



An
Bord
Pleanála

Inspector's Report PL19.246834.

Development	Permission for a new Forest Road Entrance and associated site works at Toberdaly, Co.Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	15/275.
Applicant(s)	Coillte Teoranta.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Appellant(s)	Michael C. Muldoon and others (Third party vs. grant).
Observer(s)	None.
Date of Site Inspection	22 nd September 2016.
Inspector	Ciara Kellett.

1.0 Site Location and Description

- 1.1. The site is located in a rural part of Offaly called Toberdaly. It is located c.2.5km south-west of Rhode and c.10km west of Edenderry. It is located c.1km west of the R400 regional road and c.180m south of the Grand Canal. The Toberdaly bridge crosses the Grand Canal at this point. There are a small number of residential dwellings in the immediate vicinity. The proposal adjoins a forested area which it is intended to serve.
- 1.2. Appendix A includes maps, aerial views and photos of the development.

2.0 Proposed Development

- 2.1. The proposed development is for the construction of a new forest road entrance and associated site works for the purposes of harvesting a plantation.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 10 standard conditions generally in accordance with the Planner's recommendation.

3.2. Planning Authority Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Assessment under headings of: Development Plan standards, Roads and Traffic Safety, and Appropriate Assessment.
- Considers development in accordance with Development Plan policies, notes Area Engineers Office seeks further information, and states that a screening exercise for AA has been carried out and deemed the development is unlikely to have significant effects on a European Site.

- Concludes that an EIS is not required as it is not a sub-threshold development for the purposes of EIA.
- Recommends Further Information is sought on 8 items. The request mainly relates to traffic and the road – number, type and weight of vehicles, proposals to protect the public road, details on road side drainage, passing bays and to provide written consent of relevant service providers for the required undergrounding of existing overhead lines at the entrance.
- Following the response to the Further Information request, the Planner deems the response acceptable and recommends a grant of permission subject to conditions.

3.3. Other Technical Reports

Internal: Area Engineer – no objection subject to conditions, Environmental and Water Services – no objection subject to conditions.

Prescribed Bodies: Arts Council, DoAHG Development Applications Unit, An Taisce and The Heritage Council – application referred – no reports on files.

3.4. Third Party Observations

There were two third party submissions.

The first submission is from Michael Muldoon, Angela Burns, Lorenza Mahon Burns and Johnny Mooney. They state that: felling and clearing this long standing natural area is an environmentally retrograde step; forestry is a potential loss of amenity; the felling reason is unclear and question what other unknown developments are being planned for the area; need to know what the future plans are and stress the need to leave a reasonable portion in its natural state; area is far from being a strategic location; queries the ownership by Coillte and why it hasn't been developed commercially before now.

The second submission was made by Joanne Addie, Stephen Carroll and Peter Sweetman. They state that due to the O’Grianna Judgement, this development requires an EIA.

4.0 Planning History

- Reg. Ref. 12159 – Construction of new forest road entrance and associated site works – Deemed withdrawn

5.0 Policy Context

Offaly County Council Development Plan 2014 – 2020:

Chapter 2 refers to *Economic Development Strategy*. Chapter 4 refers to *Infrastructure and Environment Strategy*. Chapter 7 refers to *Heritage and Landscape* and Chapter 8 refers to *Development Management Standards*. The relevant policies with respect to the subject development are highlighted below.

Section 2.8 of the Plan refers to Rural Strategy and section 2.8.4 refers to Forestry in particular. It states “*The Council is also cognisant of the fact that a proportion of the commercial forestry will reach maturity within the lifetime of this plan. The commercial felling of these lands will have a significant impact on the landscape, but the Council acknowledge that this was the purpose with which these lands were originally planted.....The extraction of the lumber should be carried out in a sensitive manner with minimal disruption to the area, damage to roadways should be monitored and be repaired at the expense of the operator*”. Rural Development Policy includes:

RDP-10: *It is Council policy to encourage state and private afforestation, both native broadleaf and coniferous species, in appropriate locations, in co-operation with Coillte and the Forest Service and in line with national policy and Forest Service Guidelines.*

RDP-11: It is Council policy to encourage expansion and employment in industries such as agriculture, horticulture, forestry, peatlands, food, crafts, tourism and energy.

