



An
Bord
Pleanála

Inspector's Report ABP-300419-17

Development	O/L permission for 4 houses and associated site works
Location	Commons Grove, Dromiskin, County Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	17/729
Applicant(s)	Leo Quinn
Type of Application	Outline permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Leo Quinn
Observer(s)	Ian Russell
Date of Site Inspection	7 th May 2018
Inspector	Karla Mc Bride

1.0 Site Location and Description

- 1.1. The appeal site is located in Dromiskin Village in County Louth and the surrounding area is mainly residential in character. The site comprises the N section of an area of open space that forms part of the Commons Grove housing estate. The rectangular shaped site is bounded to the N by the public road, to the E by an estate road at Commons Grove with 2-storey semi-detached houses beyond, to the W by a residential development site, and to the S by the remaining open space which contains several semi-mature trees. The N site boundary is defined by mature trees and hedgerows and the remaining boundaries are undefined. Vehicular access to the site would be via the existing estate and there is a pedestrian link to the public road to the NE of the site.
- 1.2. Maps and photographs in Appendix 1 describe the site and surroundings in detail.

2.0 Proposed Development

The applicant is seeking outline planning permission to construct 4 x 2-storey semi-detached houses on the c.0.20ha site. The proposed houses would be 123sq.m. with front and rear gardens and they would front onto Commons Grove.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for 5 reasons related to:

1. Lands designated as open space; detract from residential, visual and recreational amenities; compromise viability of open space; and precedent.
2. Material contravention of Condition no.11 of 95/543 which designated the lands as a public amenity area.
3. Works located within 3m of a line of trees & hedges of Special Amenity Value (Dromiskin Composite Map 2.7(A) and material contravention of Policy MAN 5 of the Dev. Plan which seeks to protect such landscape features.

4. Insufficient water supply and drainage details.
5. Material contravention of Policy WS 11 in relation to surface water discharges.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the planning officer recommended that planning permission be refused for the aforementioned reasons.

3.2.2. Other Technical Reports

Infrastructure office: FI required in relation to drainage, lighting & footpaths.

3.3. **Prescribed Bodies**

Irish Water: Insufficient data to make a determination on the development in relation to the water and foul water systems, and FI required.

3.4. **Third Party Observations**

One submission received which raised concerns in relation to non-completion of original estate, unacceptable use of open space, adverse impact on residential amenities, random & sporadic development and similar scheme previously refused.

4.0 **Planning History**

Reg. Ref. 95/0543: permission granted for 16 (out of 17) houses at Commons Cross Dromiskin, to current applicant (Leo Quinn). Condition no.11 designated the site of the proposed development for amenity open space.

Reg. Ref. 06/1834: permission refused for 4 semi-detached houses on the site.

Reg. Ref. 08/0659: permission refused for 4 semi-detached houses on the site for 2 reasons related to use of open space and material contravention of Condition no.11 of 95/543 which designated the lands as a public open space.

Reg. Ref. 15/0735: permission refused for 4 semi-detached houses on the site for 5 reasons related to: - use of public open space; material contravention of Condition

mno.11 of 95/543; surface water discharges; inadequate sight lines; and insufficient data for Irish Water to make a determination.

5.0 Policy Context

5.1. Development Plan

The site is located within an area covered by the Louth County Council Development Plan 2015 to 2021.

Zoning: the site is located within a Level 3 Settlement that is zoned Residential (Existing) which seeks “To protect and/or enhance existing residential communities and provide for new residential communities.”

Open space standards: 15% of Gross Site Area normally required (Table 4.4).

Section 4.9.3.1 states that public open space should be arranged to facilitate the retention of existing landscape features, such as mature trees, hedgerows..... The provision of high-quality landscaping, including the provision of semi mature trees, should be an integral part of any residential development..... It is recommended that public open space should be provided in a variety of forms to cater for the active and passive recreational needs of the community.

Special Amenity Value: The site is also located within an area covered by the Dromiskin Composite Map 2.7(A) and Policy MAN 5 seeks to protect important landscape features including trees and hedges of special amenity value.

