



An
Bord
Pleanála

Inspector's Report PL03.247517

Development	Provision of new potable water source and ancillary infrastructure, serving Dromoland Castle, a protected structure.
Location	Dromoland Castle, Dromoland, Co. Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	16/210.
Applicant(s)	Dromoland Castle Holdings Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party.
Appellant(s)	The Lord Inchiauin.
Observer(s)	None.
Date of Site Inspection	18 th of January 2017.
Inspector	Karen Hamilton.

1.0 Site Location and Description

1.1. Dromoland Castle is a hotel located between Ennis and Newmarket-on-Fergus, Co Clare. The medieval Castle is a protected structure within a large estate and is currently closed for renovation. The club house associated with the golf course is located to the south west of the Castle, and the subject site is situated to the north of the club house within the overflow car park and partially within walled paddocks/gardens. Mature trees and hedging surround the overflow carpark. The site is at a higher ground level than that of the club house.

2.0 Proposed Development

2.1. The proposed development will consist of a new potable water source and includes the following:

- Three bored wells.
- One sunken storage tank and underground contact tanks.
- A service building (40m²) and pump system.
- Ancillary site development works.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission and conditions of note are included below:

- C 2: Requirement for the inclusion of meters to record the abstraction, and restriction on abstraction at 192m³/day and a mean rate of 180m³ and decommissioning of the existing bored well supplies.
- C 3: Requirement for the submission of a management statement for the procedures for maintenance of water infrastructure.
- C 4: Archaeological monitoring is required during the groundworks.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of significant further information on the following:

- Information on proposed abstraction rates.
- Hydrogeological Assessment.
- Screening for Appropriate Assessment.
- Screening for requirement for an Environmental Impact Assessment.
- Noise Impact Assessment.
- Information on wayleaves and sufficient legal interest to make an application.

3.2.2. Other Technical Reports

Environment Section- No objection subject to conditions.

Architectural Conservation/ Archaeological Officer - No objection subject to condition.

3.3. Prescribed Bodies

Department of Arts, Heritage and the Gealtacht - No objection subject to conditions.

An Taisce – Recommendation for further information on the aquifer, the impact on the SAC and flooding.

3.4. Third Party Observations

One submission received from the adjoining land owner and the issues raised have been dealt within in the grounds of appeal.

4.0 Planning History

11/549

Permission granted for changes to the golf course operation facility, granted under 07/434.

10/94

Permission granted for the retention of a 24m high lattice tower carrying antennae with associated equipment.

5.0 Policy Context

The proposed development is for three new boreholes for water abstraction therefore the following guidance is relevant.

5.1. EPA Drinking Water Advise Note No 14- Borehole Construction and Wellhead Protection (2013).

Dromoland Castle is a protected structure and therefore the following policy and guidance are relevant.

5.2. Architectural Heritage Guidelines for Planning Authorities, 2011. Development guidelines for Protected Structures and Areas of Architectural Conservation.

5.3. Clare County Development Plan 2017-2023

The site is in an area defined as part of a "*Working Landscape*" where it is an objective to promote economic activity subject to development management criteria such as the protection of resources.

- **Policy CDP 13.3:** Western Corridor Working Landscape.

Many areas within the *Western Corridor Working Landscape* contain ground and surface waters that are sensitive to the risk of pollution and coincide with areas identified for nature conservation. The highest standards are applied.

Water

The site is located within the Shannon International River Basin (SIRB), therefore the following policies apply:

- CDP 8.21: Water Framework Directive
- CDP 8.22: Protection of Water Resources

Built Heritage

The proposed development is contained within the curtilage of a protected structure and in the proximity to several recorded monuments, therefore the following policy apply:

- CDP 15.2: Protected Structures
- CDP 15.8: Sites, Features, and Objects of Archaeological Interest.

