



An
Bord
Pleanála

Inspector's Report ABP-303450-19

Development	Construction of a house and garage.
Location	Dromin, Dunleer, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	18849
Applicant(s)	Ruth McGuinness & Shane Sweeney.
Type of Application	Permission.
Planning Authority Decision	To Refuse
Type of Appeal	First Party
Appellant(s)	Ruth McGuinness & Shane Sweeney.
Observer(s)	None.
Date of Site Inspection	8 th April 2019.
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.635ha appeal site is situated in a rural area, c.0.5km to the north west of Dromin village and c. 4km north west of Dunleer town, Co. Louth. It lies to the west of the public road (L2214) and comprises a broadly triangular site bound by mature hedgerows/hedgerow trees along its eastern and northern boundaries. A group of stone buildings associated with Dromin House, a protected structure (LHs018-003), lie to the north west of the appeal site. The entrance to Dromin House, with adjoining gate lodge, lies to the north the appeal site. To the south of the appeal site is a detached residential property (within the applicant's landholding).

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single storey dwelling (217sqm), built around a framed patio, with detached domestic garage (49sqm). Water supply is from a proposed well to the south of the property and effluent will be disposed of via a waste water treatment unit and soil polishing filter, to the north east of the property. Access is via a new entrance from the public road, between existing mature trees, and sightline lines of 75m are shown in each direction at the proposed entrance to the site. Existing trees are to be retained along the roadside boundary and new native trees are proposed along the sites internal access road and northern and western boundaries.
- 2.2. The planning application is accompanied by an Architectural Heritage Impact Assessment of the effect of the proposed development on Dromin House.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to refuse permission for the development on the grounds of (i) the development, located within the attendant grounds and designed landscape of a Dromin House, a Protected Structure, would have an adverse impact on the integrity and quality of the designed landscape and on the special interest, amenity, character, approaches to and setting of the protected structure, (ii)

precedent (piecemeal erosion of designed landscape and setting of protected structure), (iii) conflict with Architectural Heritage Protection Guidelines for Planning Authorities, (iv) impact on roadside hedge, to achieve sightlines, and therefore designed landscape and (v) public health (applicant failed to demonstrate that the development would accord with the requirements of the EPA's Code of Practice, 2009).

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 13th December 2018 – Refers to the planning history of the site and adjoining site, relevant policies of the County Development Plan, including those in respect of historic gardens and designed landscapes, and internal reports made. The report considers that the application is largely identical to the application for a single storey dwelling refused on the site under PA ref. 17/721. It refers to the report of the Conservation Officer and concurs with the conclusions of the report. The recommends refusing permission for the development on grounds that it would impact on the protected structure, Dromin House, and public health.

3.2.2. Other Technical Reports

- Environment (9th November 2018) – Recommends further information, including details on who would supervise installation of effluent treatment system, wells and percolation areas within 100m of site, ground water flow direction and site characterisation form.
- Infrastructure (25th November 2018) – Recommends further in formation in respect of proposed soakaways for surface water.
- Conservation (6th December 2018) – Recommends refusing permission for the development on the grounds that (i) within the attendant grounds of Dromin House, a Protected Structure and designed landscape, the development would adversely affect the setting and character of the protected structure, (ii) would establish a precedent for further piecemeal erosion of the protected structure, (iii) conflict with the Department's Guidelines on the Protection of Architectural Heritage, and (iv) impact on

roadside hedge and mature trees (works to achieve sightlines) and impact on designed landscape at Dromin House.

3.3. Prescribed Bodies/Third Party Observations

- None.

4.0 Planning History

4.1. On file is reference to the following planning applications in respect of the appeal site:

- PA ref. 09777 – Application for a two storey house, withdrawn.
- PA ref. 1044 – Application for a two storey house, application incomplete.
- PA ref. 1060 – Application for a two storey house, withdrawn.
- PA ref. 11313/PL15.240585 – Application for a two-storey house, refused on the grounds that, having regard to its height, bulk and mass and location in attendant grounds of a protected structure, Dromin House, the development would adversely impact on the character and setting of the protected structure and visual amenities of the area. The Board were also not satisfied that the development would not adversely impact on the roadside hedge and mature trees therein (to provide adequate sightlines).
- PA ref. 17721 – Application for a single storey house, refused on the grounds that (i) located in the attendant grounds and designed landscape of Dromin House, a protected structure, it would adversely impact on the integrity and quality of the designed landscape and special interest, amenity character and approaches to and setting of the protected structure, (ii) precedent for the further piecemeal erosion of the designed landscape and setting of the protected structure, (iii) conflict with the government's Architectural Heritage Protection Guidelines', (iv) impact on roadside hedge and mature trees (to achieve sightlines), and (v) failure to demonstrate compliance with local needs qualifying criteria.

