



An Bord Pleanála

Development: Retention of existing wall and entrance to existing house, site and all associated site works at Tullagh, Omeath, Co. Louth.

Planning Application

Planning Authority: Louth County Council

Planning Authority Reg. Ref: 14/15

Applicant: Michael Larkin

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Michael Larkin

Type of Appeal: 1st-v-Refusal

Site Inspection: 03<sup>rd</sup> July 2014

Inspector Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal sites, which has a stated area of 0.0865 hectares, is located approximately 3km south west of Omeath. The site is occupied by an existing single-storey dwelling. The site is located on the northern side of a lower category tertiary road with a carriageway width of 3m. Adjoining lands are in agricultural use with the nearest dwelling being located immediately to the west of the site.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for the retention of upgrading of existing wall and entrance. The proposal entails retention of a new stone wall along the road frontage of an existing dwelling. The wall is 2.3m in height and reduces in height moving west to east due to the gradient of the road with it being 1.5m at its lowest point. The vehicular entrance features splayed walls and a pedestrian gate.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

- a) Roads section (04/03/14): Further information required including a revised site layout map indicating maximum visibility available. The applicant was also requested to investigate the possibility of reducing the wall in height to achieve the required visibility under the Louth County Development Plan.
- b) Planning report (04/03/14): Further information required as per the information sought by the Council's Roads Section.
- c) Roads Section (08/04/14): It is noted that the maximum available sightlines fall short of the requirements of the County Development Plan and the NRA's DRMB TD41-42. It is noted that there was an existing access however it was considered that the it is impossible to say whether the re-developed entrance and boundary is an improvement of teh pre-existing situation. Refusal was recommended.
- d) Planning report (09/04/14): The recommendation of the Council's Roads Section was noted. Refusal was recommended subject to the reason outlined below.

4. DECISION OF THE PLANNING AUTHORITY

- 4.1 Permission refused based on one reason...

1. The retained wall and entrance onto the local tertiary public road has restricted sightline visibility splays and accordingly would endanger public safety by reason of traffic hazard and obstruction of other road users, as the required sightlines of 75 metres as set out in Table 8.4 of the Louth County Development Plan 2009-2015 (as amended) have not been indicated on the site layout plan from a point 2.4m back from the edge of the road carriageway, over a height object range of 0.6 to 1.05m above road level. Accordingly the retained entrance is considered contrary to Policy TC 10 of the Louth County Development Plan 2009-2015 (as amended) which seeks to apply visibility standards as set out in this specific table. According the retained entrance materially contravenes Policy TC 10 and is considered to be a traffic hazard and is contrary to the proper planning & sustainable development of the area.

5. PLANNING HISTORY

5.1 11/484: Permission granted for extension to front and side of existing dwelling and raising the height of the existing roof to provide for habitable accommodation at attic level.

5.2 07/1546: Permission granted for extension to dwelling.

5.3 06/1852: Permission granted for removal of domestic garage and installation of a wastewater treatment system and percolation area.

6. PLANNING POLICY

6.1 The relevant plan is the Louth County Council Development Plan 2009-2015.

6.2 The site is located on lands within Development Control Zone 2 where it is an objective of the Council 'to protect the scenic quality of the landscape and facilitate development required to sustain existing rural community'.

6.3 Development Plan policy in regards to vehicular entrances is contained under section 8.5 of the County development Plan and specific guidance on visibility is under table 8.4 (attached).

## 7. GROUNDS OF APPEAL

7.1 A first party appeal has been lodged by Colm G. Holmes & Associates Ltd on behalf of the applicant Michael Larkin. The grounds of appeal are as follows...

- The appellant notes that the visibility standards referred to in the Development Plan specifically relate to new entrances with no stated policy provided in regards to existing entrances. As the proposal is upgrading of an existing entrance it is considered that the Development Plan standards are no applicable.
- The wall was upgraded due to the poor condition of the existing and is of the required strength to act as a retaining wall due to the level of the site being higher than the public road. The appellant argues that a number of pieces of information were not requested as part of further information that could have clarified the situation with it noted that the information actually requested was complied with.
- The appellant reiterates the reasons why lowering or setting back the wall is not viable (due to its function as a retaining wall and minimum allowable separation distances in regards to wastewater treatment systems).
- It is noted that the issue of visibility standards was not raised in respect of ref no. 11/484 for major upgrades to the existing dwelling. The appellant notes there are a number of similar permissions where visibility standards were not applied due to an existing entrance being utilised.
- It is noted there is no benefit to be derived from refusing permission as if the works in question are demolished and the previous situation reinstated the issues of visibility would go unresolved.

## 8. RESPONSES

8.1 Response by Louth County Council:

- The Planning Authority response includes photographs taken when ref no 11/484 was being assessed. It is noted that the drawings under ref no. 11/484 show the entrance located further east on site than is the current situation. In this regard it is considered that the entrance is a new entrance. The response refers to Development Plan policy standards and the failure to meet such standards and notes that the applicant/appellant was invited to make a case for the development through the further information request.

