



An
Bord
Pleanála

Inspector's Report PL91.249355

Development	Farm entrance gate.
Location	Cloghnadromin, Ballysimon, Co. Limerick.
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	17/671
Applicant(s)	Edward Hennessy
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Observer(s)	None.
Date of Site Inspection	18 th December, 2017
Inspector	Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located in the rural area of Cloghnadromin, Ballysimon, Co. Limerick, approximately 2.8km north of the village of Caherconlish and 6.3km southeast of the M7 (Limerick-Dublin) Motorway, where it occupies a position along the northern side of the N24 National Primary Road c. 350m northwest of the junction of same with the R513 Regional Road. The surrounding area is typically rural in character with intermittent instances of one-off housing and agricultural outbuildings (although there is a service station on the opposite side of the roadway c. 350m to the northwest) whilst the prevailing topography allows for open views over the wider landscape. The site itself has a stated site area of 0.1 hectares, is rectangular in shape and presently comprises the south-eastern corner of a larger agricultural field. It is bounded by mature hedgerow to the east and by a concrete post and rail fence to the south whilst the remaining site boundaries are not physically defined at present.

2.0 Proposed Development

2.1. The proposed development consists of the provision of a new agricultural entrance / field gate onto the N24 National Primary Road.

3.0 Planning Authority Decision

3.1. Decision

On 6th September, 2017 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following reason:

- The proposed development would be contrary to the proper planning and development of the area because it constitutes a new access on a heavily trafficked section of the National Road Network, the N24 Limerick to Tipperary National Primary Road, at a point where the maximum speed limit for this type of road applies and the traffic turning movements generated by the proposed development would interfere with the safety and free-flow of traffic on the adjoining road. In addition, the proposed development would contravene materially the objectives of the Planning Authority, as set out in the County Development Plan 2010-2016, to preserve the level of service and carrying

capacity of the National Road Network and to protect the public investment therein.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports:

Having established the policy context for the assessment of the subject proposal, this report noted that no details had been provided of the type of track proposed to access the applicant's farmland. It was further noted that the application had not been accompanied by any legal documentation to support the existence of the right of way proposed to be served by the new field entrance whilst the submitted particulars did not detail a splayed entrance arrangement or the available sightlines. The report also asserted that the applicant had not provided any details of the intended purpose of the proposed entrance other than to state that it would be used to access lands located at a distance from the public road.

Following consideration of the applicable policy provisions contained in the County Development Plan, with specific reference to Policy IN-09 and Objective IN-016, and in light of the lack of information supplied with the application, the report concluded by stating that the proposed development did not have due regard to the policy context of the Development Plan or national guidance as regards development along National Primary Roads and recommended a refusal of permission.

3.2.2. Other Technical Reports:

Operations North (Roads): Notes that the subject proposal seeks to open an agricultural entrance onto the N24 National Road in order to access lands not directly adjacent to that roadway. It is further noted that the applicant has not provided for a splayed entrance arrangement and that no details of the available sightlines have been submitted. Reference is subsequently made to the location of the proposed entrance along a very busy stretch of National Road with a speed limit of 100kph and its positioning approximately 350m northwest of the junction with the R513 Regional (Mitchelstown) Road. In view of the foregoing, in addition to the policy of the Local Authority to restrict access onto the National Road network for reasons of safety and to preserve the carrying capacity of same, this report recommended that the proposed development should be refused permission.

3.3. Prescribed Bodies

3.3.1. *Transport Infrastructure Ireland*: States that the subject application is at variance with official policy in relation to the control of development on / affecting national roads as outlined in the DoECLG's '*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*' as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network for the following reasons:

- Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG '*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*'. The proposal, if approved would create an adverse impact on the national road where the maximum permitted speed limit applies and would, in the Authority's opinion, be at variance with the foregoing national policy in relation to the control of frontage development on national roads.
- The proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

3.3.2. *Mid-West National Road Design Office*: Recommends a refusal of permission.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. On Site:

None.

4.2. On Adjacent Sites:

None.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. 97555. Was granted on 4th July, 1997 permitting Paul Fitzgerald permission for an extension to an existing house & the installation of a septic tank at Cloughnadromin, Ballysimon, Co. Limerick.

PA Ref. No. 06/3746 / ABP Ref. No. PL13.222095. Was granted on 23rd July, 2007 permitting Michel Moore permission for the retention and completion of 1 No. workshop / storage shed at Beary's Cross, Caherconlish, Co. Limerick.

5.0 Policy Context

5.1. National and Regional Policy:

The '*Spatial Planning and National Roads, Guidelines for Planning Authorities*', 2012 set out the planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60kph speed limit zones for cities, towns and villages. They replace the document, Policy and Planning Framework for Roads, published by the Department in 1985, supplement other policy guidance on roads-related matters in other Ministerial guidelines in relation to retail planning and sustainable rural housing, and replace the National Roads Authority policy statement on national roads published in May, 2006.

