



An
Bord
Pleanála

Inspector's Report ABP-314358-22

Development	Construction of a domestic garage.
Location	Kilfenora House, Newtown Lane, Railway Terrace, Dublin Road, Drogheda, Co. Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	22/116
Applicant(s)	Cormac Freeman
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Jenny Gargan
Observer(s)	None.
Date of Site Inspection	6 th October, 2022
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located along the southern side of a narrow cul-de-sac known as Newtown Lane (McGrath's Lane) in Drogheda, Co. Louth, approximately 200m southeast of Drogheda (MacBride) Rail Station, in an established residential area characterised by a variety of house types, including 2 No. terraces of brickwork housing which form part of the Railway Terrace Architectural Conservation Area. The laneway itself extends north-eastwards from Dublin Road with those properties along its northern side fronting onto the roadway whereas the housing to the south backs onto the lane, with the exception of the subject dwelling and its semi-detached counterpart.
- 1.2. The application site has a stated site area of 0.094 hectares, is irregularly shaped, and is presently occupied by a three-bay, two-storey, semi-detached dwelling house with front & rear garden areas and off-street parking. The property adjoins existing housing to the east, south and west with the public road to the north. The site boundaries are generally defined by a combination of blockwork walls and planting although the front roadside boundary has been increased in height through the erection of painted timber fencing and piers atop the existing walling.

2.0 Proposed Development

- 2.1. The proposed development, as initially submitted to the Planning Authority, consists of the construction of a double garage (floor area: 80.46m²) for domestic use in the north-western corner of the front garden area of an existing dwelling house. The overall design is conventional and based on a simple rectangular plan with a shallow pitched 'A'-frame roof detail. External finishes include a plaster render and double insulated 'Kingspan' roof panelling ('olive green' in colour). The principal axis of the structure runs north-south and is perpendicular to the public road with vehicular entry obtained via its east-facing elevation.
- 2.2. Provision is also made for additional landscaping on site, including the planting of a series of conifers to the rear (west) of the proposed garage and along the front site boundary.

- 2.3. Within the supporting correspondence it is further stated that the proposed development includes for the lowering of the existing fencing erected atop the front roadside boundary wall by 900mm. The accompanying drawings detail that these works also include for the lowering of the associated wall piers.
- 2.4. Amended proposals were subsequently submitted in response to a request for further information with the design being revised to provide for a more conventional and steeper pitched roof construction (ridge height: 4.271m) to be finished with fibre cement roof slates. It is further stated that the structure is to be used to park the applicant's limousine when returning from late-night events as well as for other domestic purposes ancillary to the enjoyment of his dwelling house.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of a response to a request for further information, on 21st July, 2022 the Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 7 No. conditions which can be summarised as follows:

Condition No. 1: Refers to the submitted plans and particulars.

Condition No. 2: Requires revised drawings incorporating the following amendments to be submitted for the written agreement of the Planning Authority prior to the commencement of development:

- The reduction of floor area of the garage to 60m²;
- The positioning of the garage a minimum of 3m from the front boundary;
- The width of the vehicular access(es) to the garage reduced to 3m; and
- The provision of a native hedgerow inside the front boundary and to the rear of the garage within the first planting season following the commencement of development.

- Condition No. 3: States that the garage is to be used only by the applicant for the parking of one limousine car and for storage purposes incidental to the enjoyment of the dwelling house (as detailed in the correspondence received from Paul Carroll & Associates Ltd. dated 21st June, 2022).
- Condition No. 4: Requires the removal of the piers and timber fencing over the original front boundary wall and entrance within one month of the date of the grant of permission.
- Condition No. 5: Refers to the maintenance / condition of the public road during development works.
- Condition No. 6: Refers to the hours of construction.
- Condition No. 7: Refers to the surface water attenuation and disposal arrangements.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report details the site context, planning history, and the applicable policy considerations, including the site location proximate to the Railway Terrace Architectural Conservation Area, before stating that the proposed development is acceptable in principle although it will have to comply with the requirements of Section 13.8.37: '*Domestic Garages and Outbuildings*' of the Development Plan. With respect to the overall design and layout of the proposal, it states that while the garage will be positioned forward of the building line, it will be substantially screened by the existing boundary wall and fencing (notwithstanding that the height of the fence is to be lowered to reduce its visual impact and to improve the appearance of the property). While it is acknowledged that a garage was previously approved in the same location under PA Ref. No. 05510030, concerns are then raised as regards the size, scale and intended use of the proposal and its potential impact on the nearby Architectural Conservation Area. The report thus concludes by recommending that further information be sought in respect of a number of items, including the need for a garage of the size proposed, the surface water drainage arrangements,

landscaping proposals, and the submission of revised particulars addressing the detrimental impact on the ACA.