Chapter 7 refers to Heritage and Landscape. The role of Coillte in forest management in County Offaly is acknowledged as significant and the recreational value of Coillte Woodland in the midlands is recognised. It is noted that a number of recreational facilities have resulted from joint initiatives between Coillte and local communities. It states that a number of woods have been listed in the proposed natural heritage areas and the candidate Special Areas of Conservation. In addition, the Council has made a number of specific Tree Preservation Orders.

The Grand Canal corridor is noted as being especially sensitive to large development structures, insensitively designed housing and large scale land uses such as extractive industries. The Grand Canal Way is a noted walk in the Plan. Toberdaly Bridge over the Grand Canal is a Protected Structure (Ref. 16-16).

Chapter 8, section 8.12.2 refers to Development Management Standards for Forestry. It refers mainly to afforestation projects.

6.0 Natural Heritage Designations

There are no designated sites in the immediate vicinity. Raheenmore Bog SAC and pNHA (Site Code 000582) is c.8.5 km away. Raheenmore Bog is selected for the following Habitats – Raised Bog, Degraded Raised Bog and Rhynchosporion Vegetation.

Black Castle Bog NHA (Site Code 000570) is c.7 km away. Daingean Bog NHA (Site Code 002033) is c. 8.7km away. The Irish Hare has been recorded at the Black Castle Bog and the Daingean Bog.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Application is vague as to what kind of enterprise will arise as a result of the entrance. Questions if this is part of a plan to access Cavemount Bog for wind power development.
- This amounts to “Project Splitting” in contravention of EU Directives.
- Loss of Amenity if tree felling follows construction of entrance.
- Felling of trees would destroy fragile nature of amenity. There are reports of sightings of Red Squirrel in the area – an EIS should be done.

7.2. Planning Authority Response

The Planning Authority responded to the issues raised by third parties:

- The applicant is very clear from the description contained in the public notices and the additional information contained in the application form, that the development is for the purposes of harvesting a plantation. Condition no.1 ties the developer to carry out the development in accordance with the details submitted.
- With reference to the loss of amenity and environmental issues, the Planning Authority refers to Section 4 of the Planning and Development Act which lists works which are exempted development including felling of trees and development of forest roads.

Section 4(1) of the Planning and Development Act, 2000, as amended states that the following shall be exempted developments for the purposes of this Act:

- (i) *development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest conifer species;*

(ia) *development (other than where the development consists of provision of access to a public road) consisting of the construction, maintenance or improvement of a road (other than a public road) or works ancillary to such road development, where the road serves forests and woodlands.*

- The County Development Plan identifies trees of amenity value and are protected by Tree Preservation Orders. In addition, groups of trees which are considered to have significant value to the environment are noted in the Plan. There are no trees listed in Toberdaly.
- The Forestry Service of the Department of Agriculture, Food and the Marine is responsible for regulating tree felling. The Forestry Service carries out its own tree felling evaluation process which includes an environmental assessment and appropriate assessment screening as part of the licencing process. It is therefore considered that the issues relating to “loss of amenity” and “environmental issues” should be dealt with under the Forestry Act.

7.3. **First Party Response to the Appeal**

The First Party responded to the appeal by submitting an Ecological Survey. The survey provides information about the forest in Toberdaly. The Report states:

- The forest is largely a commercial conifer high forest of 8.3Ha divided into five parts.
- Three of the five parts contain the commercial crop and the other two contain largely native broadleaf trees and shrubs.
- Tree felling is only proposed in the three commercial areas.
- It is proposed to replant the felled areas in accordance with the felling licence.
- No evidence of Red Squirrel feeding on cones was observed at time of survey, but it is acknowledged that this does not preclude their presence.