4.2. Permission was granted for the property to the south west of the appeal site in 1995.

5.0 Policy and Context

5.1. National Policy

- National Planning Framework, 2018.
- Sustainable Rural Housing Guidelines 2005.

5.2. Louth County Development Plan 2015 to 2021

- 5.2.1. The appeal site lies in a rural area, zoned 'Zone 5' in the in the current Louth County Development Plan. Dromin is identified as a Level 4 settlement. Policy SS 18 of the Plan permits rural generated housing in order to support and sustain existing rural communities and to restrict urban generated housing in order to protect the visual amenities and resources of the countryside, subject to local needs qualifying criteria. These are set out in section 2.19.1, for each of the defined development zones in the County, and applicants are required to demonstrate compliance with it (Policy SS 19). In summary, for Development Zone 5 these include that the applicant be the son/daughter of a qualifying landowner, they have lived in the local rural area for a minimum of 10 years, are actively and significantly involved in agricultural or other rural based enterprise, are providing care for an elderly person or person with a disability or are required to live in a rural area for exceptional health reasons (see attachments). A qualifying landowner, defined in section 2.19.5 of the Plan, is a person who has owned a landholding of at least 3 hectares for a minimum of 10 years. Development management criteria for one-off rural housing are set out in section 2.19.7 and include impact on natural resources and landscapes and site suitability in terms of drainage (to comply with EPA guidelines).
- 5.2.2. Section 5.10 of the Plan deals with architectural heritage. A protected structure is defined as including land lying within its curtilage (section 5.10.2). The following policies apply:
- *HER 33 To ensure that any development, modification, alteration, or extension affecting a protected structure and / or its setting is sensitively sited and designed, is compatible with the special character and is appropriate in terms of the proposed scale, mass, density, layout, and materials of the protected structure.*

- *HER 34 The form and structural integrity of the protected structure and its setting shall be retained and the relationship between the protected structure, its curtilage and any complex of adjoining buildings, designed landscape features, designed views or vistas from or to the structure shall be protected.*
- *HER 35 To prohibit inappropriate development within the curtilage and/or attendant grounds of a protected structure. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire complex including the structures, demesne and/or attendant grounds.*

5.2.3. Dromin House is identified as a Protected Structure in Volume 2 C, Appendix 18 of the Plan and described as a country house, built c.1800, five-bay, two-storey over basement, including walled gardens and stable..

5.2.4. Section 5.12 of the Plan deals with historic gardens and designed landscapes and states that the planning authority '*recognises the importance of these historic gardens and designed landscapes and their role in providing the setting for protected structures and thus seeks to ensure that they are protected from encroaching or adjacent development*'. Policy HER 55 seeks to ensure that new development will not adversely affect the site, setting or views to and from historic gardens and designed landscapes. Dromin House is identified in Table 5.12 and Map 5.15 of the Plan as one of the historic gardens and designed landscapes identified in a survey carried out by The National Inventory of Architectural Heritage (NIAH) in County Louth.

5.3. **Natural Heritage Designations**

5.3.1. The appeal site is generally removed from sites of nature conservation interest. The nearest site is c.3km to the north and comprises Stabannan-Branganstown SPA/pNHA (site codes 004091 and 000456 respectively).

5.4. **EIA Screening**

5.4.1. The proposed development comprises a 'project' for the purposes of environmental impact assessment and falls within a class set out in Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended), Infrastructure Projects, construction of more than 500 dwelling units.

5.4.2. However, the appeal site is a modest development of one residential unit, will give rise to very limited environmental emissions and is generally removed from any sensitive site (the site lies south of a Protected Structure, but this matter is addressed in this report). Having regard to the above, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Grounds of the first party appeal are:

- Planning history - Insufficient regard to the planning history of the site. The applicant has addressed the reasons for refusal under PA ref. 17721, including repositioning of chimney breast, retention of existing boundary trees, additional tree and hedge planting, information to support local needs requirements.
- Piecemeal development - Proposed development is not piecemeal. It comprises a modest low level house on family lands for the applicant and her family.
- Undesirable precedent – Every planning authority in the country has granted permission for developments on lands that previously belonged to estate houses. The precedent is already created. The planning authority already gave permission for the family home on the same landholding, so again the precedent is already set. The planning authority gave permission for a substantial agricultural shed, again setting a precedent.
- Attendant grounds – The appeal site does not form part of the attendant grounds of Dromin House and has not done so since the land was sold by the then owners of Dromin House. Since sold, the site has been used by the applicant's family for residential and agricultural purposes and not as landscaped gardens. Precedent has already been set for development in the 'attendant grounds' in the permission was already granted on the

landholding for a family home (PA ref. 95807) and agricultural building to the north eastern side of Dromin House (PA ref. 11213 and 17435).