## 9. ASSESSMENT

9.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Traffic safety/visibility/Development Plan policy

**9.2 Traffic safety/visibility/Development Plan policy:**

9.2.1 The proposal seeks retention of a new wall along the roadside boundary of an existing dwelling and upgrading of an existing vehicular entrance. Permission has been refused on the basis that the visibility available at the vehicular entrance point does not meet that set down under Development Plan policy. The appellant has argued that the works relate to an existing entrance and that the standards for new entrances should not apply. I note that the Planning Authority in their response note that the entrance on site has been relocated further east than was previously on site and can therefore be considered a new entrance and subject to Development Plan Standards.

9.2.2 The appeal site is located along a lower category tertiary road which is narrow in width approximately 3m in width with opposing traffic unable to pass without the need for one of the vehicles to park in an existing entrance/exit or other layby. There is in no question regarding the fact there is and has been an established dwelling on this site for a considerable time and it has had the benefit of a vehicular entrance. Based on the information submitted as further information the upgraded entrance has visibility of 15m to the north west and 10 metres to the south east based on a setback of 2.4m with such visibility increasing to 23m and 12.5m respectively based on a 2m setback. Development Plan policy for new entrances requires a standard of 75m based on a 2.4m setback for Local Class 3 roads (Table 8.4). It is noted that “where the 85% percentile speed on a local class 2 or a local class 3 road is shown to be below 50 kilometres per hour, the minimum sight distance requirements contained in the document National Roads Authority-Design Manual for Road and Bridges, shall apply (50m). Having inspected the site and the public road it is located along I would note that it is impossible to meet Development Plan standards in relation to visibility due to the width and alignment of the public road at this location and this includes the reduced standard where the speed of the road is shown to be below 50kph. I would seriously doubt that it was ever the possibility that such standards could be met and that such were not available in relation to the existing entrance on site prior to construction of the new wall and entrance piers.

9.2.3 I would consider that some regard must be had to fact that there is an existing dwelling on site and the fact that prior to the works a vehicular entrance was in place. I think in such circumstances the question that arises is whether the works subject to this retention have improved the vehicular entrance layout from the previous situation. Both the appellant and Local Authority have submitted photographs showing the dwelling and roadside boundary/entrance layout prior to works approved under a number of applications and the works subject to retention. I would note

that the works subject to retention have not resulted in a reduced level of visibility at this location with it difficult to significantly improve such due to the existing alignment of the road. I would consider that the wider entrance which provides for both a vehicular entrance and a separate pedestrian entrance with a much wider splay of the entrance walls is an improvement over the previous situation with the wider splayed walls allowing for improved visibility in relation to vehicles exiting the vehicular entrance as well of improved visibility of such vehicles from traffic approaching the entrance on the public road. I would also consider that the increased splayed entrance way provides an additional layby to facilitate passing traffic which is an issue on this road due to width of the existing carriageway. I consider that based on such facts that that the proposed development represents an improved entrance layout over the previous. I would also note that such facts taken in conjunction with the low design speed of the existing road which is not a heavily trafficked route, that the works for retention would be acceptable in the context of traffic safety.

9.2.4 The Planning Authority have noted that the entrance has been relocated further to the east and that as such it is a new entrance and should be subject to written Development Plan standards. Based on site inspection and the photographs submitted I would question whether the entrance has been relocated. I would note that the addition of a pedestrian entrance and the more shallow angle of the entrance walls give the appearance that the entrance is further east. As noted earlier I consider that regard must be given the fact that there has been an established dwelling and associated vehicular entrance at this location for a considerable time and that meeting the written standards of the County Development Plan is impossible at this location. I am satisfied that the works proposed have not reduced standards in regards to traffic safety and the wider splay and more shallow angle of the wing walls are improvement in terms so traffic safety. I am satisfied that such taken in conjunction with the low level nature of the road in terms of design speed and traffic levels , that the development for retention would be acceptable in regards to traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### RECOMMENDATION

I recommend a grant of permission subject to the following conditions.

#### REASONS AND CONSIDERATIONS

Having regards to the fact there is an established dwelling on site which has had the benefit of an existing vehicular access for a considerable period of time, and fact that the works for retention provide for an improved entrance layout in terms of a wider splayed entrance, taken in conjunction with the low design speed and traffic level on the existing public road, the works subject to retention would be acceptable in the context of traffic safety and convenience and would, therefore,

be in accordance with the proper planning and sustainable development of the area.

**CONDITIONS**

1.The development shall be retained in accordance with the plans and particulars lodged with the application.

**Reason:** In the interest of clarity.

Colin McBride  
15th July 2014