Following the receipt of a response to a request for additional information, which included an amended garage design featuring a conventional pitched roof construction and cement slate, a further report was prepared which recommended a grant of permission, subject to conditions.

In a subsequent addendum report, the Senior Executive Planner indicated dissatisfaction with the overall design, scale and positioning of the proposed garage having regard to its intended domestic usage and the need to protect the visual amenities of the area. It was also considered that the proposal to reduce the height of the unauthorised piers and fencing along the front boundary would be unacceptable having regard to the visual amenities of the area and that to permit same would set an undesirable precedent for further such development. The report thus recommends the attachment of a series of conditions which include a requirement that the proposed garage be reduced in size and repositioned a minimum of 3m from the front boundary. In addition, the piers and fence erected atop the original front wall and entrance are required to be removed within one month of the date of the grant of permission.

3.2.2. *Other Technical Reports:*

None.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A total of 2 No. submissions were received from an interested third party (the appellant) and the principal grounds of objection / areas of concern raised therein can be summarised as follows:

- The size of the proposed garage appears to be excessive for domestic purposes and gives rise to concerns that it may be used to accommodate a commercial enterprise (the garaging of limousines).
- The external finishes proposed are inappropriate to the wider setting of the area.

- The design, siting and metal roof of the proposed garage will detract from the residential and visual amenity of neighbouring property.
- The proposed development will detract from the character and setting of the Railway Terrace Architectural Conservation Area.

4.0 **Planning History**

4.1. **On Site:**

- 4.1.1. PA Ref. No. 05510030. Was granted on 16th May, 2005 permitting Cormac & Hilda Freeman permission for the demolition of existing single storey rear extension & replacement with new single-storey extension containing kitchen, dining/family room, conversion of existing garage into utility, shower & WC, replacement of existing garage door with new window, 3 no. new velux rooflights, one at side, two at rear, to existing hipped roof, new enlarged entrance with new gates & piers with railings, 1.5m high above existing wall & new single storey garage boiler house, refuse store & associated site works.

5.0 **Policy and Context**

5.1. **National & Regional Policy:**

- 5.1.1. The '*Architectural Heritage Protection, Guidelines for Planning Authorities, 2011*' provide detailed guidance in respect of the provisions and operation of Part IV of the Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing applications for development which may affect architectural conservation areas and protected structures.

5.2. Development Plan

5.2.1. *Louth County Development Plan, 2021-2027:*

Land Use Zoning:

The proposed development site is located in an area zoned as ‘A1: Existing Residential’ with the stated land use zoning objective ‘To protect and enhance the amenity and character of existing residential communities’.

Guidance: The objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties. The strengthening of community facilities and local services will be facilitated subject to the design, scale and use of the building or development being appropriate for its location.

Other Relevant Sections / Policies:

Chapter 9: Built Heritage and Culture:

Section 9.6: Architectural Heritage:

Section 9.6.1: Architectural Conservation Areas (ACAs):

BHC 31: To require that all development proposals within or affecting an Architectural Conservation Area preserve or enhance the character and appearance of that area, protect architectural features of special interest and ensure that the design respects the character of the historic architecture in terms of height, scale, layout, and materials. All development proposals shall have regard to the Architectural Conservation Area objectives in Appendix 11, Volume 3 and objectives contained in applicable Character Appraisals where available

BHC 35: To require that any development on the periphery of an Architectural Conservation Area does not detract from the existing character of the designated Architectural Conservation Area.

(The proposed development site is located opposite the Railway Terrace Architectural Conservation Area).

Chapter 13: Development Management Guidelines:

Section 13.8.37: Domestic Garages and Outbuildings:

The purpose of garages and outbuildings within the curtilage of residential properties is normally for storage and needs that are incidental to the dwelling on site. Whilst there has been an increasing demand for larger garages, it is important that any garage is proportionate to the existing property so that it will integrate into the local environment. Garages will normally be positioned to the side or rear of the dwelling and will be designed and finished in materials that match the dwelling.

The uses of garages will be strictly controlled to uses incidental to the residential property. The Planning Authority will not normally grant planning permission for a garage or outbuilding of a design or scale that is not in proportion or in keeping with the existing dwelling.

Any application for such a development would require a clear rationale setting out the reasons for the development, the intended use of the garage/building, and how it would integrate into the local environment. These applications will be assessed on a case-by-case basis.

