



An
Bord
Pleanála

Inspector's Report ABP-305358-19

Development	Agricultural entrance
Location	Velvetstown, Buttevant, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/5580
Applicant(s)	Kieran Kennedy
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Patrick McCarthy
Date of Site Inspection	13 th December, 2019
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is located within the townland of Velvetstown, approximately 3 km north-east of the town of Buttevant in County Cork. The existing agricultural entrance is located on the south side of a minor local road close to its cul-de-sac end. It provides access to lands opposite the entrance to the applicant's farmyard. The appellant's house is located to the east of the entrance.

2.0 Proposed Development

2.1. The proposed development would comprise the retention of an agricultural entrance.

3.0 Planning Authority Decision

3.1. Decision

On 12th August 2019, Cork County Council decided to grant permission for the proposed development subject to 11 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted planning history in the vicinity, development plan provisions, reports received and the objection made. The purpose for the entrance was acknowledged. There was no objection to the proposal and a grant of permission was recommended subject to conditions.

3.2.2. Other Technical Reports

The Area Engineer noted the location of the entrance and that there is no grating at the entrance to stop surface water flowing onto the public road. A schedule of conditions was set out.

The Environment Section submitted that the construction of a cattle underpass is required at this location to eliminate the twice daily road crossing of a large dairy herd and the discharge of soiled water and deposition of slurry on the surface of the

road. It was then stated that there was no objection on environmental grounds subject to conditions.

3.3. **Third Party Observations**

A submission was received from Patrick McCarthy. The grounds of the appeal reflect the principal grounds of appeal.

4.0 **Planning History**

I have no record of any planning application or appeal relating to this site.

5.0 **Policy Context**

5.1. **Cork County Development Plan 2014**

Agriculture

Objectives include:

EE 8-1: Agriculture and Farm Diversification

Encourage the development of a dynamic and innovative, sustainable agricultural and food production sector by:

- Encouraging the development of sustainable agricultural and infrastructure ...

EE 9-1: Business Development in Rural Areas

The development of appropriate new businesses in rural areas will normally be encouraged where:

- The scale and nature of the proposed new business are appropriate to the rural area, and are in areas of low environmental sensitivity.
- The development will enhance the strength and diversity of the local rural economy,
- The proposal will not adversely affect the character and appearance of the landscape,

- The existing or planned local road network and other essential infrastructure can accommodate extra demand generated by the proposal, ...

Transport

Objectives include:

TM 3-2: Regional & Local Roads ...

- d)** Limit access to Regional Roads where appropriate so as to protect carrying capacity of the road network and have regard to safety considerations particularly where access to a lower category road is available ...

5.2. Appropriate Assessment

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 any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.3. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant resides in the house to the east of the appeal site. The grounds of the appeal may be synthesised as follows:

- The applicant's approach to planning applications has been misleading and there is a lack of information provided. The application does not include the new roadway constructed in the field and this should be shown fully in the application. The entrance and roadway are constructed to take large farm

machinery and 300 cows that travel back and forth a number of times each day. No details are provided on cattle numbers and farm machinery.

- There are now three separate entrances to the field from the public road and there is no need for the entrance the subject of appeal.
- The entrance is connected with a large operation and is causing grief to the appellant and his family, who are landlocked for large periods of the day.
- The appellant and his family cannot enter or exit their entrance to their house when cattle are crossing. This causes considerable disturbance in terms of access, noise and damage to the roadway. The entrance is a traffic hazard. A cattle underpass would solve the issue. A Consultant's report is attached with comments on road safety. It is submitted that the application is contrary to Development Plan objectives TM 3-2 and EE 9-1 and that the removal of a substantial length of hedgerow along the boundary and the opening of the entrance would be detrimental to the visual amenities of the area.
- The appellant's safety and quality of life were completely ignored by the planning authority. Reference is made to the reports of the planning authority and to condition nos. 2, 5 and 8 attached with the decision to grant permission, considered to be not achievable, contrary to the appellant's safety and will not be complied with.

The appeal includes a number of photographs which allude to the impact of the development.

