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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Monaghan County Council**

**Planning Register Reference Number: 20/361**

**APPEAL** by Donal Gerard McDaid care of Ger Fahy Planning of Mulhussey, Maynooth, County Kildare against the decision made on the 29<sup>th</sup> day of October, 2020 by Monaghan County Council to refuse permission to Donal Gerard McDaid.

**Proposed Development** (a) Retention of variation from previously permitted milking parlour under planning register reference 07/1311 for development as constructed, (b) retain and complete underpass as constructed underneath the road (LT81012) which traverses the applicant's land, the installation of effluent storage tank and all associated site works, all at Beagh (DED) Crossalare , Donaghmoynes , Carrickmacross, County Monaghan.

**Decision**

**REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

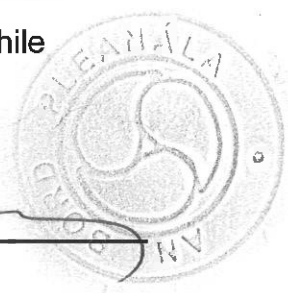
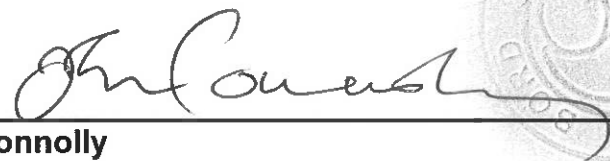
## **Reasons and Considerations**

1. On the basis of the submissions made in connection with the planning application and the appeal, the Board is not satisfied that the application has been made by a person who has: (a) sufficient legal estate or interest in the land the subject of the application to enable the person to carry out works on the land that comprises the LT81012, or (b) the approval of those who have such legal estate or interest in the LT81012. In addition, the Board is not satisfied that the plans and particulars comply with the requirements of articles 22 and 23 of the Planning and Development Regulations, 2001, as amended, and particularly with article 22(2)(c), article 22(2)(g), article 22(4)(a) and article 23(1)(e). In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the appeal.



2. The development for which retention permission is sought directly impacts on local road LT81012. On the basis of the information submitted in connection with the application and the appeal, the Board cannot be satisfied that the works carried out to date, would not have a material adverse effect on the integrity of the existing road at this location. In this regard, it is considered that the development for which retention permission is sought would endanger public safety by reason of traffic hazard and would conflict with Policy NNRP3 of the Monaghan County Development Plan, 2019 - 2025, by way of failing to ensure that the carrying capacity of this road is not adversely affected. The development for which retention permission is sought would constitute a substandard form of development which would seriously injure the amenities of the area, including the local road network, and would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board, in addition to its reasons for refusal, as set out above, did not agree that the development proposed for retention would not endanger public safety by reason of traffic hazard, and did not consider it appropriate to grant permission for retention of development subject to a condition which might result in its demolition. Furthermore, the Board did not consider it acceptable that the road might remain impassable for a further unspecified period while remedial works are agreed and implemented.



**John Connolly**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

Dated this *7<sup>th</sup>* day of *MAY* 2021.