



An  
Bord  
Pleanála

## Inspector's Report ABP-300629-18

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<b>Development</b>	Construct new entrance walls, piers and all associated site works.
<b>Location</b>	Kilnacrott, Ballyjamesduff, Co Cavan.
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	17/458
<b>Applicant(s)</b>	Gerard McCabe.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Geraldine and John Flood.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	15 <sup>th</sup> May 2018.
<b>Inspector</b>	Deirdre MacGabhann

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## **1.0 Site Location and Description**

- 1.1. The 0.550ha appeal site lies c. 4km to the south west of Ballyjamesduff in the townland of Kilnacrott, County Cavan. The site lies c. 1km to the south of the R194, a regional road between Ballyjamesduff and Granard, on a county road (L7073) that joins the R194 to the north west of the site.
- 1.2. The site comprises a residential property with detached domestic garage. Access to site is currently via a shared driveway to the subject site and the detached property to the north west of it.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the construction of a new bell-shaped entrance to the applicant's property direct from the county road. The new entrance comprises wing walls, piers, timber fencing along the public road, landscaping and all associated site works. The existing ditch and vegetation along the roadside boundary will be removed to provide the entrance. A new roadside boundary setback 4m from the tarred surface of the road will be provided and gullies will be placed along the edge of the public road, to prevent runoff of surface water on the public road.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. On the 11<sup>th</sup> December 2017 the planning authority decided to grant permission for the development subject to 6 conditions. Condition nos. 2 and 3 govern the design of the entrance, no. 4 limits the removal of trees from the site to those required to construct the driveway and no. 5 requires the implementation of the proposed landscaping scheme within 6 months of the grant of permission.

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

#### Planning Reports

- The Planning Report (11<sup>th</sup> December 2017) refers to the location of the site, its planning history, relevant development plan policy and submissions and reports made. It states that the submission made (see below) relates to the existing shared entrance, which is not included in the planning application, and is a civil matter. It considers the development to be acceptable and recommends 6 conditions to be attached to the permission. No appropriate assessment issues are considered to arise, given the nature of the development and distance from the nearest European site (Lough Sheelin SPA).

#### Other Technical Reports

- Area Engineer – Recommends conditions (see Planning Report).

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

- 3.4.1. There is one third party observation on the application for the proposed development. It is made by the appellants and states that they have no objection to the proposed development on condition that the existing right of way is permanently closed on the applicant. They state that if the application is approved, without condition, they would be concerned that the current right of way will be used solely for farm machinery owned by the applicant.

### 4.0 **Planning History**

- PA ref. 01/654 – Permission granted to Gerard McCabe on the appeal site for a dwelling house, detached garage, septic tank and percolation area.

- PA ref. 16/164 – Permission granted to Gerard McCabe to construct a new entrance to the appeal site, with walls, piers and all associated site works (incomplete application).

## 5.0 Policy Context

### 5.1. Cavan County Development Plan 2014 to 2020

5.1.1. Section 4.1 of the Plan deals with roads and transportation. Section 4.1.7 states that local roads are an essential component of the County's transportation network and recognises the importance of providing a safe and efficient road system in the County. Other relevant policies include:

- Policy DMO23 - requires that all development accessing off the county's road network is at a location and carried out in a manner which would not endanger public safety by way of a traffic hazard.
- Policy DMO25 - seeks to avoid the removal of existing roadside boundaries, except to the extent that this is needed for a new entrance, and where required for traffic safety reasons.
- Policy DMO26 - requires a replacement boundary, where one is required to be removed.
- Policy PIO42 - requires all applications for development to be in accordance with the standards and guidelines set out in, amongst other things, the NRA Design Manual for Roads and Bridges.

5.1.2. The NRA publication referred to has now been superseded by TII's publication, 'Geometric Design of Junctions' (April 2017)<sup>1</sup>. It recommends sightlines of 160m in each direction (2.0m from the road edge) for accesses onto local roads where the 80kph speed limit zone applies (section 5.6, DN-GEO-03060).

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<sup>1</sup> This document supersedes NRA TD 41-42/09 'Geometric design of major/minor priority junctions and vehicular access to national roads', which is referred to in the NRA Design Manual for Roads and Bridges, July 2011.