6.2. Applicant Response

The applicant's response to the appeal may be summarised as follows:

- The applicant has an agricultural enterprise not a commercial enterprise, which is the same as others which progresses over time and necessitates a number of planning applications.
- Regarding the retention application, the planning authority was not fully convinced that a planning application for retention was necessary. The applicant made the application to ensure he was fully compliant with planning legislation.

- The planning authority inspected the farmyard and lands and was satisfied that all works on the lands are fully compliant with planning legislation.
- The application is for the entrance. The farm roadway is used for the movement of animals and farm machinery.
- Reference and comment is made on the photographs attached to the appeal.
- The applicant will comply with all of the conditions in the planning authority's decision.
- The entrance is perfectly safety, particularly in relation to sightlines to the east and it is not across the appellant's private entrance.
- There is no necessity for a road safety audit for an application such as this.

6.3. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

7.0 Assessment

7.1 The proposed development before the Board comprises the retention of an agricultural entrance. I acknowledge that the appellant has made substantial submissions relating to the retention of developments at this location and to the lack of information and misleading approach by the applicant. The Board will note that the issue of enforcement is a matter for the planning authority and that the proposed entrance only is the development before it for consideration. This proposal will be dealt with now by the Board *de novo*. It is reasonable to ascertain from the details submitted with the planning application that the information is adequate to comply with the requirements of the Planning and Development Regulations and is sufficient to assess and make a decision on the proposed agricultural entrance.

7.2 I note that the proposed entrance is required to facilitate the movement of a dairy herd between lands to the south of a local road and the applicant's farm complex on the opposite side of the local road. While acknowledging that there have been and are other entrances further west along this road, it is reasonable to observe that the

opening of an entrance at the location proposed is more efficient in terms of limiting movement of cattle and machinery along the local road.

- 7.3 With regard to traffic impact, it is clear that the entrance is located close to the cul-de-sac end of a minor local road. Having regard to its siting and its function as an agricultural entrance serving an established farm, it is evident that the proposed development would not cause any traffic hazard at this location in these existing circumstances. The function of this entrance does not, and should not, necessitate the removal of an extensive stretch of hedgerow beyond the site to accommodate its agricultural use. I accept that there may be a degree of inconvenience at the times of the movement of the herd across the road or the movement of farm machinery and other vehicles. However, to suggest that this would constitute an unwarranted adverse impact on a minor public road by way of traffic hazard could not be upheld based on the nature and extent of traffic involved.
- 7.4 It is again accepted that the use of such an entrance in the manner proposed would likely potentially impact on neighbouring residents by way of noise when animals and machinery are being moved. The functioning of a farm of this nature cannot avoid such sporadic nuisance in a rural area where the principal land use is agriculture. There could be no reasonable grounds for refusing permission for an agricultural entrance to be used in the manner proposed based on a noise or nuisance impact.
- 7.5 I also note that the appellant has submitted that the entrance to his property is blocked when movement of animals takes place. The Board will note that such ongoing obstruction by animals and machinery on a public road and other such matters may be viewed as being a public nuisance in nature, that they may be addressed at times by other authorities such as by An Garda Síochána, and that they fall outside the remit of the planning system.
- 7.6 Finally, I note that the appellant has submitted that the proposed development would conflict with objectives of Cork County Development Plan as they relate to agriculture and transport. The proposed development does not conflict with Objective EE 8-1: Agriculture and Farm Diversification, which seeks to encourage the development of a dynamic and innovative, sustainable agricultural and food production sector by encouraging the development of sustainable agricultural and infrastructure. The proposal is integral to a functioning farm and is not related to any

separate 'business development'. The siting, form and function of the entrance close to the cul-de-sac end of a minor local road would have no notable impact on the carrying capacity of the road or public safety on this road. The proposed entrance is not in conflict with Cork County Development Plan provisions.

8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 Reasons and Considerations

Having regard to the layout and function of the proposed development and the established nature of the agricultural land use, it is considered that the proposed development would provide adequate vehicular access into the lands, it would not adversely impact on the residential amenities of the area, and would otherwise 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.

Reason: In the interest of clarity.

2. 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.

Kevin Moore
Senior Planning Inspector
17th December 2019