Section 13.19.2: Architectural Heritage:

Section 13.19.5: Architectural Conservation Areas (ACA):

Volume 3, Appendices 11 and 12 provide detailed guidance and standards in relation to development in Louth's Architectural Conservation Areas.

5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299), approximately 700m north of the site.
- The Boyne Estuary Special Protection Area (Site Code: 004080), approximately 900m northeast of the site.

- The Boyne Coast and Estuary Proposed Natural Heritage Area (Site Code: 001957), approximately 2.0km northeast of the site.
- The Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), approximately 2.1km northeast of the site.

5.4. EIA Screening

5.4.1. Having regard to the minor nature and scale of the proposed development, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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

- While the reduction in the size of the proposed development is welcomed, it is nevertheless considered to be a very large structure for domestic purposes.
- The proposed development is located directly across the road from the Railway Terrace Architectural Conservation Area and in this regard the Board's attention is drawn to Policy Objective BHC 35 of the Louth County Development Plan, 2021-2027 which aims to ensure that any development on the periphery of an Architectural Conservation Area does not detract from the character of the designated ACA.
- The proposed development will back onto the appellant's rear garden area.
- Given the siting of the development within a front garden directly across from the Railway Terrace ACA, the appellant disagrees with the assessment of the Planning Authority. There are no garages or outbuildings etc. opposite the existing housing in Railway Terrace and, therefore, the proposal is out of

character with and will detract from the visual amenity of the area (in reference to those buildings located further along Newtown Lane, it should be noted that they are not within the ACA).

- It is not considered that the proposed change in materials (from roof panelling to a slate finish) is any more sympathetic to the character and setting of the Architectural Conservation Area.
- The overall design, scale, height and positioning of the proposed development will detract from the Architectural Conservation Area and the visual amenity enjoyed by the residents of Railway Terrace / Newtown Lane.
- Concerns remain as regards the applicant's intention to use the proposed development to garage his limousine(s).

6.2. Applicant's Response

None.

6.3. Planning Authority Response

- The issues raised in the grounds of appeal have already been addressed in report of the case planner dated 20th July, 2022.
- It is considered that the revised proposal, as amended by condition, will mitigate against any impact on the residential amenity or character of the surrounding area.
- The parking of a limousine at a domestic property does not amount to a change of use and is ancillary to the main use of the property as a dwelling.
- The decision to grant permission should be upheld.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The principle and intended use of the proposed development
- Overall design & visual impact
- Appropriate assessment

These are assessed as follows:

7.2. The Principle and Intended Use of the Proposed Development:

- 7.2.1. The construction of a garage within the curtilage of a dwelling house for purposes incidental to the enjoyment of that property is not normally problematic, however, in the subject instance concerns have been raised as regards the overall size and scale of the structure proposed and whether its intended use could reasonably be held to be for domestic purposes. In this respect, I would advise the Board that the proposed development consists of the construction of a large double garage with a stated floor area of 80.46m² in the front garden of an existing dwelling and that it is described in the application documentation as being for domestic purposes. In response to a request for further information, the applicant subsequently elaborated on the intended use of the proposed garage by stating that he occasionally requires a safe place to park his limousine when he is returning from wedding parties (noting that he usually parks it at his parent's house out of town) given that this is an expensive vehicle which cannot be parked on the street (it is my understanding that the applicant operates a wedding / limousine hire business). It was also submitted that the applicant requires additional space for uses ancillary to the enjoyment of the dwelling house while noting that the existing outbuilding to the rear of the property is inadequate for same in terms of the limited space available.
- 7.2.2. In its final determination of the subject application (as per the addendum report of the Senior Executive Planner), it is of relevance to note that while the Planning Authority was not satisfied that the design or scale of the proposed garage was of a domestic nature, the subsequent requirement to reduce the floor area to 60m² as per Condition No. 2 of the notification of the decision to grant permission was imposed in the interest of visual amenity (as distinct from any need to preserve residential

amenity). Therefore, it would appear that the Planning Authority has no overt difficulty with the intended use of the proposed development with Condition No. 3 referring to a 'domestic' garage and clarifying its use for the parking of a single limousine car and for purposes incidental to the enjoyment of the dwelling house as detailed in the response to the request for further information

7.2.3. At this point, and by way of background, I would refer the Board to the planning history of the subject site and, more particularly, to the grant of permission issued in respect of PA Ref. No. 05510030 which included for the construction of a free-standing single-storey structure with a stated floor area of 66.3m² that encompassed a double garage, boiler house, and a store / WC in a location comparable to that of the subject proposal.