## 5.2. **Natural Heritage Designations**

- 5.2.1. Lough Sheelin, c.3.5km to the south west of the appeal site is designated as an SPA (site code 004065) and as a proposed NHA (site code 000987).

## 6.0 **The Appeal**

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

- 6.1.1. Grounds of appeal are:

- Object to opening of new entrance onto the public road on the grounds that there is already an existing entrance.
- Applicant has a right of way across the appellants property which is maintained on a regular basis by the appellants due to the applicant's farm machinery.
- Concern that the applicant will continue to use the existing entrance for farm machinery and the new entrance for private vehicles and visitors.
- If the applicant gives up their claim to the right of way over the appellants lands, they have no objection to permission being granted.

- 6.1.2. Attached to the appeal is a copy of Circuit Court Order in respect of the existing right of way (J. and G. Flood and G. and S. McCabe). This sets out details in respect of land ownership of the subject right of way, location of piers at driveway entrance and equal responsibility for maintenance of right of way (both parties)

### 6.2. **Applicant Response**

- 6.2.1. The applicant's response to the appeal was submitted outside of the 4 week period for submissions.

### 6.3. **Planning Authority Response**

- 6.3.1. The planning authority's response states that the issues raised have been addressed in the Planning Report (above) or are outside of the consideration of the planning application.

#### 6.4. **Observations/Further Responses**

None.

#### 7.0 **Assessment**

7.1. Having regard to the submissions on file and my inspection of the appeal site, the key issues for this appeal relate to the one of the matters raised by the appellant i.e. the need for the proposed development, given that the site is already served by an existing entrance.

7.2. The appellant raises other matters regarding the existing entrance. These lie outside of the appeal site and are civil matters and are therefore outside the scope of this appeal.

##### Access

7.3. The appeal site lies on a minor county road. The alignment of the road as it passes the site is relatively straight and visibility at the proposed point of access is good in both directions, with 160m sightlines achievable, as per the guidelines provided by TII (see above). At the time of site inspection, there was little traffic on the road with any vehicles travelling within the speed limit.

7.4. Policies of the Cavan County Development Plan seek to protect the efficiency and the safety of the public road network in the county. The proposed development is currently served by a shared access from the county road and the development will add an additional entrance to the road network. Whilst this would conflict in principle with the protective policies set out in the County Development Plan, sightlines of 160m in each direction at the junction with the county road can be achieved and the proposed access will serve an existing dwelling, so turning movements off the public road will not increase. In view of these factors, I do not consider, therefore that the development would not conflict with policies of the County Development Plan.

7.5. Policy DMO25 seeks to avoid the removal of existing roadside boundaries except to the extent that this is needed for a new entrance, and where required for traffic safety reasons. In such circumstances, Policy DMO26 requires replacement planting. In this instance, removal of the existing hedgerow is required along the full site frontage in order to provide the entrance to the site and the necessary sightlines.

Replacement planting is proposed that is similar and additional to existing (Site Layout Plan). The proposed development is therefore consistent with policies of the County Development Plan, in this regard.

- 7.6. (I note that the applicant's Site Layout Plan indicates a new hedgerow to the east of the new timber and rail fence. The species to be used is not specified and I would therefore recommend a condition requiring the boundary hedgerow to comprise native species).

## 8.0 Recommendation

- 8.1. I recommend that planning permission for the proposed development be granted.

## 9.0 Appropriate Assessment

- 9.1. Having regard to the nature of the proposed, which would give rise to no impacts on the receiving natural 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'.

## 10.0 Reasons and Considerations

Having regard to the minor road upon which the appeal site is situated, the availability of the required sightlines at the proposed entrance and the absence of any intensification of use, it is considered that the proposed development would not compromise the efficiency or safety of the public road, and would therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 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. (i) Surface water from the site shall not be permitted to drain onto the adjoining public road.
- (ii) Details of treatment of the area between the entrance and new boundary and the public road shall be submitted the planning authority for written agreement.

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

3. No trees shall be removed from within the site except for what is required for the direct construction of the driveway.

Within 6 months of the completion of the proposed development, the site shall be landscaped in accordance with the Site Layout Plan received by the planning authority on the 24<sup>th</sup> October 2017. The hedgerow to be provided along the frontage of the site shall comprise indigenous hedging species.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.

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Deirdre MacGabhann  
Senior Planning Inspector

29<sup>th</sup> May 2018