5.2. Development Plan

Limerick County Development Plan, 2010-2016:

Chapter 8: Transport and Infrastructure:

Section 8.2.6: Road Network and Use:

Policy IN P7: Road Safety and Capacity:

To seek the improvement of road safety and capacity throughout the County, through minimising existing traffic hazards, preventing the creation of additional or new traffic hazards in the road network and securing appropriate signage.

Objective IN O10: Land Uses and Access Standards:

It is the objective of the Council to ensure that any development involving a new access to a public road or the intensification of use of an existing access onto a public road that would compromise the safety and capacity of the road network, will not be permitted unless the new or existing access meets the appropriate design standards.

Section 8.2.6.2: National Primary and National Secondary Roads

Policy IN P9: Safeguard the Capacity of National Roads:

It is Council policy to safeguard the capacity of the national road network and road safety standards in accordance with the NRAs (National Road Authority) Policy Statement on Development Management and Access to National Roads (May 2006), and subsequent amendments to or replacements of this, including the forthcoming Government guidance on spatial planning and national roads when adopted and the 'Sustainable Rural Housing Development Guidelines' (DEHLG, 2005).

Objective IN O17: Established national routes and development management:

It is the objective of the Council in the first instance to channel traffic from new development onto the existing local road network. In this regard, it shall not permit developments that require a new access onto a national road or that would generate additional traffic relying on an existing private or substandard access to a national road. The only exceptions to this policy shall be:

- a) Developments in existing built-up areas where access is deemed to be safe and where a 50km speed limit applies;
- b) Where members of the farming community wish to build their houses for their own occupation, on their own land, only where no reasonable alternative is available to them,

and where the developer can clearly show that the exception is clearly warranted in his/her case;

- c) Developments of national or regional strategic importance which by their nature are most appropriately located outside urban centres and where the developments proposed have specific locational requirements or are dependent on fixed physical characteristics. In this regard, Limerick County Council shall engage with relevant stakeholders including the NRA, Dept. of Environment, Heritage and Local Government, the Mid-West Regional Authority and, if appropriate, neighbouring Local Authorities to develop a strategy to identify such activities or locations and a set of criteria which would guide development in such circumstances. This strategy will have particular regard to the findings of the Mid-Western Area Strategic Plan (MWASP) and will comply with prevailing Government guidelines on spatial planning and national roads.

In any case the direct access onto the national road shall be of the location and standard in accordance with National Road Authority (NRA) 'Policy Statement on Development Management and Access to National Roads (NRA, 2006)' and 'Design Manual for Roads and Bridges' (NRA, January 2009) and any subsequent amendments. Access shall be assessed having regard to the considerations outlined in the Development Management section of this Plan.

Chapter 10: Development Management Standards:

Section 10.11: *Transport and Infrastructure:*

Section 10.11.1: *Developments requiring access onto Public Roads*

Section 10.11.8: *National Road Policy:*

The Council will restrict:

- a) frontage development onto national primary and secondary roads; and
- b) development that would compromise the safety and levels of service of national roads

in accordance with National Roads Authority Circular 1/95, Policy Statement on Development Management and Access to National Roads and with certain exceptions as specified in Objective IN O16. The Council shall comply with National Roads Authority (NRA) 'Policy Statement on Development Management and Access to National Roads (NRA, 2006) and 'Design Manual for Roads and Bridges' (NRA, January 2009) and any subsequent amendments. The Council will apply stricter standards in relation to new sections of national road as specified in Policy IN P10 and Objective IN O17 and Objective IN O18 Chapter 8.

5.3. Natural Heritage Designations

The following Natura 2000 site is located approximately 1.75km north of the proposed development site:

- Lower River Shannon Special Area of Conservation (Site Code: 002165)

6.0 The Appeal

6.1. Grounds of Appeal

- When the applicant purchased his landholding c. 20 No. years ago it had the benefit of a right of way onto the roadway although that entrance arrangement was never used as an alternative access was available through adjoining lands. However, within the last 12 No. months the adjacent lands have changed ownership and the new landowner has stated that he no longer wants the applicant to cross his lands due to the potential for damage whilst he has further submitted that the applicant should use his own entrance via the right of way.
- The adjacent landowner has continuously complained of the applicant's alleged trespass / crossing of his lands and has threatened to cease same through the erection of a fence.

- The landholding proposed to be served by the new entrance arrangement is of particular importance to the applicant as he operates a 'family farm' which is reliant on the drawing of silage from the lands in question.
- Adequate sightlines are available from the proposed entrance onto the public road in both directions.
- The proposed entrance will not give rise to any increase in traffic movements to or from the applicant's landholding.
- In support of the grounds of appeal, the Board is referred to the accompanying correspondence addressed to the applicant from the neighbouring landowner's legal representatives which states the following:

'We are instructed that you have been crossing the southern boundary of Mr. Keogh's property for the purpose of access to adjoining lands. Please note that you have no authority or right whatsoever to enter or in any way use that particular portion of our client's property and we now call upon you to immediately refrain from doing so again'.

