



An  
Bord  
Pleanála

## Inspector's Report PL92.248712.

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<b>Development</b>	Retention of existing agricultural structure to be partially used for storage and partially for housing animals and permission for a new slatted tank.
<b>Location</b>	Cloughabreedy, Cahir, County Tipperary.
<b>Planning Authority</b>	Tipperary County Council.
<b>Planning Authority Reg. Ref.</b>	17/600322.
<b>Applicant</b>	Paddy O'Connor.
<b>Type of Application</b>	Retention permission.
<b>Planning Authority Decision</b>	Refusal of permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Paddy O'Connor.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	14 <sup>th</sup> September 2017.
<b>Inspector</b>	Derek Daly.

## 1.0 Site Location and Description

- 1.1. The site is located immediately adjacent to Cahir North interchange of the M8 –Cork to Portlaoise/Dublin motorway. To the west of the site is the M8, to the north the roundabout for the south bound traffic entering and exiting the M8 and to the north east the N24 east bound lane from the M8. The remaining lands to the south adjoin agricultural lands.
- 1.2. The site does not front a public road but there is a laneway from the site to the N24 in close proximity to the junction with the R670 which provides a link from the M8 to the town of Cahir. This lane serves other agricultural lands to the south.
- 1.3. At the point of the laneway accessing the N24 there is a demarcated traffic island prohibiting movement across the carriageway.
- 1.4. On the site is an agricultural shed located in the northern area of the site. The shed currently at the time of inspection had hay and straw stored
- 1.5. The site which is irregular in configuration has a stated area of 0.944Ha.

## 2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 29<sup>th</sup> of March 2017 was for the indefinite retention of existing agricultural structure to be partially used for storage and partially for housing animals and permission for a new slatted tank.
- 2.2. The stated area of the shed is 1037m<sup>2</sup>. The shed is a modern framed structure with a steel cladding exterior and has a stated height of 9032mm.
- 2.3. It is proposed to install 15m x 14m x 2m (420m<sup>3</sup>) reinforced concrete slatted slurry tank within the eastern area of the interior of the building.
- 2.4. In a cover letter accompanying the application it is indicated that the current proposal has been changed to address a previous reason for refusal by reducing the volume of traffic. The sheds are to replace buildings knocked to facilitate road improvements and the site selected is because the lands are not fit for any other agricultural purpose and it unfortunate that when the NRA provided the laneway access provision was not made by the NRA was adequate sightlines.

2.5. The drawings do not indicate any access position onto the public road. At the site inspection I noted that there was a public site notice where the laneway has a junction with the public road (N24).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The decision of the planning authority was to refuse planning permission. Three reasons were stated.

The first reason refers to the site's location on the N24 adjacent to a busy intersection with the M8 and close proximity to the junction with the R670, to the nature of the use, the traffic generated, inadequate sightlines and that the development would be a traffic hazard.

The second reason refer to national policy in relation national roads and that the development would be contrary to the stated policy and be a traffic hazard.

The third reason refers to the height and scale of the building and to issues of visual obtrusion in a highly visible location.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The planning report dated the 15<sup>th</sup> of May 2017 refers to the

- Site history;
- Planning policy including national policy and the county development plan.
- Alterations proposed from the previous refusal on the site.
- Refusal was recommended.

#### **3.3. Other submissions**

The road design office report dated the 11<sup>th</sup> of May 2017 refers to the previous application refused on the site and that the current proposal is not materially different. Reference is made to concerns arising from the development, to national policy traffic hazard and precedence.

## 4.0 Planning History

The site has a planning history

### **ABP Ref. No. PL22. 245974 / P.A. Ref. No. 15/600878**

Permission refused on the 22<sup>nd</sup> of July 2014 for the retention of a mixed use agricultural shed of gross space of approximately 1037 square metres and nine metres high with all site works and boundary treatment. Two reasons were stated.

1. The access to the subject development is located along an improved, heavily trafficked section of the National Primary Road (N24), at a point where a speed limit of 100 km/h applies and adjacent to the busy M8 Cahir Interchange roundabout and its junction with the R670. Having regard to the nature of the use involved, and the consequent volume of traffic likely to be generated by the development, and having regard to the inadequacy of the available sightlines, it is considered that the development for which retention is sought would be likely to endanger public safety by reason of traffic hazard due to the additional traffic stopping and turning movements generated by the development, which would interfere with the safety and free flow of traffic on the public road. The development for which retention is sought would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is national policy, as set out in the 'Spatial Planning and National Roads Guidelines for Planning Authorities' (Department of the Environment, Communities and Local Government, 2012) to protect the substantial investment being made by Government in upgrading national roads, to maintain the intended transport function, traffic carrying capacity and efficiency of the network of national roads, and to ensure that traffic hazards for road users are not created. The site of the proposed development is located at an improved section of the National Primary Road (N24) at a point where a speed limit of 100 km/h applies. It is considered that the development for which retention is sought would conflict with these national policies and Ministerial Guidelines, by reason of the intensification of an existing agricultural access to serve a large commercial/agricultural development, involving increased traffic onto this national primary road, at a point where

