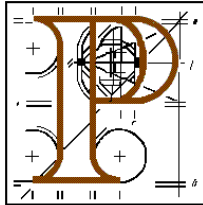


An Bord Pleanála



Inspector's Report

PL01.245904

DEVELOPMENT:- New agricultural entrance and all associated site works at Oldtown, Clonmore, County Carlow.

PLANNING APPLICATION

Planning Authority: Carlow County Council
Planning Authority Reg. No.: 15/288
Applicant: Angela Hickey
Application Type: Permission
Planning Authority Decision: Grant Permission

APPEAL

Appellant: Eddie Coughlan
Type of Appeal: Third v. Grant
Observers: None
Date of Site Inspection: 10th March, 2016.

INSPECTOR: Mairead Kenny

SITE LOCATION AND DESCRIPTION

The proposed development is related to an overall holding of 3.37 hectares. The holding is located at Oldtown, Clonmore, County Carlow, close to the village of Clonmore. The centre of the village of Clonmore is to the north of the site. It is a small village with the majority of buildings being located at the crossroads but a number of other buildings are located further from the village centre, including a church and graveyard.

The site has a narrow frontage onto the local road. To the north with direct access from the county road are two dwellinghouses. To the south is a vacant plot and another dwellinghouse also directly accessed from the county road. The latter house may be unoccupied but which is a habitable house. The site frontage measures 15m and is bounded by a hedgerow. Similar boundary treatments are in place at the properties to the north and south. The site has a separate frontage onto a private laneway to the south. A large entrance gateway serving the agricultural land is in place at that location. The laneway itself is in poor condition and narrow. At the junction with the public road the laneway entrance is defined by stone pillars.

Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached.

DESCRIPTION OF PROPOSAL

Permission is sought to develop a new entrance with recessed gates in the centre of the public road frontage. The entrance is intended for agricultural use.

PLANNING HISTORY

Under PL01.243936 the Board overturned the decision of the Planning Authority (Planning Reg. Ref. 13/392) to grant permission for a dwellinghouse and associated works. The reasons for refusal related to house design and backland development.

Under Planning Reg. Ref. 13/239 permission was refused by the Planning Authority for a new dwellinghouse, garage and associated works. The reasons for refusal related to design and backland development. While the Planning Authority sought a revisions to the site entrance from its original location off the minor road to a location off the private lane there is no indication that the reason for this requested revision was related to traffic safety – the two Engineers of the local authority when reporting on the case considered that the sightlines proposed from the original entrance were acceptable.

PLANNING POLICY CONTEXT

Under the Carlow County Development Plan 2015-2021 all proposed developments in urban and rural areas accessing the road networks shall comply with DMRB.

Section 11.119.3 refers to maintenance of 90m sightlines and works and consents required to provide visibility splays.

Policy 5 Trans includes the following

- 'ensure 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 traffic movements are avoided, in the interests of public safety.'

INTERNAL REPORTS

The report of the **Director of Services/Delegated Officer** dated 20th November, 2015 notes the various reports presented and the submission and states an obligation to have regard to all of these facts pertaining to the application and accordingly intends to grant permission for the proposed agricultural entrance. The Acting Senior Executive Planner was requested to prepare an order with relevant conditions.

The report of the **Executive Planner** dated 16th November, 2015 recommends refusal for reasons related to lack of justification for new entrance, policy that all entrances will comply with sightlines and other standards of DMRB which on the basis of drawings and details submitted is not satisfactorily shown. The report includes the following points:

- The submission on behalf of Mrs. Margaret Coughlan is noted.
- There are a number of previous planning applications on the site namely 13/53, 13/93, 13/215, 13/239 which were incomplete or refused.
- The reports of the Road Engineer and District Area Engineer are noted.
- The total landholding is 3.37 hectares.
- The laneway and the adjoining lands are in Ms. Hickey's family ownership and as one travels up the laneway the lands the subject of this application are served by an agricultural double entrance/access gate to the agricultural lands.
- There is no justification for the additional new agricultural entrance onto the local road.
- It is stated in Policy 5 that it is policy to ensure 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 road to ensure conflicting traffic movements are avoided.
- This additional agricultural entrance is not necessary.
- There is also a general policy to ensure compliance with DMRB.

- On the basis of the insufficient drawings and details submitted the Planning Authority is not satisfied that the proposed agricultural entrance complies with DMRB.

Attached is a Stage 1 Appropriate Assessment Report. There is no requirement for appropriate assessment. Attached also are photographs which show the laneway and the entrance off the laneway.

The report of the **Acting Senior Executive Planner** dated 17th November, 2015 recommends refusal subject to minor amendment of the recommendation set out in the report of the Executive Planner.

