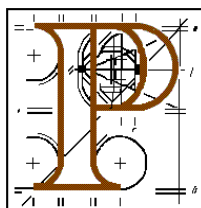


An Bord Pleanála



Inspector's Report

Development	Retention of existing agricultural unit and existing vehicular access to site and revision of existing vehicular access to site at Wotton, The Ward, Co. Meath
-------------	--

Planning Application

Planning Authority:	Meath County Council
Planning Authority Reg. Ref	AA/150793
Applicant:	Alan Joyce
Type of Application:	Permission
Planning Authority Decision:	Refuse Permission

Planning Appeal

Appellant(s):	Alan Joyce
Type of Appeal:	1st Party
Observers:	None
Date of Site Inspection:	16 th January 2016
Inspector:	Fiona Fair
Appendices:	Photographs Site location Map Extracts from County Development Plan

1.0 SITE DESCRIPTION

The appeal site is located on the eastern side of the R135 (the former N2) between Ashbourne to the north and The Ward to the south. Access to this site is off a straight stretch of this regional road, which parallels the M2 further to the west. The surrounding countryside is relatively flat and it is largely in agricultural use with intermittent one-off dwelling houses and occasional businesses.

The appeal site itself is roughly triangular in shape and it extends over an area of 0.2624 hectares. This site has been developed to provide a 125 sq. m unit and an enclosed yard. This unit is of rectangular form under a double pitched roof. Its internal width and depth dimensions are 9.760 and 12.944m, respectfully, and its height to eaves and ridge levels are, variously, 4 and 6.125m. The unit is clad throughout in profile sheeting and a vehicular and two pedestrian doors feature in its front, south facing, gabled elevation. On the day of my site inspection, which was pre-arranged given the restricted access to the site, while it was requested that the site be open and this was the case, as was the side annex to the shed, the main part of the shed was inaccessible. It was therefore not possible to ascertain the current use of the shed. A horse blanket was evident in the side annex of the shed and a horse box was situated in the yard area to the side of the shed.

The yard has a sealed concrete surface throughout. Its north western corner has been covered over by means of a corrugated roof supported on two steel stanchions. A small trailer and machine was stored at this location. The yard is bound by a high concrete block wall that is topped off by means of barbed wire supported on cranked steel supports.

The single vehicular entrance to the site is sited towards the centre of the site's frontage to the R135. This entrance is denoted by means of splayed flank walls forward of a solid steel roller gate. The site's front boundary is denoted by means of a row of conifers. A wet ditch, which feeds the stream to

the north of the appeal site, runs around the southern corner of this site and along the eastern boundary

2.0 PROPOSAL

Permission is sought for the following:

1. Retention of existing Agricultural Unit (circa 125m² - H on Map).
2. Retention of existing vehicular access to site.
3. Revision of existing vehicular access to site

3.0 PLANNING AUTHORITY'S DECISION

Meath County Council **Refused** planning permission for two no. reasons, summarised as follows:

1. It is considered that the proposed access onto the R135 would contravene RD POL 39 of the County Development Plan 2013 – 2019 to protect such roads from unnecessary and excessive individual access / egress points which would prejudice the carrying capacity and ultimately the function of the road.

2. It is considered that the proposed access onto the R135 would contravene RD POL 38 of the County Development Plan 2013 – 2019. It is considered that the sightlines available are seriously substandard and the applicant is not in a position to provide satisfactory ones. Accordingly the use of the access would endanger public safety by reason of a traffic hazard.

4.0 TECHNICAL REPORTS

4.1 Planners Report: Report is consistent with decision to refuse planning permission. The planning officer sets out that the shed to be retained is described as an agricultural shed notwithstanding the fact that it is not connected to any agricultural holding, is on a site that is limited in extent and entirely surfaced in concrete. It is considered that in order for a grant of

permission to be forthcoming it would be necessary to seek further information to flesh out the nature of agricultural activity proposed and any associated effluent disposal provisions.

It is felt that in view of the planning history on the site and previous Board decisions that permission should be refused.