sightlines for such traffic are inadequate and which would create a traffic hazard. It is considered, therefore, that the development for which retention is sought, by itself or by the precedent which a grant of permission for it would set for other relevant development, would adversely affect the use of a national road by traffic and be contrary to the proper planning and sustainable development of the area.

In the direction the Board noted

The Board considered that the subject development, by reason of its scale, mass and height, represents an obtrusive feature which is visually objectionable at this high visible location. However, this conclusion would, if included in its decision, represent a new issue in the context of the appeal. Accordingly, the Board decided not to include this as a further reason for refusal, in the light of the substantive reasons for refusal outlined above.

## 5.0 Policy Context

### 5.1. National Policy

- 5.1.1. Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG 2012).
- 5.1.2. The guidelines set out planning policy considerations relating to development affecting national roads (including motorways, national primary and national secondary roads) outside the 50/60 kph speed limit zones for cities, towns and villages.
- 5.1.3. The key messages of the guidelines are that;
  - Investment in the capacity of national roads must be protected through appropriate policies and local planning and collaboration between planning authorities and the National Roads Authority.
  - The function of National Roads and strategic importance of these routes is recognised.
  - Proper planning is central to ensuring road safety. The creation of new accesses to and intensification of existing accesses to national roads gives

rise to the generation of additional turning movements that introduce additional safety risks<sup>1</sup> to road users.

- Development plans must include policies which seek to maintain and protect the safety, capacity and efficiency of national roads and associated junctions, avoiding the creation of new accesses and the intensification of existing accesses to national roads where a speed limit greater than 50 kph applies.
- The protection of investment in strategic roads.
- Particular care should be taken in assessing development on or in proximity to junctions.

## 5.2. County Policy

- 5.2.1. The relevant plan is the South Tipperary County Development Plan 2019-2015 as varied. The plan has had its lifetime extended (11A Planning and Development Act 2000, (as amended)), and will remain in effect until a new Regional Spatial and Economic Strategy is made by the Southern Regional Assembly, thereafter a new Tipperary County Development Plan will be made.
- 5.2.2. Chapter 9 of the plan relates to Transport, Water Services & Environmental Management.
- 5.2.3. Section 9.3.2 relates to Safeguarding the Strategic Road Network and it is indicated that *“it is a key aim of the Plan (as varied) to maintain and protect the safety, capacity and efficiency of national roads and associated junctions, avoiding the creation of new accesses and the intensification of existing accesses to national roads where a speed limit greater than 50 km applies. Having consideration to this key aim, development proposals will be assessed having regard to Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG 2012). The Council will seek to restrict access onto national routes in order to protect critical investment in infrastructure, route carrying capacity and the safety of road users. The Plan (as varied) has identified routes of strategic importance, by virtue of their significance in terms of connectivity between settlements, traffic volumes and role as scenic tourism routes within the county. These routes are illustrated in Figure 9.2 and include all motorways, all national primary and secondary route and regional routes, (excluding lightly trafficked regional routes)”*.

- 5.2.4. Policy T13 relating to the Strategic Road Network is a policy to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to Strategic Routes. There are exceptions for zoned lands within speed limit areas; projects of national strategic importance and for housing on national and regional routes in limited circumstances.
- 5.2.5. Chapter 10 of the plan relates to Development Management and section 10.9.1 sets out standards in relation to access onto roads including sightline visibility.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. The appellant in the grounds of appeal refers to;
- The reason for refusal are made on the assumption that access to the sheds is from the N24. Access from N24 was not demonstrated on site layout plan.
  - The existing sheds can be accessed from three alternative points within the landholding. Reference is made to access of the site from Golden/ Knockgrafton Roundabout and local road L3136-0 in this regard.
  - The development will not create a traffic hazard.
  - There is no reason to consider that an agricultural shed used solely in association with the applicant's farm would increase traffic onto the national road and there is no evidence to suggest the applicant intends or needs to use said entrance in conjunction with the existing shed.
  - Why was an unsafe access provided to serve lands?
  - The shed is not commercial it is to be used for supporting farm activities and is not of an excessive scale in this regard.
  - The third reason for refusal was not stated in the previous refusal on the site. The shed has not altered in scale, mass or height and is now less visible than previously applied for.