- Effluent treatment – The site had previously been passed fit for using a waste water treatment system (PA ref. 17721). High rainfall may have resulted in trial hole filling to a high level. 2009 Site Characterisation Report demonstrated it was suitable for use.
- Reasons for granting permission – Applicants meet local housing need requirements. Design is in accordance with development plan requirements. Site is well screened and there are proposals for additional screening. New entrance can be provided without loss of trees. Excellent road visibility can be provided by removing a small amount of existing poor quality hedgerow. A new hedgerow will be planted inside the line of visibility. Site assessment has been shown to be able to accommodate a house of this size. Dromin House cannot be seen from site or from public road in front of the site (can be glimpsed from gates to property) and therefore will not be affected by the development. There is no question of ribbon development along the road due to the spacing of houses.
- Architectural Heritage Report – Comments on the reasons for refusal:
 - Reason 1 – Protected structure is ‘modest’, development is single storey cluster type dwelling, not within sight of protected structure, not on land owned by the protected structure owners and not in a landscaped garden.
 - Reason 2 - The house is appropriately designed, in terms of its scale layout, distance from road, screening and materials, fully compliant with house design policy in the proximity of a protected structure.
 - Reason 3 - The Department’s Architectural Heritage Protection Guidelines are guidelines, not legislation or regulations and must be balanced with proper planning and sustainable development. The development is a single, family home, single storey, fully compliant with zoning and policy of the Louth County Development Plan.
 - Reason 4 - The entrance to the site requires removal, replanting and relocation of a short section of degraded hedgerow, complies with

policies of the County Development Plan (Roadside Frontage) and would not have an adverse impact on the setting, integrity and quality of the designed landscape. There was no site meeting with the planning or conservation officer to discuss the entrance and the hedgerow. The reasons for refusal are quotes, repeated and not relevant to the current application.

- Reason no. 5 – This matter should have been discussed, advised on and designated as a condition in granting planning permission.

6.2. Planning Authority Response

- No further comments to make (11th February 2019).

6.3. Observations/ Further Responses

- None.

7.0 Assessment

7.1. Having regard to the nature of the proposed development, development plan context and issues raised on file, I consider that the key matters for this appeal relate to the impact of the development on the protected structure, Dromin House, impact on boundary trees and public health (proprietary treatment system). From the information on file, it would appear that the applicant satisfies the local need qualifying criteria.

7.2. Impact on Protected Structure

- 7.2.1. Dromin House is identified in the Louth County Development Plan as a protected structure and as an historic garden. Protected structures, their setting and attendant grounds are afforded protection in policies of the County Development Plan. Similarly, policies of the Plan afford protection to the site, setting or views to and from historic gardens and designed landscapes.
- 7.2.2. Dromin House was first constructed in c.1800 (with later additions in c.1870). It is described in the County Development Plan as a fine Georgian house with surviving

entrance gates, gate lodge and well-maintained outbuildings that add to the overall complex. The Department of Arts, Heritage and the Gaeltacht's national Garden Survey describes it as a 'small demesne'. The OSi's 25" historic mapping, completed between 1897 and 1913, indicates the extent of the landscaped grounds associated with the property (see attachments). This includes woodland around the perimeter of the demesne and within it, notably at the gate lodge entrance, around the main house and in the 'parkland' to the east of the house. The appeal site falls within the designed landscape associated with the demesne, lying to the north of the perimeter planting, within the wider setting of Dromin House.