4.2 Transportation Department: Report recommends permission be refused.

4.3 Environment Section: No objection

4.4 Objections/submissions: None on file.

5.0 APPEAL GROUNDS

A first party appeal has been lodged by PDC Architectural on behalf of the applicant Alan Joyce. The grounds of appeal are summarised as follows:

- The site entrance has always been at this particular point it is the only way to access the site.
- There have been no reported accidents at the entrance.
- As the entrance is for agricultural use, movements to and from the site will be minimal.
- Currently there are 17 no. site access / entrances along a 1Km stretch of roadway where the entrance is proposed to be retained. These include, private dwellings, truck yards, vehicle dismantle business, car sales business. It is therefore submitted that one additional agricultural entrance can be accommodated.
- The issue of sightlines at the entrance have been addressed at further information stage (at previous application)
- The applicant proposes to rectify the entrance to give the required vision distance at the entrance as per Drg. FI-0001 (A3)
- The applicant cannot rectify the entrance until such a time as planning permission is granted.

- The reasons for refusal are haphazard as there already is an entrance to the site.
- The new M2 Motorway has alleviated the traffic flow on the R135
- The M2 is un tolled and now takes all commuter traffic
- A number of new businesses and private residences operate along the R135 also permission has been given for new prison at Thornton Hall and this does not significantly and adversely affect road safety conditions along this stretch of the R135.
- Reason No. 02 for refusal should be omitted as it has the same origins as the No. 01 reason and it has been clearly shown that the sightlines can be achieved with some alterations to the existing boundary walls and boundary hedging.
- Appeal accompanied with:
 - OS map denoting site entrances along the R135 proximate to the appeal site.
 - Proposed Site Layout Plan scale 1:500 indicating 150m sightlines from the entrance in both directions.

6.0 RESPONSES

A response to the appeal was received from the Planning Authority and the grounds of the response are summarised as follows:

- The p.a. is satisfied that the issues raised have been dealt with in the planning report on file.
- Request that the Board uphold the decision to refuse planning permission.

7.0 PLANNING HISTORY

7.1. PL17.242921 / Reg. Ref DA13/0665 Permission Refused, in May 2014, to Alan Joyce for retention of agricultural unit and the existing vehicular access from the R135. This unit is denoted on the submitted layout plans as

Building H. The reasons for refusal in the notification of decision to refuse, in the subject appeal case (AA150793), are verbatim to the two number reasons for refusal set out under PL17.242921. They are summarised above in section 3.0 of this report.

7.2 To the east/north east of the appeal site, permission was granted under Reg. Ref. No. DA/60104 for the construction of two new agricultural buildings and the modification of an existing entrance with associated works. The entrance lies to the south of this site and it was the subject of the following condition:

'The entrance to the subject site shall be located as indicated on the site plan submitted on 16th January 2007 and shall be set back 4.5m from the road edge. Gates serving the proposed entrance shall open inwards and piers shall not exceed 1.6m in height. Splay walls if any shall be located at 45 degree angles and shall not exceed 1.4m in height.

Reason: In the interest of public safety'.

8.0 DEVELOPMENT PLAN

Map 10.1 of the CDP shows the appeal site as lying within a Rural Area Under Strong Urban Influence. The site is located in Landscape Character Area No. 10 – The Ward Lowlands. This is a landscape of low landscape value, high sensitivity and of regional importance. It is under pressure from development (Appendix 7) and it has medium capacity to assimilate new development.