6.2. Planning Authority's Response

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- Traffic implications
- Appropriate assessment

These are assessed as follows:

7.2. **Traffic Implications:**

7.2.1. The proposed development involves the opening of a new agricultural access onto the N24 National Primary Road at a point where a speed limit of 100kph applies and, therefore, it is necessary to assess whether or not the subject proposal is acceptable

in terms of traffic safety and whether it accords with accepted policy as regards development management along the national road network. In this respect it is of relevance to note that during the course of the subject application a submission was received from Transport Infrastructure Ireland which raised concerns that the submitted proposal would be at variance with official policy in relation to the control of development on / affecting national roads as outlined in the '*Spatial Planning and National Roads, Guidelines for Planning Authorities*' (DoECLG 2012) on the basis that the proposed development would endanger public safety by reason of traffic hazard and the obstruction of road users due to the additional traffic movements that would be generated by a new access onto the N24 National Primary Route at a point where a speed limit of 100kph applies. Additional concerns were also raised in the further submissions received from the National Roads Design Office and the Operations North (Roads) Department of the Local Authority.

7.2.2. The '*Spatial Planning and National Roads, Guidelines for Planning Authorities*', which replaced the 'Policy and Planning Framework for Roads' issued by the Department of the Environment in 1985 and the NRA's 'Policy Statement on Development Management and Access to National Roads' published in May, 2006, state that Development Plans must include policies which seek to maintain and protect the safety, capacity and efficiency of national roads and associated junctions by avoiding the creation of new accesses and the intensification of existing accesses onto national roads where a speed limit greater than 50kph applies. Section 2.5 of the Guidelines subsequently outlines a series of policy approaches with regard to access to national roads which all development plans and any relevant local area plans must implement. These pertain to lands adjoining national roads to which speed limits greater than 60kph apply, lands adjoining national roads within 50kph speed limits, and transitional areas where the plan area incorporates sections of national roads on the approaches to or exit from urban centres that are subject to a speed limit of 60kph before a lower 50kph limit is encountered. In this respect it is of relevance to note that the subject proposal involves the opening of a new agricultural access directly onto a section of national road where a speed limit of 100kph applies and therefore it is appropriate to revert to the provision in the Guidelines that seeks to avoid the creation of any additional access point onto a national road where a speed limit greater than 60kph applies.

- 7.2.3. Having considered the foregoing, I would refer the Board to Section 8.2.6: *'Road Network and Use'* of the County Development Plan and the various policy provisions contained therein which seek to preserve and improve the safety and capacity of the road network, with particular reference to Policy IN P9 which aims to safeguard the capacity of the national road network and road safety standards pursuant to Government guidance. More specifically, I would draw the Board's attention to Objective IN O17 states that the Council will not permit developments that require a new access onto a national road (save for certain exceptions which are not applicable in this instance). In my opinion, the inclusion of the foregoing policy position clearly accords with the provisions of the *'Spatial Planning and National Roads, Guidelines for Planning Authorities'* and thus the proposed development would be contrary to both local and national planning policy.
- 7.2.4. Whilst I would acknowledge the assertion in the grounds of appeal that the applicant can no longer avail of an alternative access route to his lands through an adjacent landholding and that the proposed development seemingly involves the reinstatement of a previous access arrangement onto the N24 National Road via an existing right of way, in my opinion, given the absence of any clear evidence to support the historical existence of an entrance arrangement onto the National Road at this location, and the possibility that the use of any such access may have been abandoned, in my opinion, the subject proposal must be considered from first principles as comprising the creation of a new entrance arrangement onto a heavily trafficked national road and thus must be assessed having regard to current policy provisions. In this respect, the proposed development would be contrary to local and national policy and would interfere with the carrying capacity, safety and free-flow of traffic along the N24 National Primary Route.

Appropriate Assessment:

- 7.2.5. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. The “Spatial Planning and National Roads - Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government (2012) seek in Section 2.5 “to avoid the creation of any additional access point from new development . . . to national roads to which speed limits greater than 60 kmh apply”. Policy IN P9 of the Limerick County Development Plan, 2010-2016 seeks to protect the capacity and safety of the national road network in the County and to ensure compliance with these Guidelines. Objective IN O17 of the Development Plan further states that developments that require a new access onto a national road will not be permitted. These objectives are considered to be reasonable. The proposed development would involve the creation of a new access onto the N24 national primary road, where a speed limit of 100 km/h applies. It is considered that the traffic turning movements generated by the proposed development would endanger public safety by reason of traffic hazard, would interfere with the free flow of traffic on this national road, would compromise the level of service and carrying capacity of the road at this location, and would fail to protect public investment in the national road network, both by itself and by the undesirable precedent it would set for similar such development. The proposed development would contravene the provisions of the said Guidelines and of Policy IN P9 & Objective IN O17 of the County Development Plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

8th January, 2018