



An
Bord
Pleanála

Inspector's Report PL17.247110

Development	Permission for construction of agricultural entrance
Location	Cabinhill, Ratoath, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA160596
Applicant(s)	Neil and Alan McDermott
Type of Application	Planning Permission
Planning Authority Decision	Refusal
Appellant(s)	Neil and Alan McDermott
Observer(s)	None
Date of Site Inspection	29 th September 2016.
Inspector	L. W Howard.

1.0 Site Location and Description

- 1.1 The stated 0.006ha application site is located within a rural area some 3km northwest of Ratoath, County Meath. The site has a c.16m frontage onto the northern side of the Skryne – Ratoath primary county road L1006, comprising a mature tree line / hedgerow.
- 1.2 There is an existing agricultural entrance off the L1006, immediately adjacent to the southwest corner of the site. This existing entrance is understood to have served the applicants landholding, before it was subdivided off the parent landholding.
- 1.3 The area is rural in character, with a significant number of roadside individual houses. The primary land use locally may be described as agricultural. The property adjacent and to the southeast is developed with a single house.
- 1.4 A moderate level of mixed vehicular traffic passed the site frontage, at the time of site visit. No access point / entrance currently exists off / onto the site from the L1006, at present. Satisfactory sightline visibility is available to each of the approaches along the L1006, from the proposed new agricultural entrance. The L1006 is in good condition.

2.0 Proposed Development

- 2.1 The construction of an agricultural entrance.

3.0 Planning Authority Decision

3.1 Decision

Refused planning permission, for 1no. Refusal Reason, as follows :

Endangerment to public safety by reason of traffic hazard, consequent of an additional access off a heavily trafficked county road, designated a strategic corridor in the County Development Plan 2013.

The proposed development would :

- be contrary to RD POL39 of the County Development Plan 2013
- set an undesirable precedent
- be contrary to the proper planning and sustainable development of the area

3.2 Planning Authority Reports

The report of the area planner can be summarised as follows :

3.2.1 Appropriate Assessment :

- Having regard to the nature and scale of the proposed development, and to the separation distance from and lack of direct pathways to the nearest Natura 2000 sites, the Planning Authority conclude that the proposed development by itself, or in combination with other developments, would not give rise to impacts on any Natura 2000 site.
- Accordingly, a Stage 2 Appropriate Assessment is not required.

3.2.2 Access and Traffic Safety :

- Reference to the Transportation (Co. Road Design Office) report which stated :
 - the sightlines are satisfactory, but
 - the application be refused as it would :
 - create a precedent, and
 - contravene RD POL 39 in the County Development Plan 2013-2019.
 - That the applicant be advised to explore potential for / feasibility of sharing the existing access which currently serves this land portion.
- Policy RD POL 39 seeks to protect identified non-national roads from unnecessary and excessive individual access / egress points, which would prejudice the carrying capacity and ultimately the function of the road.
- Planning permission to be refused.

3.2.3 Conclusion and Recommendation :

- the proposed development would contravene Policy RD POL 39 of the “County Development Plan 2007-2013”.
- the proposed development would endanger public safety by reason of traffic hazard, consequent of a new additional access off a heavily trafficked county road, designated as a strategic corridor in the County Development Plan 2013-2010.
- the proposed development would set an undesirable precedent, contrary to the proper planning and sustainable development of the area.
- recommend permission be refused.

3.3 Other Technical Reports

3.3.1 Internal :

Road Design Office :

- Recommend Refusal as per the Planning Authority reasons for refusal.
- Sightlines adequate.
- The proposed development would contravene County Development Plan policy.
- Rather, the applicant should explore sharing the existing access currently serving this land portion.

3.3.2 External :

None.

3.4 Third Party Observations

None.

4.0 Planning History

None.

5.0 Policy Context

5.1 Development Plan

5.1.1 Meath County Development Plan (2013 – 2019) :

- 10.16.2 **Rural Development – Access requirements for New Development:**
Sets out requirements for new vehicular access points.
The relevant policy considerations include –
- RD POL 38 New access points to not endanger public safety by way of a 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”.
 - RD POL 43 Compliance with required Standards for sight distances and stopping sight distances.

