding entitlement to carry out a development for which permission has been granted.

Construction Stage Impacts

- 7.3. Construction traffic and works involving interventions such as excavation for connection to services are at issue. It is noted that in the appeal the applicant indicates willingness to accept a condition with a requirement for a Construction Management Plan, as recommended in the Planning Officer report, in view of the concerns as to risk to structural stability and of damage to the lane and Horseshoe Arch.
- 7.4. It is of note, given the nature of the proposed development the scale, nature and intensity of the works involved, would be modest. It is considered that an appropriate condition could be attached in the event of favourable consideration otherwise for the proposed development, should the applicant be in a position to access and conduct necessary works to facilitate the development. It does not appear that the possibility of scope for construction related access from the carpark on Kilbride Road has been investigated.

Vehicular Access and Emergency Services.

- 7.5. With regard to the fire tender access the applicant's proposals as indicated in the appeal submission are noted. It is considered that if it can be established compliance with Part B of the Planning and Development Regulations, can be demonstrated, so that a Fire Certificate could be issued, the matter would be satisfactorily addressed from a planning perspective.
- 7.6. The Main Street, which is a section of the N81 which is designated a national route in Blessington serving both local town centre traffic and through traffic. Ideally a development at an intensity appropriate to a town centre location with minimal dependency of private car trips would be suitable for the site. Prior applications for

multiple unit residential developments have given rise to reasonable concerns as to trip generation involving use of the narrow laneway on which two-way traffic is not feasible and Horseshoe Arch and access onto the Main Street/N81 where visibility may be restricted. It is agreed with the planning officer that this concern could be set aside if development on the site lands is confined to one residential unit subject to a clear detail of access and turning within the site being made available in a revised site layout drawing which could be addressed by condition,

Strategic and Local Policy and zoning objectives.

- 7.7. As is clearly evident from the planning history and from the planning authority's assessment of the current application, development of the site consistent accordance with national and strategic local policy is not feasible to the constraints. As a result, there is conflict between the national and local strategic policy objectives for sustaining and improving the viability of town centres and use and intensification of use of serviced, vacant, underutilised and brownfield and infill sites within towns and villages especially within the centres and where transport corridors and good services and facilities exist.
- 7.8. The contentions as to the unacceptability of the current proposal having regard to these policy objectives and that the limitations to facilitate intensive development at this location in the town centre have not been addressed in forward planning are understandable. In this policy context the current single house proposal is in direct conflict and unacceptable whereas a development proposal which is more consistent with the strategic and local policy objectives is also unacceptable due to the site constraints.
- 7.9. It is noted that the review of the Blessington Local Area Plan, 2013 – 2019 is at a pre-draft stage and that the duration of the 2013-2019 Plan does not appear to have been extended.

Site Layout

- 7.10. The orientation of the proposed dwelling within the site and distance from adjoining properties is such that no undue degree of overlooking would occur, and the proposed development is reasonable to this end given the town centre location, as opposed to out of town locations subject to zoning objectives for residential use.

7.11. It is agreed residential properties on Lakelands could be negatively affected owing to the location for the detached garage beside the party boundary and it is not clear as to whether the applicant would have an alternative proposal for the position of the detached garage within the site. It is to be positioned across the site away from the main dwelling and there is lack of information on the site layout as to the applicant's proposals for the space to the rear of and, between the dwelling and the garage structure. This gives rise to concerns as to potential for possible future development and as to haphazard and piecemeal development.

Appropriate Assessment Screening

7.12. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld based on the reasons and considerations set out overleaf.

It is noted that the planning authority, on the recommendation of the planning officer did not include a reason on its order relating to its concerns as to deficiencies in the site layout and regarding the construction stage and fire and emergency access. These matters which are discussed in sections 7.2-7.4 above could be brought to the attention of the parties, if it is agreed that the permission should be refused on the basis of Reason One.

9.0 Reasons and Considerations

Having regard to the Wicklow County Development Plan 2023-2028 according to which residential development should be directed into historic town and village centres and the primary zones to provide for efficient land use, densification, infill and brownfield development; and to the site location within the town centre of Blessington, designated as a large growth town in which net densities less than thirty dwellings per hectares should be discouraged it is considered that the proposed development would be in material conflict with these policies as it would fail to deliver an intensive high quality sustainable development appropriate to the town centre location where transport facilities and services are available. As a result, the proposed development would be contrary to 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.

Jane Dennehy
Inspector
28th July, 2023.