5.4. Natural Heritage Designations

The site is located 1.8km from the edge of the River Shannon and River Fergus Estuaries SPA and 1.9km from the edge of the Lower River Shannon SAC therefore the following polices of the development plan apply:

- CDP 14.2: Natura 2000 sites
- CDP 14.3: Requirement for Appropriate Assessment within the Habitat Directive.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from an adjoining landowner and may be summarised as follows:

- The inclusion of Condition No 2 and reference to the decommissioning of the existing well supply is unlawful as it serves to supply the adjoining landowner's water supply as per deeds dated March 1963.
- The decommissioning of the existing water supply will lead to stagnation of millions of gallons of water therefore leading to a public health hazard.
- The requirement for a management statement, as per Condition No 3, will lead to the sterilization of additional farmland due to the restriction on use of slurry and fertilizers, therefore causing economic decline and devaluing the adjoining estate.

- The water extraction will have a negative impact on the water supply of others as it is from the underground of adjoining lands and is subject to a natural right of reservation.
- The storage tank and pumping facility will have a negative impact on the adjoining property by way of noise and visual amenity.

6.2. Applicant Response

A response from the applicant's agent has been received and may be summarised as follows:

- The proposed development of a new potable water source has been submitted following dispute with adjoining third parties in relation to the current water supply. An independent water supply is required to service the hotel complex.
- The existing proposed water abstraction is not in addition but rather to replace the current abstraction and is only intended for the hotel complex and surrounding buildings, not for the grounds maintenance or irrigation purposes.
- The submitted proposal complies with the requirements of the development plan policies relating to water supply, groundwater protection and European Sites.
- The decommissioning of the existing boreholes, as required in Condition No 2 (c) is not within the remit of the applicant as they are location outside the applicant's ownership. The Board may be minded to amended this condition having regard to the location on third party lands. The applicant can only blank off the supply from the existing bored well within the grounds of the hotel.
- The submitted hydrogeological report clearly states that the decommissioning of the existing water supply is not expedient for the purposes of the proposed development and there is adequate water to facilitate extraction adversely affecting the neighbouring supply.

- The management statement will relate to the compliance with the EPA guidelines and the operation of the well and associated infrastructure. It will in no way conflict with the farming practices of the appellant's land.
- The submitted hydrogeological report states that the applicant has a right to extract underground water as there is adequate water and does not impact on the neighbouring water supplies.
- A noise assessment impact assessment identified four noise receptors and confirmed the noise emissions will not be audible from the nearest noise sensitive locations.
- The information in the Archaeological Assessment and the Architectural Impact Assessment confirmed there will be no direct adverse impacts arising from the proposed development.

6.3. **Planning Authority Response**

The planning authority request their decision be upheld. They submit that Condition No 2 is needed to restrict more than one water supply to the hotel in the interest of orderly development and public health.

6.4. **Observations**

No observations received.

7.0 **Assessment**

The main issues raised in grounds of appeal may be summarised as follows:

- Impact on water environment
- Built Heritage
- Impact on residential amenity
- Appropriate Assessment
- Environmental Impact Assessment.

Impact on water environment

- 7.1. The abstracted water volume from the groundwater via the 3no boreholes is estimated at 180m³/day and for use by the hotel and surrounding buildings, all other water requirements for the grounds will be pumped from Dromoland Lough, as existing. The proposed development is to replace an existing water abstraction connection which relies on access to adjoining third party lands, it does not include any additional water abstraction. The grounds of appeal are submitted by the adjoining land owner who currently facilitates the water connection and refers to the impact of the proposed development on the current water reserves and the conditions of the planning permission relating to the decommissioning of the existing water supply and the management statement required for the proposed water abstraction. I will deal with each of these each separately below.
- 7.2. Impact on groundwater: The subject site is located over a Regionally Important karstified aquifer with the groundwater classification (Kilkishen Groundwater Body) as extremely vulnerable in parts (75%) and high vulnerable on the western section (25%). The submitted Hydrogeological Assessment (HA) states the proposed abstraction is 180m³/day (including potential expansion of 50%) which requires a recharge of the groundwater reserve (estimated rainfall of 497mm/year) and a Zone of Contribution (ZoC) of 330.704m², no other abstraction wells are included in this zone. In addition to this, the HA refers to the current status of this groundwater as “Good” under the Water Framework Directive (WFD).
- 7.3. The grounds of appeal argue the abstraction of water will have a negative impact on their water reservation and will have a negative impact on their water supply. I note the submission of further information addressed the potential impacts of the groundwater abstraction relating to:
- Effect on surface flow;
 - Impact on any groundwater dependant terrestrial ecosystem (GWDTEs);
 - Impact on groundwater resource;
 - Saline intrusion.
- 7.4. Both the construction of the well and the abstraction from groundwater has a potential to impact the surface water flow. Section 2.2.3 of the HA notes the Rine