6.0 Natural Heritage Designations

- The application site is not within, or directly adjoining a Natura 2000 site.

- The River Boyne and River Blackwater SPA is approximately 14km northwest of the site.

7.0 The Appeal

7.1 Grounds of Appeal

The grounds of appeal can be summarised as follows :

7.1.1 Legal Technicality :

- Point out the Planning Authority's reference in the Refusal Reason, to the Meath County Development Plan 2007-2013.
- Argue that this is not a legitimate document for consideration. Rather, that Development Plan has been replaced by the Meath County Development Plan 2013-2019.
- Accordingly, argue that the applicants have planning permission by default, in that the Planning Authority erred in its consideration of the proposed development, in that a legitimate decision was not made within the statutory period.

7.1.2 Traffic Safety :

- Whilst deemed of strategic importance, the L1006 is not a restricted road, where new accesses are prohibited, except in exceptional circumstances.
- No other option for direct access is available to the application site, other than directly onto the L1006.
- The proposed access will not generate any additional traffic, in that the existing and future use of the land is and will remain agriculture. Accordingly, with no increase in traffic, the proposed development will not prejudice the carrying capacity or ultimate function of the L1006, as argued by the Planning Authority. Therefore, RD POL 39 of the County Development Plan 2013 will not be infringed.
- Satisfactory sightline visibility to both approaches is available at the proposed entrance, in compliance with both County Development Plan 2013 and the NRA DMRB requirements. Point out that the County Road Design Office state that the sightlines are satisfactory. Therefore, use of the proposed entrance would not endanger public safety by reason of traffic hazard, thereby complying with RD POL 38 of the County Development Plan 2013.
- Adequate stopping sight distances are available on both approaches along the L1006, towards the proposed entrance, in accordance with Standards.

- The design and configuration of the proposed new entrance (ie. recessed c6.0m from road edge and with a double entrance gate), will enable the safe use of the entrance. Traffic will be able to park off road, in order to safely open and close the gates. Further, wide loads can be accommodated through the proposed entrance. This is a traffic safety improvement to the current situation, where no recess off the L1006 is available. Emphasise further flexibility in the design and layout of the proposed entrance, should the Board deem this necessary.
- The speed limit is 80km/hr. This compares to the 85km/hr set out in the Standard.
- In demonstration of compliance with RD POL 39, by way of no other option for access being available to the applicants', argue that adequate spare carrying capacity exists on the L1006, which will be sustained.
- The proportion of traffic along the L1006 comprising HGVs and farm vehicles is low.
- The proposed development is compliant with the County Development Plan 2013 goals and objectives regarding rural development, and particularly those dealing with the protection and development of agriculture.
- The applicants are seeking to preserve the agricultural potential of their small holding by enduring adequate and independent access.

7.2 Planning Authority Response

- 7.2.1 The Board should confirm the Planning Authority decision to refuse planning permission.
- 7.2.2 The stated refusal reason refers to the correct Policy – RD POL 39 of the Meath County Development Plan 2013-2019. The reference made to the County Development Plan 2007-2013, was a typographical error.

7.3 Observations

None

8.0 Assessment

- 8.1 I have examined the file and available planning history, considered the prevailing local and national policies, inspected the site and assessed the proposal and all of the submissions. The following assessment covers the

points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The relevant planning issues relate to :

- Principle of the proposed development.
- Traffic Safety.
- Other Issues.
- Appropriate Assessment.

8.2 Principle of the proposed development

8.2.1 Accessibility onto, off and connectivity with public road infrastructure network, is a reasonable expectation of all property owners. In this regard I believe the principle of the proposed development is established. However, compliance is required with relevant national policy guidelines and the provisions of the Meath County Development Plan 2013-2019.

