

Planning and Development Acts 2000 to 2022

Planning Authority: Laois County Council

Planning Register Reference Number: 22/654

APPEAL by Paula Byrne on behalf of People Over Wind of Cullenagh, Portlaoise, County Laois against the decision made on the 4th day of April, 2023 by Laois County Council to grant subject to conditions a permission to John Mulhall and Seamus Mulhall care of JA Gorman Consulting Engineers of Forest Park, Mullingar, County Westmeath.

Proposed Development: Retention of the existing farm laneway and associated bridges, and permission for an extension to the existing farm laneway and associated bridges at Dooary, Cloncullane, Ballyroan, County Laois.

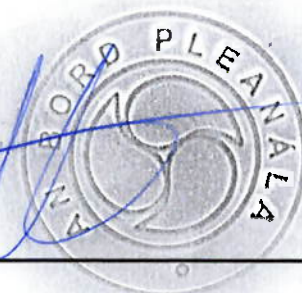
Decision

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

Reasons and Considerations

Having regard to the interpretation of 'road' in Section 2 of the Planning and Development Act 2000, as amended, the Board considers that the proposed development comes within the scope of Class 10(dd) of Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended, that being a private road which exceeds 2000 metres in length. The development for which permission and permission for retention is sought therefore requires a mandatory Environmental Impact Assessment. Section 34(12) of the above-mentioned 2000 Act provides that a retention application cannot be considered by a planning authority for a development which would have required an Environmental Impact Assessment. The Board, therefore, is precluded from considering a grant of permission in this instance.

In deciding not to accept the Inspector's recommendation to grant retention permission, the Board considered that no planning rationale was provided by the applicant in the submission received by the Board on the 5th day of July 2024 (in response to the Board's Section 137 notice) as to why the application is being revised to omit certain elements of the proposed development, in the circumstances, and having regard to the development description provided, including in public notices, the Board considered it appropriate to continue to assess the proposed development as originally submitted to the planning authority. The Board also considered that the provisions of Class 10(dd) of Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended do apply at the time of the Board's decision to all elements of laneway subject of the application.



Tom Rabbette

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 16 day of Sept. 2024.