Surface water body as the closest river and has an overall water and ecological status “Good” under WFD. This water body is at risk of diffuse and point sources as well as channelization and morphology. In terms of point risk sources, the SWB is at risk of waste water treatment plants. I note the permitted discharge licence is for 300m³/day. In addition, Section 3.3 of the HA provides data on the yield tests and pumping test and concludes the maximum total drawdown of 19.17m was required for well 3 (main source) all other three wells were less. I note the proposed well depth is 40m. Therefore, based on the current status and identified risks to the River Rine and the design of the proposed wells and drawdown limits, I do not consider the proposed abstraction has a potential to have a negative impact on the surface flow.

- 7.5. In relation to the impact on GWDTEs I note the site is located within 2km of the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC with hydrological connections including the adjoining Dromoland Lough. Section 4.2.6 of the hydrogeological report concluded a rate of abstraction of <5% has a low potential impact on any GWTDE which would have a dependency on groundwater. I note the rate of abstraction has been quantified as 0.25% of the overall catchment, therefore I consider the potential impact of the abstraction on any GWDTE is minor.
- 7.6. In terms of the proposed abstraction at 180m³/day (including potential expansion of 50%) and a recharge of the groundwater reserve (estimated rainfall of 497mm/year) a Zone of Contribution (ZoC) 330.704m² is required, the HA refers to this as minor (0.25%) in terms of catchment. I consider this assessment reasonable. I note Figure E of the hydrological assessment includes the appellant’s lands in the ZoC for an abstraction rate of 270m³/day and I note condition No 2 restricts abstraction to a mean rate of 180m³/day and I consider this condition reasonable to protect the groundwater resource.
- 7.7. I note the submission of water quality sampling recorded data for both Chloride (25.7 mg/L) and Electrical Conductivity (~700 s/cm) which are used as indicative of saline intrusion. Although it is stated the Chloride concentration is slightly high, it was concluded that because of the location 2km from the coast and the recorded electrical conductivity data, this is deemed normal and there is no significant potential for saline intrusion. In addition to this it is noted the GWB has “good “status, which suggests no current saline intrusion problem.

- 7.8. Therefore, based on the groundwater status, the current use of the groundwater reserves for the same abstraction, the restriction on abstraction and the Zone of Contribution, I do not consider the proposed development would have a negative impact on the groundwater body or adversely affect the neighbouring water supplies.
- 7.9. Decommissioning of the existing well: Condition No 2 requires the decommissioning of existing bored wells, currently located on the appellants' lands. The grounds of appeal are concerned that this decommissioning is unlawful as per their own deeds of March 1963 which require the owner of Dromoland Castle to maintain and service the water supply. The appellant also fears the decommissioning of the water supply will lead to the stagnation of gallons of water, leading to a public health hazard. I note the response from the applicant also raised concerns over the lawfulness of Condition No 2 as they have no access or control over the lands in question. The submission from the planning authority refers to the need to restrict more than one water supply to the hotel. I have assessed the condition and the proposed development and I am satisfied that the plans and particulars submitted confirm the current water supply will not be utilised once the new water supply is operational. I consider it reasonable to condition the amount of water abstraction and a restriction on the proposed development as the only water supply for the hotel.
- 7.10. Although, I do not consider the decommissioning of the current water supply necessary to protect the reserves of the ground water I am conscious that the existing boreholes, if not used by any other parties, may not be blocked off leading to a potential pathway for pollution. I note the current guidance in Section 5.3 of the EPA Drinking Water Advice Note- No14 Borehole Construction and Wellhead Protection states that "*It is important to obtain appropriate design advice and construction supervision from an experienced hydrogeologist or groundwater engineer to back fill and decommission old water supply boreholes after a new borehole has been constructed*". I understand the existing boreholes are located on 3rd party lands although the applicant would appear to still have a level of control and access to this supply. Therefore, I would consider it appropriate that the applicant enter into an agreement with the third party on the appropriate treatment of the old borehole. I consider this could be conditioned.
- 7.11. Condition No 3, Management Statement. The grounds of appeal have raised concern over the inclusion of a management statement for the proposed