Under Map 10.6 of the Meath County Development Plan 2013 – 2019 (CDP), which is entitled “Management of Future Access to Strategic Road Corridors”, the R135 is identified as a strategic regional road and so the following two rural development policies are relevant to this road:

- RD POL 38: *“To ensure that all development accessing off the County’s road network is at a location and carried out in a manner which would not endanger public safety by way of traffic hazard.”*

- RD POL 39: *“To identify and protect those non-national roads of regional or local importance from unnecessary and excessive individual access/egress points, which would prejudice the carrying capacity and, ultimately, the function of the road.”*

Section 10.16.3 Development Assessment Criteria of the CDP states:

“New development proposals onto certain regionally and locally important county road routes that act as particularly important transport links and that traverse County Meath shall be assessed having regard to:

- *Avoiding unnecessary new accesses, for example, where access could be provided off a nearby county road;*
- *Ensuring that necessary new entrances are located in such a manner as to provide effective visibility for both users of the entrance and users of the public roads so that opportunities for conflicting movements are avoided;*
- *Avoiding the premature obsolescence of regional roads in particular, through creating excessive levels of individual entrances”.*

9.0 ASSESSMENT

I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. In my judgement I consider this appeal should be assessed under the following headings:

9.1 Planning History and Land Use Issues

9.2 Traffic and Access - Compliance with County Development Plan Policy

9.3 Appropriate Assessment (AA)

9.1 Planning History and Land Use Issues

The proposed development seeks retention of an existing agricultural unit and existing vehicular access, in addition to revision to the access which accesses onto the R135 south of Ashbourne. The unit has an internal floor area of 125

sq. m and it is fully clad in profile steel sheeting. An accompanied enclosed yard has a sealed concrete surface, which covers virtually the entirety of the 2,624 sq. m appeal site.

The plans and details submitted have not changed from those submitted under the previous application DA130665 / PL17.242921 on foot of which permission was refused by both the planning authority and the Board on appeal (May 2014) for the retention of an existing building for agricultural use and retention of an existing access. Under the current application, it is proposed that alterations to the access be permitted and extended sightlines of 150m are indicated. The reasons for refusal in the notification of decision to refuse, in the subject appeal case (AA150793), are verbatim to the two number reasons for refusal set out under PL17.242921, summarised above in section 3.0 of this report.

In the subject case the applicant states that the use of the shed is for 'agricultural' use, no details of any specific agricultural use proposed or intended use is given. I note that under the previous application the applicant stated that the agricultural use of the unit is that of the keeping of horses under the Control of Horses Act 1996. It was the conclusion of the previous planning inspector, in his deliberations, that the agricultural unit and the yard albeit not designed for the keeping of horses was in agricultural use.

It is the opinion of the planning authority that the shed to be retained is not connected to any agricultural holding but is on a site which is limited in extent and entirely surfaced in concrete. It is their opinion that if permission were to be considered it would be necessary to seek further information to determine the nature of the agricultural use proposed and any associated effluent disposal provisions.

Regard being had to the fairly recent planning history of the appeal site and adjoining sites to the north, documented in PL17.242921, which indicate that the appeal site and the site to the north were developed in connection with car related businesses. From observations made during my site visit I see no

strong evidence to substantiate that the site is in agricultural use. The application documentation does not provide any detail of the nature of the proposed use – housing of animals, machinery, other, and there is no detail of effluent disposal. I consider that the nature of the agricultural use is also relevant in terms of access and traffic related issues. As set out in the description of the appeal site I note the agricultural related machinery and a horse box present at the time of my site visit.

Having regard to the foregoing, it is my opinion that the shed structure and its use is not ultimately the deciding factor in this case as indeed conditions could be attached to restrict its use for agricultural purposes / storage. Access to and associated traffic issues are central to whether retention of the agricultural shed is acceptable in principle. The only way in and out of this site is by means of a gated vehicular access via the R135. Therefore it is my opinion that if the access is deemed unacceptable on grounds of traffic safety and by way of stated policy in the County Development Plan then clearly permission should be refused for Retention permission for the ‘agricultural’ unit.

9.2 Traffic and Access and Compliance with County Development Plan Policy

This site is located on the R135 (formerly N2) which in the opinion of the planning authority carries a high volume of traffic with 80 Kph speed limit. The R135 road is an important busy regional road as per Map 10.6 – ‘Management of Future Access to Strategic Corridors’, in the County Development Plan 2013 – 2019.

As set out above, in the preceding section of this report, the plans submitted have not changed from those submitted under the previous application DA130665 / PL17.242921. The only difference in the current application is the extended sightlines of 150m now proposed.