5.2. Natural Heritage Designations

Dundalk Bay SPA, SAC & pNHA c. 2km to the E.

6.0 The Appeal

6.1. Grounds of First Party Appeal

General:

- The site is located within the Level 3 settlement of Dromiskin on lands zoned Residential (existing) and the proposal is open for consideration.
- The site is located within the village boundary as per Dromiskin Composite Map Land Use Objectives (Map 2.7(A)).
- Proposal comprises an infill development which consistent with the zoning objective and character of the area.
- The site forms part of the lands covered by 95/543 which was granted permission for 16 out of 17 houses.
- Although the proposal would utilise part of the amenity space, the space provided at the time permission was granted exceeds the level now required under the current Dev. Plan, and this space has never been taken in charge.
- Current proposal addresses the concerns raised in 15/739 in relation to adjoining properties, visual amenity and integration.
- There is sufficient local demand to support the proposed houses.
- Layout & design are compatible with the existing pattern of development.

Response to reasons for refusal:

- The site does not form part of the Open Space provided for under 95/543.
- No adverse impacts on the amenities of neighbouring properties.
- Amended to take account of previous reasons for refusal.
- Loss of space could be balanced against provision of recreational amenities.
- Proposal will retain the trees and hedges along the NW boundary.
- Permission for 2 nearby houses (16/257) sought to protect the trees & hedges by way of condition.
- Two other similarly protected features have been removed recently.

This is an O/L application and the concerns raised by Irish Water and the Council's Infrastructure Office could be dealt with at approval stage.

6.2. Planning Authority Response

The response of the planning authority raised no new issues.

6.3. Observations

- Unacceptable loss of public open space and contravention of 95/543.
- Adverse impact on visual, recreational & residential amenities.
- Loss of trees & hedges of Special Amenity Value would be contrary to MAN 5, the nearby case cited by the Appellant is incomparable to this site, and the issue cannot be addressed by way of a planning condition.
- Incorrect zoning in the Dev. Plan as all other internal residential open spaces in the area are zoned for green space/amenity, and this was done in error.
- Opportunistic and sporadic development which does not constitute Infill.
- Estate not yet taken in charge as developer has not completed the works and the estate is an unfinished development as per S.34(4f) of the P&D Act.
- Similar proposal refused on many occasions for the same reasons including material contravention of Condition 11 of 95/543 in relation to the open space.
- Regardless of the size of the open space, the age of the planning permission granted or current amenity provision standards, any development on this site would contravene Condition no. 11.
- PA concluded that whilst a new Dev. Plan is in place, the reasons for refusal remain applicable.
- Health and safety issues during construction and during deliveries of materials through the existing estate.

7.0 Assessment

The main issues arising in this case related to the following:

- Principle of development & material contravention
- Visual & residential amenity
- Other issues

7.1. Principle of development and material contravention

The proposed development would be located within the Level 3 Settlement of Dromiskin and within an established residential area that dates from the mid 1990s which is currently zoned "Residential (existing)" in the Louth County Development Plan 2015 to 2021. This zoning objective seeks to "protect and/or enhance existing residential communities and provide for new residential communities."

The proposed houses would be located within one of two areas of open space in the original 16-unit estate which was granted planning permission under Reg. Ref. 95/0543. Condition no.11 of this permission designated the lands on which the subject site is located, along with the other site to the S, as public amenity areas, and the proposed development would occupy the N section of one of these areas. Under the current Development Plan, this area is now zoned for Residential (existing) use whilst the area to the S continues to be zoned as Open Space.

The Appellant submits that the proposed development would comply with the current Residential (existing) zoning objective for the lands whilst the planning authority and the Observer state that Condition no.11 of Reg. Ref 95/0543 should take precedence. It is noted that the estate has not yet been taken in charge by the council and that the appeal site lands remain within the ownership of the Appellant. Notwithstanding the issues raised in relation to zoning, ownership and management, it is quite clear the proposed development would materially contravene Condition no.11 of Reg. Ref 95/0543.