7.2.4. Given the site location is an almost exclusively residential area, I would accept the need to ensure that any development on site must be conducive to the preservation of existing residential amenity. I am also cognisant of the limitations arising from the site context, including the access arrangement via a narrow cul-de-sac. In this regard, while the use of a property / garage for the intermittent or occasional parking of a vehicle associated with an individual's business is not uncommon and can be readily distinguished from use for commercial purposes, the scale of the subject proposal is of concern and would seem to be excessive for what could typically be considered normal domestic use. It is particularly pertinent that no further explanation has been offered as to why a structure of the size proposed is warranted, especially in light of the planning history on site and the previous approval of a smaller (albeit still large) garage structure (which was to have accommodated a double garage and other ancillary space). Section 13.8.37: '*Domestic Garages and Outbuildings*' of the Development Plan states that the purpose of garages and outbuildings within the curtilage of residential properties is normally for storage and needs that are incidental to the dwelling on site. It also emphasises that while there may be a trend towards larger garages, any such structure should be proportionate to the existing property. In addition, the policy provision states that the Planning Authority will not normally grant planning permission for a garage or outbuilding of a design or scale that is not in proportion or in keeping with the existing dwelling while all such applications are to be

accompanied by a clear rationale for the development, the intended use of the garage/building, and how it will integrate into the local environment.

- 7.2.5. Considering the scale of the development proposed when compared to that previously approved on site under PA Ref. No. 05510030, the overall floor area intended for purposes incidental to the enjoyment of the dwelling house when taken in conjunction with the existing domestic shed / outbuilding to the rear of the property, the assertion by the applicant that the proposed garage is only intended for the 'occasional' parking of a business vehicle (a wedding limousine), the broader space / hardstanding area available on site for intermittent parking purposes, and the provisions of Section 13.8.37: '*Domestic Garages and Outbuildings*' of the Development Plan, I am unconvinced of the need for a garage structure of the scale proposed. In this regard, I would consider the decision of the Planning Authority to reduce the overall scale of the proposed development to a floor area broadly in line with that previously approved under PA Ref. No. 05510030 to be reasonable and sufficient to accommodate the needs of the applicant as set out in the submitted particulars.

7.3. Overall Design & Visual Impact:

- 7.3.1. In assessing the overall design and visual impact of the proposed development, at the outset I would advise the Board that the submitted plans are inaccurate and include a number of inconsistencies. Most notably, the drawings depicting the northern and southern elevations of the proposed garage (in addition to the sectional drawing) do not correspond with the floor plan or the stated floor area. In this regard, while the floor plan details the internal dimension across the width of the structure as measuring 7.315m (with an external measurement of c. 7.9m), a scaled measurement from the elevational drawings shows the external building width to be only 6.3m. This error is continued in the contextual / streetside elevation with the result that it provides an inaccurate depiction of the appearance and visual impact of the structure. Consequently, difficulties arise in trying to verify the overall design, size, scale and height of the construction (noting that it will differ depending on the dimensions used) while any attempt to enforce adherence to the submitted plans in the event of a grant of permission would also likely encounter difficulty.

- 7.3.2. With respect to the works proposed to the front boundary treatment, I would have a number of concerns as regards the inclusion of same in the subject application. In the first instance, it would appear that the alterations to the wall in question and the erection of the fencing atop same were undertaken under the guise of the grant of permission issued for PA Ref. No. 05510030, notwithstanding that the works themselves failed to adhere to the terms and conditions of that grant of permission. That approval was not implemented in full and it would appear that there is no intention on the applicant's part to complete same (noting that the extension approved to the rear of the dwelling house was substituted for the construction of a different extension by way of exempted development). A grant of planning permission is indivisible and it is not permissible for an applicant to only partially implement an approval other than by way of a new planning permission. Therefore, I would have concerns as regards the planning status of the works undertaken to the front boundary.
- 7.3.3. In addition to the foregoing, I am not satisfied as to the appropriateness of considering the alterations proposed to the front boundary as part of the subject application. The description of the proposed development as set out in the public notices is limited to the '*construction of a domestic garage*' and makes no reference to any associated works or alterations to the front boundary. Moreover, the works themselves, while serving to lower the existing fencing and wall piers, effectively amount to an attempt to regularise unauthorised development given that the fencing to be lowered serves to replace the galvanised railings permitted under PA Ref. No. 05510030. In effect, the subject application includes for an element of retention which is not reflected in the submitted drawings, public notices, or the planning fee etc.
- 7.3.4. A further concern with respect to the proposed works to the front boundary is the failure to provide any dimensions for the wall, piers and fencing (either existing or proposed) other than for a reference to the fencing being reduced in height by 900mm. Indeed, the finished height of the wall and fencing etc. is not readily apparent from the details provided which could give rise to future conflict.
- 7.3.5. In terms of assessing the visual impact of the proposed garage, I have already outlined the discrepancies / inconsistencies in the submitted drawings which have the effect of prohibiting an accurate determination of the overall size and scale of the