- The site is connected to other parcels of the holding and the subject site is connected to the southwestern parcel by a hardened passage and this parcel is connected to the western parcel by a passage under the M8.
- The applicant had sheds demolished as part of the M8 construction and the site is selected as it fits no other agricultural purpose.
- There were no animals in the shed owing to the period when the site

## 6.2. Responses to appeal

### 6.2.1. The planning authority response.

The planning authority in a submission dated the 14<sup>th</sup> of July 2017 refers to;

- The planning authority consider it reasonable to assume the site will be accessed from the N24 via the existing entrance onto same that serves the application site.
- The application did not set out alternative access points for consideration and this serves as a new issue.
- The applicant did present alternative access points at pre application stage and same were not considered acceptable or realistic given the convoluted means of access.
- The reference to a commercial/agricultural use of the shed in reason no 2 is reasonable in the context of information presented in the current and previous applications.
- The reference to visual is also reasonable in the context of the considerations set out by the Board in the previous application.
- There were no evident signs that the shed was used to house animals. consider matters were fully addressed in the assessment of the application.
- Details relating to the alternatives discussed at pre planning are submitted with the response.



## 7.0 Assessment

- 7.1. The development as submitted is for the indefinite retention of existing agricultural structure to be partially used for storage and partially for housing animals and permission for a new slatted tank. The stated area of the shed is 1037m<sup>2</sup>. The shed is a modern framed structure with a steel cladding exterior and has a stated height of 9032mm. It is proposed to install 15m x 14m x 2m (420m<sup>3</sup>) reinforced concrete slatted slurry tank within the eastern area of the interior of the building.
- 7.2. No means of access is indicated on the submitted drawings. It is noted that in the previous appeal PL92.245974 an access was indicated using the laneway which has a direct access onto the N24.
- 7.3. Two issues arise in relation to this appeal access and visual impact.
- 7.4. In relation to access as already indicated the applicant has not indicated any access from the public road network to the shed. Notwithstanding the indicated use as an agricultural structure it is not unreasonable to consider that whether it is used for hay/straw or housing of cattle, journeys onto the public road network are an integral part of the operation of an agricultural enterprise.
- 7.4.1. In relation to the current proposal there is a direct means of access to the public road network. The laneway was provided I would assume was to provide access to agricultural lands arising from the construction of the M8 and the associated junction layout for the N24. The N24 is an important National Primary Route linking the cities of Limerick and Waterford and serving other important towns along the route.
- 7.4.2. The junction of the laneway onto the N24 is located in close proximity to junction 10 of the M8 and also in close proximity to the R670 which is a direct link from the motorway to the town of Cahir. There is a traffic island on this section of the N24 to manage and control movement of traffic in particular in relation to the R670.
- 7.4.3. The shed was erected without planning permission and the appellant indicates that it was to replace sheds demolished during the construction of the M8 and uses lands on the holding not suited to other purposes. The appellant contends that standalone sheds are not uncommon in farming and the reasons for refusal are made on the assumption that access to the sheds is from the N24. Access from N24 was not demonstrated on the site layout plan. It is indicated that the existing shed can be

accessed from three alternative points within the landholding. Reference is made to access of the site from Golden/ Knockgrafton Roundabout and local road L3136-0 in this regard. Details by way of a map of these accesses were not submitted in the application or grounds of appeal.

- 7.4.4. It is further stated that the development will not create a traffic hazard, there is no reason to consider that an agricultural shed used solely in association with the applicant's farm would increase traffic onto the national road and there is no evidence to suggest the applicant intends or needs to use said entrance in conjunction with the existing shed. In relation to the laneway the question was raised as to why an unsafe access was provided to serve lands.
- 7.4.5. In relation to the question of alternatives the submitted documentation with the application indicates a landholding on both sides of the M8. There is reference to an underpass connecting the lands on both sides of the M8.
- 7.4.6. The alternative accesses onto the public road network are on the other western side of the M8. The response to the grounds of appeal by the planning authority includes a pre planning consultation identifying 3 potential access points all located on the western side of the M8, one directly entering a roundabout (the Golden/Knockgrafton roundabout) and two onto the L3156-0 which is the northwestern arm off this roundabout. The planning authority response to the grounds of appeal includes a map illustrating three access points and I have included this map as an appendix.
- 7.4.7. To use these three access points from the shed under consideration would involve a major circuitous and convoluted journey. There is no clear indication of the route from the shed to the access points. There is a laneway running south of the appeal site and parallel to the M8 which provides access to lands but there indication that this section of laneway extends to the underpass and stops at a field gate. On the western side of the M8 there is a significant distance from the underpass to the three identified access points and no clarity in particular of the overall route to the two access points on the local road. The applicant does not necessarily have a requirement to construct any paved road/lane but if a paved road/lane is not constructed this would involve cutting into and traversing open land in large agricultural vehicles.