development will lead to greater controls over the agricultural activities on their lands due to the need to control potential pollution on groundwater. I have assessed the wording in condition no 3, Section 4.3.3 of the hydrogeological assessment and the best practice information in the EPA Guidelines “*Drinking Water Advise Note- No14 Borehole Construction and Wellhead Protection*” and I consider it refers to the infrastructure associated with the water abstraction and is not linked to the management of the lands in the vicinity. Whilst I note the inclusion of the management statement is not referred to in the EPA guidance above, I consider the inclusion of the condition, to allow the planning authority to monitor the impact of the proposed development on the groundwater, reasonable.

- 7.12. Public health: The proposed wells could potentially provide a pathway for pollution. Section 4.2 of the HA confirmed groundwater wells will be constructed in accordance with the IGI (2007) Guidelines on Water Well Construction and the EPA Guidelines (2013) “*Drinking Water Advise Note- No14 Borehole Construction and Wellhead Protection*”. In addition to clarification on construction methods, I note a water sample from well 3 was analysed for all microbiological, chemical and indicator parameters as listed under the European Union (Drinking Water) Regulations, 2014 and confirmed all limits were acceptable apart from radioactivity, which the applicant states can be addressed by proper construction, as stated above. Therefore, based on the water sampling and proposed construction methods I do not consider the proposed development would be prejudicial to public health.

Built Heritage

- 7.13. The proposed development relates to underground water abstraction and includes a new 40m² pipe service building located to the south of the existing overflow carpark adjacent to one of the bored wells. The proposed building is approx. 3m in height and has the appearance of an agricultural out-building finished with metal sheeting. The site is located within the curtilage of a protected structure and in the proximity of several recorded monuments and the grounds of appeal raise the issue of impact on both the Dromoland Estate and their own residence, Thomond House. I note Thomond House is not a protected structure, therefore I have dealt with the impact on the residential amenity in the following Section 7.10.

- 7.14. Policy 18.1 of the development plan requires protection for the Record of Protected Structures. In addition to the development plan, Section 13.5 of the Architectural Heritage Guidelines for Planning Authorities provides guidance on the impact of the proposed new development within the curtilage of a protected structure on the character and setting and states that the relationship, views and vistas between the new building and the protected structure should be scrutinised. I note the submitted Architectural Impact Assessment refers to the lack of visual or physical impact of the proposed development on the protected structure and recommends a condition relating to the enhancement of the natural screen planting along the south of the subject site.
- 7.15. The site is 400m from the main entrance of the Castle and 200m from the main golf course, and is located within a section of the grounds which is relatively inaccessible in a secluded location, surrounded by mature trees and hedging. I note the report of the Conservation Section has no objection to the proposed development. The design of the service building is of an agricultural style and I do not consider there is any formal relationship between any protected structure or the proposed building nor are they connected via existing views or vistas. I consider a condition relating to the enhancement of the boundary planting would mitigate against the nature of the external finish proposed for the service building. Therefore, based on the location of the site and mature planting I consider the proposed development would not have a detrimental impact on either the character or setting of the main castle, ancillary buildings, or any other protected structures.
- 7.16. The site lies in proximity to several Recorded Monuments and within the medieval estate of Dromoland Castle. I note the submission from the Department of Arts, Heritage and the Gaeltacht recommends a condition relating to archaeological monitoring. I consider this a reasonable condition.

Impact on Residential Amenity

- 7.17. The subject site is located 70m from the closet dwelling and the grounds of appeal argue that the noise generated from the service building and associated pumps and impact of the decommissioned boreholes by way of stagnated water, will have a negative impact on their residential amenity. In addition, they state the reduction in the amount of available groundwater will have also have a negative impact. I have

dealt with the issue of impact on the water table and decommissioning in Section 7.3 above and I note a noise impact assessment was submitted and used four noise sensitive locations, one of which was the appellant's, to assess the impact of both construction and potential phases and concluded the proposed development would be low impact. Therefore, based on the nature, scale and location of the proposed development to adjoining dwellings I do not consider the proposed development would have any negative impact on the residential amenity.