The report dated 20th November, 2015 provides a supplementary comment from the **Roads Engineer** which includes the following points:

- The Class 1 road has an average traffic volume of 500 vehicles per day and is well aligned and there is no recorded road traffic accident since January, 2008 for which period I examined records.
- The presence of other sites along the road has not resulted in the occurrence of traffic accidents.
- There is no substantive reason from a roads perspective to refuse this application.

The report dated 6th October, 2015 prepared by the **Roads Engineer** states that the sightlines at the point of exit are in excess of the threshold minimum for a road of this category and there is no inherent risk from a road safety perspective. Permission should be granted.

The report of the **Senior Executive Engineer** dated 7th October, 2015 indicates no objection to the development provided the gates open into the field.

DECISION OF PLANNING AUTHORITY

The Planning Authority decided to grant permission subject to conditions including:

- Condition 3 - entrance to be as layout submitted on 28th September, 2015 and entrance to demonstrate clear and unobstructed sightlines available from 2 metres back from the edge of the metal surface of the roadway at the centre of the roadway for a distance of 90 metres in each direction – any hedge setback on adjoining land shall not occur without prior consent from the respective owner.
- Road drainage details.
- Entrance gates to open inwards into the field.

- Use of entrance to be as agricultural gateway to the field it serves and only to be used for agricultural traffic.

GROUNDINGS OF APPEAL

The main points of the third party appeal are:

- The Planning Department recommended refusal of the development for reason of non-compliance with minimum standards.
- We object to the manner of issuing the grant of permission and also on the basis of a complete lack of need - the 3.3 hectare holding has multiple entrances at safer locations.
- Following the refusal of permission for a dwellinghouse the applicant planted a screening hedge which attempts to remove potential grounds for objection to future and which is unsightly, unnecessary and causing undue stress on my elderly client.
- The Area Engineer accepted a misleading drawing without proper process.
- The sightlines intrude onto my client's property and the applicant has no agreement to maintain the hedgerows.
- Drawing No. 2 attached demonstrates this point and shows an area shaded yellow which crosses my client's property.
- Sightlines to the south pose greater challenges as seen by Map 2.
- An unnecessary additional entrance between two existing entrances will increase the likelihood of possible accidents.
- Summertime growth and future planting of adjacent property further reduce potential sightlines.
- As a direct result of the lack of justification for the additional entrance the Planning Authority was obliged to refuse permission.
- The intention of the application refers to future development of a house and there is no justification for the proposed development which does not comply with DMRB standards.
- The quality of the drawings do not reflect the topography of the ground and sightlines crossing my client's property are not achievable as reflected in Condition 3(b).
- As Condition 3 requires consent of adjoining landowners and is not enforceable it is invalid and as a result the entire application fails and we ask the Board to issue a refusal of permission.

RESPONSES TO APPEAL

Planning Authority

The planning authority confirms the decision which was made based on facts as outlined in the report of the Director of Services. The Planning Authority is of the opinion that some of the points raised by Ms. Hickey in her letter dated 21st January, 2016 are inappropriate.

First Party

The applicant responds to the appeal as follows:

- The detailed analysis report enclosed prepared by Roadplan Consulting Engineers provides an independent review of the case.
- A letter attached written by the applicant notes that the hedgerow referred to by Mr. Whyte does not even exist, refers to a house which does not have planning permission, and notes that her aunt Margaret Coughlan previously owned the land and other lands which were sold to a property speculator.
- After the Board's refusal for a dwellinghouse the land remains agricultural and I have established a proper agricultural boundary on my own land which is necessary to define and separate it from the Coughlan's gardens.
- The sightlines are sufficient to meet the requirements for a safer independent road access which we deem to be necessary.
- Attached is a map of the holdings sold and a letter written by Mr. Joe Hickey who farms the land owned by Angela Hickey.
- The entrance is necessary as the land is presently accessed by way of a right of way over private laneway which is narrow and poorly maintained and is constrained by two pillars at its gated entrance which is at most 12 feet apart.
- On occasion we have failed to negotiate the narrow lane entrance and have had to break down large loads at the road.
- I farm about 45 acres including a parcel of land owned by my brother Michael which plot also suffers in terms of the access. In all there is 30 acres trapped north of the lane with less than ideal access and in the ownership of my brother and my sister.
- My sister's land allows for a wider agricultural access and better sightlines than the laneway and it would be much safer and more usable.
- The report of Roadplan Consulting Engineers states in summary that 90 metre sightlines are available, the visibility splays are contained within the public road verges and do not intersect property boundaries, a small evergreen tree growing

within the verge south of the proposed access marginally impacts on the sightlines to an inconsequential extent and its presence is not considered to impact on road safety.