8.3 Traffic Safety

8.3.1 Section 10.16.2 requires that new development located along non-national routes is located so as to avoid endangering public safety by way of traffic hazard. Map 10.6 – “Management of Future Access to Strategic Corridors” within County Meath, designates the county road L1006 passed the application site as a “Class 1 County Road” Strategic Corridor. Both rural development policies RD POL 39 and RD POL 40 advocate for the protection of and avoidance from premature obsolescence of identified strategic corridors, from the creation of unnecessary and excessive levels of individual entrances. Noting that the proposed development is confined to a single new agricultural entrance only, I share the view of the Planning Authority regarding the relevant applicability of rural development RD POL 39 of the Meath County Development Plan 2013-2019, to the current application.

8.3.2 Having regard to the geometric, spatial and topographical context of the proposed new agricultural entrance, I note that satisfactory sightline visibility is achieved to each of the north-western and south-eastern approaches along the county road L1006. I share the County Road Design Office viewpoint, as well as that of the applicant’s, in this regard. Correspondingly, adequate forward approach stopping distances are also available on both approaches, in accordance with relevant development Standards.

8.3.3 I further except as reasonable, the applicant’s motivation that the proposed layout design and configuration of the proposed new entrance (ie. recessed c6.0m from road edge and with a double entrance gate), will enable the safe use of the entrance. Vehicles, both domestic and agricultural, will be able to pull off the county road L1006, in order to safely open and close the gates.

Further, wider agricultural type loads would be accommodated through the proposed entrance.

- 8.3.4 However, notwithstanding the above technical traffic safety compliance, I sustain the Planning Authority's concerns regarding satisfactory compliance with rural development policy RD POL 39 which provides for the restriction of direct access onto and off certain categories of regional and county roads. Clearly, Map 10.6 designates the county road L1006 for such restriction.

Whereas, the applicants appear to argue that the L1006 is not a restricted road, where new accesses are prohibited, except in exceptional circumstances, I rather understand the intent of the Meath County Development Plan 2013-2019 with respect to the consideration of new entrances along the L1006 as being precautionary. Having been identified in Map 10.6 as a strategic corridor, I believe policy RD POL 39 seeks to protect the L1006 from unnecessary and excessive individual access / egress points, which could prejudice its carrying capacity, and ultimately, its sustained function.

- 8.3.5 Specifically, having regard to the information available, including the background to the applicant's inheritance of their c.20acre property at Cabinhill, I am not convinced that the current proposed new entrance is the only option available to the applicant's. I again share the precaution expressed by the County Road Design Office in this regard, and particularly with respect to the feasibility of sharing of the existing agricultural entrance which served the applicant's mothers parent landholding at Cabinhill, now located outside, but adjacent the southwestern corner of the applicant's c.20acre property.

The applicant's do appear to address this in their appeal submission, by way of reference to their relationship with their brother, who now owns the adjacent c.30acre portion, including the existing, historical entrance, as not cordial, and that their use of the existing entrance off the L1006, has already resulted in "a family dispute situation". Whilst certainly empathetic to the applicant's predicament, I am inclined to the view that their expressed reasons regarding the unviability of use of the existing entrance, are not substantively planning in nature.

In concurrence with the County Road Design Office and the Planning Authority, I conclude that the applicants have not substantively demonstrated why the current location for the proposed new agricultural entrance is the only one available to them.

8.3.6 In addition, I do not share the applicant's conviction that the proposed access will not generate any additional traffic onto and off the L1006. On the contrary, on the information available, I believe the proposed development has the potential to at least double the traffic generated. I express this view, simply having regard to the fact that the applicant's mother's parent landholding (c.50acres at Cabinhill), served by the existing entrance, has been subdivided, with each portion requiring public road accessibility, now in different ownership. Further, on the information available, it is not exactly clear what the future usage of these lands will be. Accordingly, having regard to Section 10.16 – "Restricting Access to Certain Categories of Roads", and to rural development policy RD POL 39 particularly, all of the Meath County Development Plan 2013-2019, I share the precautionary approach adopted by the County Road Design Office and the Planning Authority.