- 7.2.3. The Department's Guidelines on Architectural Heritage Protection, for the purposes of the guidelines, define the curtilage of a protected structure as '*the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure*'. The term attendant ground is also defined as '*lands outside the curtilage of the structure but which are associated with the structure and are intrinsic to its function, setting and/or appreciation*'. The guidelines go on to state '*In many cases, the attendant grounds will incorporate a designed landscape deliberately laid out to complement the design of the building or to assist in its function*'. When considering applications for development within the attendant grounds of a protected structure the guidelines state it is essential to understand the character of the site and how the proposed development would impact on it and the character of the protected structure.
- 7.2.4. The Guidelines are issued by government under Section 28 of the Planning and Development Act 2000 (as amended) and the Board is required to have regard to them in the performance of its functions.
- 7.2.5. Having regard to the above, in particular the location of the appeal site within the bounds of the landscape gardens associated with Dromin House, I consider that the proposed development falls within the attendant grounds of the protected structure, regardless of current ownership, with the attendant grounds contributing to the setting, historic and cultural context of the property.
- 7.2.6. The landscape framework of the demesne remains largely as indicated in the OSi historic map of the site, with planting maturing along all external boundaries and within the site (see attachments). Further, with the exception of the property to the

south of the appeal site, the site remains free from new development within the grounds of the demesne.

- 7.2.7. In the vicinity of the appeal site, the features of the attendant grounds are the substantial mature belt of trees planted along the eastern boundary of the site/demesne, the open and generally undeveloped nature of the appeal site itself, leading to the more formal structures and planting along the drive, outhouses and gardens of Dromin House. There are no direct views of Dromin House from the appeal site and only glimpsed views of the stone outbuildings. However, the site contributes to the physical setting of these structures and the demesne as a whole and forms part of the historic and cultural interest of the protected structure.
- 7.2.8. The proposed development differs from that previously refused by the Board in that it comprises a single storey dwelling. I would also accept that it is proposed as a single dwelling, to meet the needs of the applicant's family. It is also attractive in design, designed as a 'cluster type' dwelling, set back from the public road and visually removed from Dromin House. However, the proposed development is located within the open and generally undeveloped landscape of demesne. It introduces a built component to this landscape of a scale, form and design that is *ad hoc*, piecemeal and unrelated to the structure and function of the demesne lands. I consider that it would therefore detract from the inherent character of the demesne lands, from the structure and integrity of the designed landscape and from the overall setting, therefore, of the protected structure. In addition, the development would be seen in conjunction with the existing property to the south west, which together, would have a cumulative impact on the character and integrity of the demesne landscape and set an undesirable precedent for future development.
- 7.2.9. I would acknowledge that permission was granted for the dwelling to the south west of the appeal site in 1995. This predated the governments guidelines on Architectural Heritage Protection and the national garden survey. It does not therefore provide a relevant or appropriate precedent for the proposed development. Agricultural developments are also referred to by the appellant (agricultural sheds under PA ref. 11213 and 17435), however, these are situated on land to the north of Dromin House demesne lands.

7.3. Impact on Boundary Trees

- 7.3.1. The applicant proposes a new entrance to the appeal site from the adjoining public road. This will be formed between existing mature trees with removal of hedgerow where necessary to provide the 75m sightlines and new ranch style fence with native hedgerow planted behind. Drawing no. RMcG/18/08 Proposed Entrance indicates these arrangements, with rendered piers and stone walls framing the new entrance.
- 7.3.2. As stated above, the existing mature trees along the eastern boundary of the appeal site form part of the designed landscape of Dromin House. The proposed arrangements are inadequately detailed, showing neither the precise location of existing trees relative to the proposed entrance or the extent or effect of removal of hedgerow to form the required sightlines. Further, the proposals for framed entrance to the site and ranch style fencing would impact on the traditional character of this boundary and add to the impact of the development on the demesne landscape and further erode the setting of the protected structure.

7.4. Public Health

- 7.4.1. There are no details on file regarding the capacity of the appeal site to accommodate a waste water treatment unit and soil polishing filter. At the time of site inspection there was water in the exposed trial hole, but not in the percolation holes. I note that this matter was not cited in the Board's previous reason to refuse permission for the development, but in the absence of any technical information it is not possible to adjudicate on the matter here. If the Board are minded to grant permission for the development, further information would be necessary in this regard.

8.0 Appropriate Assessment

- 8.1. Having regard to modest nature of the proposed development, its location at considerable distance from any European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. Having regard to the matters discussed above, I recommend that permission for the proposed development be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the nature, scale and form of the proposed dwelling and its location within the designed gardens and attendant grounds of a protected structure, Dromin House, the Board considered that the proposed development would adversely impact on the site, setting and views to and from the designed landscape of Dromin House and, therefore, the setting, character and special interest of this protected structure and would also adversely impact on the visual amenities of the area. Furthermore, the Board was not satisfied based on the plans and particulars submitted with the application that the proposed development would not adversely impact on the roadside hedge and the mature trees contained therein (to achieve the required sightlines). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann

Planning Inspector

25th April 2019