structure. For example, in applying the revised roof pitch detail provided in response to the request for further information, the height and expanse of the gable elevation will differ noticeably depending on the width of garage itself. While it would be possible to limit the size of the proposed garage by reducing its overall length through the attachment of a suitable condition and to require the submission of an accurate set of corresponding drawings, this would necessitate specifying the width and height of the construction for clarity purposes with the associated potential of not satisfying the applicant's particular needs. Accordingly, I would suggest that in the absence of an accurate set of drawings, it is not possible to objectively assess the visual impact of the proposed development.

- 7.3.6. From a broader visual perspective, the alignment of the principal axis of the proposed garage perpendicular to the public road (as opposed to parallel to the roadway as was approved under PA Ref. No. 05510030) will likely serve to proportionately reduce the visual impact of the proposal. Furthermore, although the earlier planning approval would have benefited from the screening provided by the retention of a line of evergreen trees along the roadside (since removed), the subject proposal includes for the provision of replacement screen planting.
- 7.3.7. In relation to the existing fencing atop the front boundary wall and the intention to lower its overall height, I would reiterate my concerns that this fencing is unauthorised and that its retention has not been included in the application particulars and, therefore, I would suggest that no credence should be given to any screening consequent on same.
- 7.3.8. With respect to the impact of the proposed development on the character and setting of the Railway Terrace Architectural Conservation Area (and noting the provisions of Policy Objective BHC 35: '*To require that any development on the periphery of an Architectural Conservation Area does not detract from the existing character of the designated Architectural Conservation Area*'), while the discrepancies in the submitted drawings do not allow for a definitive assessment of the aesthetics of the proposal, in my opinion, its visual impact is likely to be less than that of the garage previously approved under PA Ref. No. 05510030 by reference to the revised alignment / positioning relative to the public road and the use of a more sympathetic pitched slate roof construction (as amended in response to the request for further information through the substitution of the original 'Olive Green' roof panelling).

While no weighting should be applied to the screening provided by the existing unauthorised fencing, and although the original trees along the roadside have been removed, I would nevertheless accept that the reduced massing of the gable elevation when viewed from the laneway, particularly when taken in combination with the new tree planting proposed, will have a similarly reduced visual impact.

- 7.3.9. Furthermore, I am cognisant of the surrounding pattern of development and the fact that existing housing along the southern side of Newtown Lane / McGrath's Lane, with the exception of the subject dwelling and its semi-detached counterpart, generally backs onto the laneway with the result that much of the roadside is characterised by high walling. Several of those properties, including the adjacent dwelling house to the immediate west of the application site, also include side / rear extensions or garages / sheds etc. which have been constructed immediately alongside the laneway and thus are readily visible from same. It is of further note that given the orientation of the adjacent dwelling to the west, it would be theoretically possible to construct a garage / shed within its rear garden area as exempted development with any such structure having a comparable impact on the character and setting of the Railway Terrace ACA opposite.
- 7.3.10. On balance, while I would acknowledge the revised design and visual impact of the current proposal when compared to that previously permitted under PA Ref. No. 05510030, given the absence of an accurate set of drawings depicting the size and scale of the proposed garage, and the need to disregard any works to the front roadside boundary wall and fencing as part of the subject application, while noting my earlier recommendation to reduce the overall scale of the construction in order to reflect its intended domestic usage, it is my opinion that the Board is not in a position to fully assess the visual impact of the proposed development and any associated amenity of the surrounding area, including the Railway Terrace ACA.

7.4. **Appropriate Assessment:**

- 7.4.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development

would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. On the basis of the submissions made in connection with the planning application and appeal, and in the absence of an accurate set of scaled drawings depicting the design, size and scale of the proposed development, in addition to the need to disregard any works to the front roadside boundary in the consideration of the subject application as those works would comprise the alteration of an unauthorised structure, the Board is not in a position to assess the visual impact of the proposed development and, therefore, it cannot be satisfied that the proposed development would not seriously injure the visual amenities of the surrounding area, including the character and setting of the Railway Terrace Architectural Conservation Area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

19th October, 2022