FURTHER CORRESPONDANCE

The response of the first party to the appeal was circulated to the appellant who makes the following additional comments.

- We are not aware of any intensification of farming that would warrant a new entrance to replace the existing entrance.
- The applicant has not provided relevant information in relation to farming activity, herd numbers etc. The justification of need rests with the applicant.
- We refute the independence of the Roadplan report as it was paid for by the applicant. The report lacks credibility and robustness as it produces only an opinion as opposed to a speed survey, traffic volume data or topographical survey.
- We reject the photographs which show the clear sightlines as they should be taken from a point 2.0 – 2.4 metres from the road edge and not 800 millimetres from the road edge. We attach a photograph which shows the sightlines available from a point 2 metres back.
- A topographic survey would have been a minimum requirement for an independent report. Such survey would have shown the development not to be compliant with sightline requirements.
- The evergreen tree referred to impacts on the sightline to the south and therefore the DMRB standards cannot be met. There is no relaxation allowable under DMRB in relation to objects that impinge sightline particularly where they are outside the control of the applicant.
- We attach a photograph which shows the poor sightlines to the south. The evergreen tree can be seen as demonstrated by the yellow arrow and this tree is 22 metres from the proposed entrance.

ASSESSMENT

The main issue in the appeal relates to traffic safety. The appeal also includes reference to policy and to the need for and intended use of the development. I note the appeal reference to boundary fences but consider that matter is not relevant to the application and appeal.

Use of and Need for Entrance

I am satisfied that the new entrance is intended for use for agricultural purposes. The small holding is farmed by the applicant's brother who has other adjoining lands, which are also accessed by from a private lane over which they and immediate family members have a right of way only. As such the landowners have no right to undertake any alterations to the lane.

The planning policy referenced in the report of the Planning Authority and in the appeal submissions implies that 'necessary' entrances only would be considered. I accept the points made by the applicant in relation to the constrained nature of the existing entrance. I am also satisfied that having regard to the narrow laneway and junction as well as the poor quality surface, the applicant has reasonably demonstrated that a need for a new entrance exists.

Safety

In relation to the new entrance proposals there is a considerable amount of detail on file including technical reports addressing the sightlines available from the new entrance. The policy objective in the development plan is to comply with DRMB and based on the required setback the third party's submissions are that sightlines are impeded by an evergreen tree and by future planting of the appellant's verge. Sightlines are stated to intrude on the appellant's lands. In addition it is claimed that the decision of the Council's Engineers is based on inadequate drawings and surveys and is therefore flawed.

I agree that the documents presented by the applicant as not as detailed as might have been prepared. However, the very limited nature of the subject development has to be considered. Based on my inspection and the documentation submitted I am of the opinion that the entrance sightlines are more than adequate for the occasional use by agricultural vehicles. I also agree with the first party that the entrance would be safer and more usable. In this context I am satisfied that the Board has adequate information available to make a decision. At the time of inspection of the site I drove in and out of the private laneway and as a result am aware of the constrained nature of sightlines at the existing entrance. It would appear to me that the sightlines of 90m are generally achievable. In this regard I also note the report of Roadplan which states that the sightlines do not intersect with third party lands and also refers to the requirement by the appellant to maintain

sightlines from her own house. Finally, in terms of traffic safety I note the quiet nature of the public road (500 vehicles per day).

I refer the Board at this point also to the planning history and note that there is no indication from the available documentation that the entrance arrangements for the then proposed house were deemed unsafe. In this regard I note that the reporting Engineers considered that an access onto the local road to serve a proposed residence was acceptable. In addition the Planning Authority did not cite traffic hazard in its refusal of permission under Planning Reg. Ref. 13/93, notwithstanding the entrance arrangements, which are similar to the current proposal. In relation to the intention of the proposal being to serve a future dwellinghouse I consider that any such future application would have to be considered on its own merits at that time.

In conclusion having regard to the nature of the proposed development to serve an agricultural land holding I consider that the proposed development is justified and that it constitutes an improvement over the existing entrance. The Board is not bound by the relevant development policy. As such I consider permission should be granted.

In relation to conditions I do not consider that detailed requirements relating to the provision and / or maintenance of sightlines are appropriate but consider that the requirement that the development be in accordance with the drawings submitted is generally sufficient.

RECOMMENDATION

I recommend that permission be granted for reasons and considerations and subject to the conditions below.

REASONS AND CONSIDERATIONS

Having regard to the nature of the agricultural entrance, to its location along a road which is not heavily trafficked and to the sightlines provided it is considered that the proposed development would constitute an improvement in traffic safety terms.

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. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

Reason: In the interest of visual amenity.

3. The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

Mairead Kenny

Senior Planning Inspector

11th March 2016