No material change in terms of circumstance or County Development Plan policy has occurred since the recent, May 2014, decision to refuse planning permission (PL17.242921) for the retention of an existing building for agricultural use and retention of an existing access.

The Road Design Office of Meath County Council has once again recommended refusal of the development. The Road Report states: *'The entrance sightlines shown are not in accordance with the DMRB. 150m sightline is shown to far side of the road. Required sightlines is 160m taken to near edge of road.'*

The two reasons for refusal, summarised above in section 3.0 of this report, have not changed from the reasons for refusal given in PL17.242921. It is considered that:

- The proposed access onto the R135 would contravene RD POL 39 of the County Development Plan 2013 – 2019 to protect such roads from unnecessary and excessive individual access / egress points which would prejudice the carrying capacity and ultimately the function of the road.
- The proposed access onto the R135 would contravene RD POL 38 of the County Development Plan 2013 – 2019. It is considered that the sightlines available are seriously substandard and the applicant is not in a position to provide satisfactory ones. Accordingly the use of the access would endanger public safety by reason of a traffic hazard.

The first party appeal submits that the site entrance has always been at this particular location, it is the only way to access the site. It is argued that there have been no reported accidents at the site entrance and that as the entrance is for agricultural use, movements to and from the site will be minimal. It is argued that the issue of sightlines at the entrance have been addressed at further information stage (at previous application) and that the applicant proposes to rectify the entrance to give the required vision distance at the entrance as per Drg. FI-0001 (A3). It is submitted that the applicant cannot

rectify the entrance until such a time as planning permission is granted. It is contended that the diminished level of traffic on the regional road, given the un-tolled M2 upgrade proximate, should have a favourable bearing on the decision.

I note that Drg. FI-0001 (A3) referred to in the first party appeal relates to a drawing submitted by way of further information in the previous planning application Reg. Ref. DA/130665 and which was also submitted in the first party appeal to the Board in the case of PL17.242921. A 70 m sightline from the access is indicated.

Drawing No. – PA – 0004 (A3) submitted in conjunction with the current application Reg. Ref. DA150793 / PL.17.245616 albeit it makes no alteration to the location of the pillars, splays, access width of 6m and set back of 3.5m now indicates a 150m sightline to the centreline of the road. I note that the drawing, scale of 1:500, when measured actually indicates a sightline of approx. 85m and not 150m as claimed.

The portion of the R135 which passes the appeal site is of straight alignment and it is subject to an 80 kmph speed limit. Under Map 10.6 of the CDP, the R135 is identified as a strategic regional road and so rural development policies denoted as RD POL 38 and 39 are of relevance to this appeal. The first of these policies requires that development be accessed at “a location and carried out in a manner which would not endanger public safety by way of traffic hazard.” The second requires that strategic regional roads be protected from “unnecessary and excessive individual access/egress points, which would prejudice the carrying capacity and, ultimately, the function of the road.” The Inspector in his assessment of PL17.242921 concluded; *‘With respect to RD POL 38, under the DMRB, the required sightlines for the access to the appeal site would entail x and y distances of 3m and 160m, respectfully, and the nearside edge of the R135 would be the relevant one for the establishment of these sightlines. The applicant has indicated his willingness to carry out whatever works that may be needed to facilitate the provision of*

these sightlines. However, he has not demonstrated that this would be achievable in practise'.