Furthermore, although the Residential (existing) zoning objective covers almost the entire estate, I am satisfied that this does not necessarily confer development rights on this area of open space, particularly when regard is had to the first part of the

zoning objective seeks to "protect and/or enhance existing residential communities" as well as the second half which seeks to "provide for new residential communities."

The proposed development should therefore be assessed on its merits, along with the potential impact of the loss of open space on the residential amenities of the area which will be assessed in section 7.2 below.

Condition no.6 of the planning authority's decision to refuse planning permission stated that the proposed development would materially contravene Policy WS 11 in relation to surface water discharges. As this policy is not directly related to land use planning policy or to the principle of the development I am satisfied that the issue of material contravention does not arise in this case.

7.2. Visual and residential amenity

Design and layout:

The proposed development of 4 x 2-storey semi-detached houses would provide for an acceptable level of residential amenity (in principle) in terms of floor area and amenity space, and the design details could be addressed at the approval stage.

The proposed houses would be keeping with the prevailing pattern of development of the area and the design details could be addressed at the approval stage.

The separation distances with the 2-storey houses on the adjoining sites to the E and W are in excess of 22m which would ensure that the neighbouring houses would not be overlooked or overshadowed to any significant extent, with no loss of residential amenity anticipated.

Public open space:

The concerns raised by the Appellant in relation to the evolution of a reduced standard for the provision of public amenity space in recent years is also noted, however this requirement has fluctuated over the decades. Under the current and immediately previous Development Plans public amenity space in the order of 15% of Gross Site Area was required, whilst earlier Development Plans required 10% of site area.

Notwithstanding this variation in standards over time, the Residential (existing) zoning objective for the area seeks to "protect and/or enhance existing residential communities". Therefore, any loss of the existing amenity open space, which forms

an intrinsic part of the original residential scheme to serve the needs of the estate residents, would be incompatible with this zoning objective, and it would limit the functionality and usefulness of this space. The loss of amenity space would also have an adverse impact on the residential amenities of future occupants of the proposed houses.

Trees and hedgerows:

The proposed development would be set back c.3m from the N site boundary with the public road which is characterised by a row of mature trees and hedgerows. This feature is designated as being of Special Amenity Value in the Dromiskin Composite Map 2.7(A) in the current Development Plan, and Policy MAN 5 seeks to protect important landscape features including trees and hedges of special amenity value. The developer should therefore be required to ensure that this feature is permanently retained and protected during any future construction works. This could be addressed by way of a condition requiring the installation of temporary fencing for the duration of the works, along with a prohibition on vehicle parking and material storage within the fenced off area.

7.3. Other issues

Environmental services: The concerns raised by Irish Water and the Council's Infrastructure Division in relation to water supply and drainage could be addressed by way of a planning condition requiring the submission of such details at the approval stage.

Vehicular access & car parking: The proposed vehicular access arrangements via the existing housing estate are considered acceptable in terms of traffic safety, and the provision of at least 1 off street car parking space would comply with Development Plan requirements.

Screening for Appropriate assessment: The site is located c.2km from the nearest European site to the E at Dundalk Bay and there would be no direct connection between the proposed works and the designated sites.

8.0 Recommendation

Arising from my assessment of the appeal case I recommend that outline planning permission should be refused for the proposed development for the reasons and considerations set down below.

9.0 Reasons and Considerations

1. The proposed development would be located within an area that is covered by the zoning objective "Residential (existing)" in the Louth County Development Plan 2015 to 2021 which seeks to "protect and/or enhance existing residential communities and provide for new residential communities." The proposed development would result in the unacceptable loss of an amenity area which forms an intrinsic part of the Commons Grove residential estate which would, therefore, be incompatible with the zoning objective for the area which seeks "to protect and/or enhance existing residential communities". The proposed development would seriously injure the residential amenities of the existing residents of the estate and future occupants of the development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would be located within an area that has been designated as a public amenity area to serve the needs of the estate residents under Condition no.11 of Reg. Ref. 95/0543. The proposed development would contravene materially a condition attached to an existing permission for development, which would, therefore, be contrary to the proper planning and sustainable development of the area.

Karla Mc Bride
Planning Inspector
18th June 2018