- 7.4.8. The options outlined do not appear to be realistic or practical in terms of efficient farm management. It is also important to state that one of the options to access directly onto the roundabout presents traffic issues.
- 7.4.9. In this context I consider that it is reasonable to consider that the laneway onto the N24 is the likely means of access to the shed from the public road network. It is noted that no alternative to this access was submitted for consideration and that the public notice relating to the current proposal adjoins the junction onto the public road in this case the N24.
- 7.4.10. The stated reasons for refusal in the previous Board decision and current planning authority decision are reasonable in the context of traffic. The N24 is a heavily trafficked road, is of national strategic importance and the protection of public investment on the national routes is important to maintain and in line with national policy and guidance. The junction of the laneway is also in proximity to the junction with the R670 and there is a designed layout including a demarcated traffic island on the N24 to provide for safe traffic movement in the vicinity of the laneway. The laneway was provided to permit landowners to access their lands and any intensification of the use of the lands as currently presented represent a serious traffic hazard and a hazard to road users.
- 7.4.11. In relation to the use of the shed it is stated that it is for agricultural use and not commercial use. The previous appeal refers to buying and selling of straw/hay and storage of up to 4,000 round bales. The shed had round bales within it when I inspected the site. In overall terms there is an absence of clarity in relation to the overall farm operation and location of other buildings.
- 7.4.12. I do not dispute that the shed has an agriculturally related use and that part of the shed it is proposed will be used to winter livestock but the shed is of major scale as a standalone structure removed from other farm buildings and the main use would remain for the storage of hay and straw. To use it for this purpose will involve movement of large vehicles and it is reasonable to consider that the laneway onto the N24 is the optimal route to access the road network.
- 7.5. In relation to visual impact, I note the direction on the previous Board's decision and the reason for refusal stated. The structure is large and relatively high in the context of a rural area. Agricultural sheds and structures of this height scale are not

uncommon on the landscape. In relation to visual impact the zone of impact is very restricted and limited with a short range of vision northwards on the M8 and it is also visible at the Golden/ Knockgrafton roundabout but the elevated level of the roundabout reduces the impact and the visual impact is more linear. In the overall context I do not consider that the proposed development would represent a major visual impact.

## **8.0 Recommendation**

8.1. Having considered the submissions received in relation to this appeal I recommend that permission be refused.

## **9.0 Reasons and Considerations**

- 1 The access to the subject development is located along an improved, heavily trafficked section of the National Primary Road (N24), at a point where a speed limit of 100 km/h applies and adjacent to the busy M8 Cahir Interchange roundabout and its junction with the R670. Having regard to the nature of the use involved, and the consequent volume of traffic likely to be generated by the development, and having regard to the inadequacy of the available sightlines, it is considered that the development for which retention is sought would be likely to endanger public safety by reason of traffic hazard due to the additional traffic stopping and turning movements generated by the development, which would interfere with the safety and free flow of traffic on the public road. The development for which retention is sought would, therefore, be contrary to the proper planning and sustainable development of the area.
- 2 It is national policy, as set out in the 'Spatial Planning and National Roads Guidelines for Planning Authorities' (Department of the Environment, Communities and Local Government, 2012) to protect the substantial investment being made by Government in upgrading national roads, to maintain the intended transport function, traffic carrying capacity and efficiency of the network of national roads, and to

ensure that traffic hazards for road users are not created. The site of the proposed development is located at an improved section of the National Primary Road (N24) at a point where a speed limit of 100 km/h applies. It is considered that the development for which retention is sought would conflict with these national policies and Ministerial Guidelines, by reason of the intensification of an existing agricultural access to serve a large commercial/agricultural development, involving increased traffic onto this national primary road, at a point where sightlines for such traffic are inadequate and which would create a traffic hazard. It is considered, therefore, that the development for which retention is sought, by itself or by the precedent which a grant of permission for it would set for other relevant development, would adversely affect the use of a national road by traffic and be contrary to the proper planning and sustainable development of the area.

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Derek Daly  
Planning Inspector

19<sup>th</sup> September 2017