I highlight the following was also clearly set out in the assessment of PL17.242921. *'The front boundary of the appeal site is c.90m long, with 40m lying to the north and 50m lying to the south of the centreline to the site access. Thus, the above cited works would necessitate the lowering of the flank walls to 0.9m and the removal of the conifers from the entirety of the front boundary. These works could be undertaken by the applicant. However, given the above cited y distance, he would need to be in a position to control a further 120m of frontage to the north and 110m of frontage to the south to be in a position to provide the entirety of the sightlines needed. There is no evidence on the file that he has either purchased or secured the legal agreement of neighbouring landowners to such frontage strips. In this respect, some of the required strips may be roadside verge and so available without the need for purchase or legal agreement. However, this has not been established by the applicant'.*

Clearly there has been no material change in the access proposed in the subject appeal case to warrant a different recommendation from that recommended on foot of Reg. Ref. DA130665 / PL17.242921. It is not sufficient in my opinion for the applicant to argue that required sightlines would be achieved subject to a grant of planning permission. The applicant has failed to demonstrate that he would be in a position to provide the requisite sightlines at the site access necessary to ensure compliance with RD POL 38. I therefore recommend that refusal reason No. 2 of the notification of decision to refuse retention planning permission (Reg. Ref. AA150793) stand.

With respect to the argument raised by the first party, that the site entrance has existed historically, having always been at this particular location and it is the only way to access the site. I consider this is not a new issue. The matter was raised and considered by the Inspector and the Board in the previous application on the site. A series of aerial photographs from 2000, 2005, 2008,

2009 and 2013 were submitted by the planning authority in their response to PL17.242921. It was the Inspectors opinion at this time that *'In the light of this evidence, and in the absence of any other evidence, I am unable to accept the applicant's position that the access to the appeal site coincides with one that was there historically'*. Given reason no. 1 for refusal attached to PL.17.242921 I am of the opinion that the Board agreed with this conclusion.

The onus is on the applicant to demonstrate justification for the proposed access. It is my opinion that the applicant has not justified that the proposed entrance is necessary, this is dealt with in detail in the recent Inspectors Report PL17.242921. I agree with the planning authority that the provision of a further individual access point at this location which would create a multiplicity of accesses in close proximity would impact on the safety and free flow of traffic on the R135 and would therefore be contrary to Policy. Regard is had to the sub division of lands at this location and subsequent unnecessary and excessive number of access / egress points being formed via the R135.

It is my opinion that circumstances have not changed and that the proposed access onto the R135 would contravene RD POL 39 of the County Development Plan 2013 – 2019 to protect such roads from unnecessary and excessive individual access / egress points which would prejudice the carrying capacity and ultimately the function of the road. I therefore recommend that reason for refusal No. 1 of the notification of decision to refuse retention planning permission (AA150793) stand.

9.3 Appropriate Assessment

The planners report sets out that there are no European Sites at or in the vicinity of the appeal site. The closest Natura 2000 sites are Malahide Estuary (SAC & SPA) and Robinstown Estuary (SPA & SAC) which are each more than 10 Km distant. It is stated that there are no watercourses on the site. The closest are streams to the north and south which flow into the Malahide Estuary.

It is my opinion that having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 CONCLUSION AND RECOMMENDATIONS

I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In the light of this and the assessment above, I recommend that planning permission be refused for the reasons set out below.

11.0 REASONS AND CONSIDERATIONS

1. The vehicular access to the site is from the R135 which, as set out in the Meath County Development Plan 2013 – 2019, is identified as a strategic regional road. It is the policy of the planning authority, as set out under Policy RD POL 39 of this Plan, to protect such roads from unnecessary and excessive individual access/egress points, which would prejudice the carrying capacity and, ultimately, the function of the road. The development proposed to be retained would contravene this policy, would prejudice the carrying capacity of the road and would, therefore, be contrary to the proper planning and development of the area.

2. The vehicular access to the site is from the R135 which, as set out in the Meath County Development Plan 2013 – 2019, is identified as a strategic regional road. It is a policy of the planning authority, as set out under Policy RD POL 38 of this Plan, that the location of accesses off these roads should be such as not to endanger public safety by way of a traffic hazard. It is considered that the sightlines available at the vehicular access are seriously substandard and the applicant has not demonstrated that he is in a position to provide satisfactory ones. Accordingly, the use of this access endangers public safety by reason of a traffic hazard. The development proposed to be retained would, therefore, contravene the aforementioned policy and be contrary to the proper planning and sustainable development of the area.

Fiona Fair
Planning Inspector
26.01.2016