Therefore, on the information available, I conclude the proposed development as being indicative of a pattern of unnecessary and excessive single entrance junctions along the county road L1006, against which it is the expressed objective of the rural development policy RD Pol 39 to protect its carrying capacity and sustained function.

8.3.7 Accordingly, I am in agreement with the Planning Authority's stated Refusal Reason.

8.6 Other Issues

8.6.1 In their single Refusal Reason, the Planning Authority state that the proposed new agricultural entrance would "be contrary to RD POL 39 of the County Development Plan 2007-2013".

8.6.2 The applicant's, in their appeal submission, argue that the County Development Plan 2007-2013 is not a legitimate document for consideration. Rather, the Development Plan 2007, has been replaced by the Meath County Development Plan 2013-2019.

Accordingly, they argue that the applicant's consequently have planning permission by default, in that the Planning Authority erred in its consideration of the proposed development, in that a legitimate decision was not made within the statutory period. The single basis for this error argued is that the Planning Authority incorrectly referenced the County Development Plan 2007-2013.

The applicant's request the Board adjudicate on this issue.

8.6.3 In consideration of this argument, I have had regard to the totality of the wording of the Planning Authority's Refusal Reason. I note the Planning Authority's considered reference to the L1006 county road passed the site, as a designated strategic corridor, under the Meath County Development Plan 2013-2019. The second sentence, logically and sequentially building the Planning Authority's argument from the first sentence, concludes that the proposed new agricultural entrance would be contrary to rural development policy RD POL 39. However, instead of referencing the Meath County Development Plan 2013-2019, the Refusal Reason erroneously states the Meath County Development Plan 2007-2013.

I note the applicant's stated concession in their appeal submission, that this was an error by the Planning Authority. The Planning Authority themselves, in their response submission clarify that the reference made in the Refusal reason to the County Development Plan 2007-2013, was a typographical error. I share this reasonable and logical explanation for the error.

Curiously, I point out that in terms of the previous Meath County Development Plan 2007-2013, this policy provision enabling identification and protection of non-national roads from unnecessary and excessive individual access / egress points, was made at RD POL 51, as opposed to policy RD POL 39 in the current Development Plan 2013. Further, these provisions regarding "Restricting Access to certain Categories of Roads" were accommodated at Section 6.7.9 of the 2007 Plan. Under the current 2013 Development Plan, these provisions are accommodated at Section 10.16.2.

Further, reference to the wording of isolated paragraphs within the Planning Authority's planning report, reasonably clarifies the potential for copy and paste typographical type errors.

8.6.4 However, having regard to the above and to the information available on the file, I do not share the applicant's view that they consequently have planning permission by default, in that the Planning Authority erred in its consideration of the proposed development, in that a legitimate decision was not made within the statutory period. In my view, no provision of the Planning and Development Act 2000, as amended, is clearly apparent, enabling the applicant's opinion on the legitimacy of the Planning Authority's decision to refuse planning permission.

8.6.5 I also have regard to the requirement of the Board, to have regard to the merits of the current application for a new agricultural entrance, de novo.

8.6.6 Accordingly, I conclude that these arguments made by the applicant's against the Planning Authority's stated Refusal Reason, cannot be sustained.

8.7 Appropriate Assessment

8.7.1 Having regard to the nature and modest scale of the proposed development, to the location of the site within a rural environment, and to the separation distance to any 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.

9.0 Recommendation

9.1 I recommend that planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

10.1 The proposed development if permitted would endanger public safety by reason of traffic hazard because of the proposed provision of an additional entrance junction off a well trafficked county road, for which a need has not been clearly demonstrated, and which is designated as a strategic corridor in the Meath County Development Plan 2013-2019. As such, it would be contrary to RD POL 39 of the Meath County Development Plan 2013-2019, would set an undesirable precedent, and would be contrary to the proper planning and sustainable development of the area.

L W Howard
Planning Inspector

30th September 2016