- No plant species of conservation concern were identified during the visit.
- The construction of the forest road will facilitate safe transport of the timber to the roadside.

7.4. **Observations**

None

7.5. **Further Responses**

The First Party Response was issued to the Third Party. The third party responded by stating:

- It is understood that there will be no follow-on development unrelated to forestry management.
- A list of actions is requested of the applicant including: replanting to be done as soon as possible; waste timber to be removed; make final planting a natural arrangement; special consideration to dwelling adjacent to plantation; allow some parking at new gateway; allow public to access new roadway; and surface and margins to be improved along laneway.

8.0 **Assessment**

8.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of development
- Residential Amenity
- Appropriate Assessment

8.2. Principle of Development

To facilitate felling of this plantation and to extract the trees to the roadside, Coillte are proposing a forest road of approximately 70m in length. The proposed entrance to the public road is on the north-east edge of the forest property.

Section 4(1) of the Planning and Development Act, 2000, as amended, lists works which are exempted development including felling of trees and development of forest roads.

The proposed development of a forest entrance onto a public road or the felling of coniferous trees does not fall within a class of development listed in Part 2, Schedule 5, of the Planning and Development Regulations, therefore a screening for an Environmental Impact Assessment is not required.

The forest site is located approximately 8km from the nearest European site – the Raheenmore Bog. There is no reference to the presence of Red Squirrels in the SAC. No substantive evidence has been presented for the presence of Red Squirrels within the forest and given the minor nature of the application before the Board, I am satisfied that the subject proposal would not have a significant impact.

The Laois County Development Plan states *“The Council is also cognisant of the fact that a proportion of the commercial forestry will reach maturity within the lifetime of this plan. The commercial felling of these lands will have a significant impact on the landscape, but the Council acknowledge that this was the purpose with which these lands were originally planted....”*

The Council recognise that commercial forestry will result in felling and that is the purpose of these lands.

In conclusion, I am satisfied that the principle of development in this location is fully in accordance with planning legislation and with Council policy.

8.3. Residential Amenity

The appellants responded to the first party response to the appeal, stating that they have seen the ecological survey carried out, and understand that the new forest entrance is exclusively to allow for forestry operations and there will be no follow-on development unrelated to forest management. The appellants request that Coillte does a number of things to recognise the value of this area for amenities.

Coillte has a *Recreation Policy* which states that they operate an “Open Forest Policy” which seeks to provide low-impact non-motorised recreation to the general public and they state that they welcome all visitors to the forests.

As part of the response to the appeal, I note that Coillte stated that they intend to retain two of the five sub-compartments of the forest for the purposes of biodiversity enhancement and nature conservation. Upon felling of the trees Coillte will replant the forest according to the conditions of the felling licence and good silvicultural practices.

Coillte has also stated in the response to the Further Information request, that they will not use a haulage route via the Toberdaly bridge, thereby respecting the canal heritage features. Furthermore, it was clarified that the haulage will only take 6 weeks working from Monday to Friday 8.30am to 4.30pm.

I am satisfied that there will not be a significant impact on the residential amenities of the community or the public who use the forest for recreation purposes.

8.4. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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.

9.0 Recommendation

- 9.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

Reasons and Considerations

Having regard to the relevant provisions of the Offaly County Council Development Plan 2014 – 2020, it is considered that the proposed development would not seriously injure residential amenities and would therefore be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 10th May 2016, 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. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. All public service cables at the location of the proposed entrance, including electrical and telecommunications cables, shall be located underground.

Reason: In the interest of visual amenity.

4. Details of road signage, warning the public of the entrance and of proposals for traffic management at the site entrance, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

Ciara Kellett
Senior Planning Inspector

29th September 2016