Appropriate Assessment

- 7.18. The subject site is located approx. 2km from the edge of the River Shannon and River Fergus Estuaries SPA and the Lower River Shannon SAC and the proposed development will abstract groundwater from a karstified bedrock aquifer which has a hydrological connection to the Lower River Shannon SAC. I note the proposed abstraction ($180\text{m}^3/\text{day}$) will replace an existing abstraction for the hotel and, as detailed in hydrogeological assessment, the abstraction rate 0.25% of the annual recharge of the groundwater body is relatively small and indicates a "low potential impact" on any DWDTE. The subject site will abstract groundwater from a regionally important aquifer which has hydrological links to these European Sites, information in the Hydrogeological Assessment relating to the possible abstraction ($270\text{m}^3/\text{day}$) and the Zone of Contribution (ZoC) required ($330,704\text{m}^2$) states the rate is small in comparison to the through flow of the groundwater body.
- 7.19. The site is linked to the River Fergus and River Shannon via surface water (River Rine) and groundwater although there are no direct hydrological connections. I note the qualifying features of the Lower River Shannon SAC are mostly marine habitats apart from Estuaries. As the ZoC for the proposed development does not extend to the edge of the European Site, and has a good recharge rate, I do not consider the groundwater abstraction would have a negative impact on the water supply. In addition to this, I have concluded in Section 7.4, the proposed abstraction will not have an impact on the flow of the River Rine (0800m to the north) the closest SWB, which feeds the River Fergus and River Shannon. Based on the distance of the site from the edge of the European site and the minimum impact on the proposed development on the groundwater flow and surface water flow, I do not consider there would be a significant impact on the water supply or quality to these sites.

7.20. Therefore, having regard to the nature and scale of the proposed development, the conservation objectives of and distance from the European sites, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on either the River Shannon and River Fergus Estuaries SPA or the Lower River Shannon SAC, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

Environmental Impact Assessment

7.21. Groundwater abstraction is listed as subthreshold in the Schedule 5 of the Planning and Development Regulations, 2001, where the average volume of water abstracted or recharged would exceed 2million cubic metres. This proposed development has an estimated annual abstraction volume of 65,700m³ which is less than 1% of the EIS threshold. I have assessed the proposed development and based on the Appropriate Assessment Screening conclusion in Section 7.12 above, the replacement of an existing water abstraction and the restriction on the amount of water abstraction, and the information contained in the Hydrogeological Report I consider that significant effects on the environment can be excluded at this stage and the submission of an EIS is therefore, not required.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the zoning objective, the nature and scale of the proposed development and the policies of the current Clare County Development Plan it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of the area, have a significant negative impact on the groundwater resources or the conservation objectives of any European Site and would not detract from the

character or setting of the Protected Structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development full details of the future maintenance or decommissioning of the existing boreholes shall be submitted to the planning authority for written approval. Decommissioning shall take place within 3 months of the commencement of development for the permitted boreholes. In default of agreement between the parties regarding compliance with any of the requirements of this condition, the matter shall be referred to An Bord Pleanála for determination.

Reason: To prevent groundwater pollution and in the interest of public health.

3. Prior to commencement of development the applicant shall confirm in writing to the planning authority the follows:
 - a) Confirmation the proposed development shall be the only water supply for the hotel and ancillary buildings,
 - b) Calibrated meters shall be installed on the outlet pipe from each abstraction well, to record volumes abstracted. Records shall be retained for inspection for two years and a summary report of abstraction volumes

shall be submitted to the Planning Authority annually,

c) The maximum permitted abstraction rate shall not exceed 192m³/day and a mean rate of 180m³/day.

Reason: To protect and monitor groundwater in the vicinity of the site.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

5. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details 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) planting of semi- mature trees intervals along the southern and eastern boundaries of the site.

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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity

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.

Karen Hamilton
Planning Inspector

06th of February 2017