



An  
Bord  
Pleanála

## Inspector's Report ABP-300954-18

---

<b>Development</b>	Construction of a new residential entrance to property and new site boundaries from those granted under previous planning permission PI Ref 10510422 along with all ancillary site works
<b>Location</b>	Lisnageenly, Silvermines, Nenagh
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	17/601104
<b>Applicant(s)</b>	Kieran Dooley
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Kieran Dooley
<b>Date of Site Inspection</b>	11 <sup>th</sup> May 2018
<b>Inspector</b>	Colin McBride



## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations .....	6
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.3. Planning Authority Response .....	7
7.0 Assessment.....	7
8.0 Recommendation.....	10
9.0 Reasons and Considerations.....	10
10.0 Conditions .....	<b>Error! Bookmark not defined.</b>

## **1.0 Site Location and Description**

1.1. The appeal site, which has a stated area of 0.27 hectares, is located on the southern side of the R499 is located 2.6km east of Sivermines and 1.4km west of Dolla. The appeal site is occupied by an existing single-storey dwelling. The existing dwelling is accessed through an existing vehicular access located on the western side of the site that also serves a farmyard complex to the south west of the site. There is an existing single-storey dwelling to the west on the opposite side of the laneway serving the dwelling on site and the farmyard complex. To south and east of the site are agricultural lands. Existing boundaries on site consist of hedgerow.

## **2.0 Proposed Development**

2.1. Permission is sought for construction of a new residential entrance to property and new site boundaries from those granted under previous planning permission PL Ref 10510422 along with all ancillary site works. The new entrance is to serve an existing dwelling, which is currently accessed through an existing entrance that also serves a farm complex located further west along the road frontage.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused based on one reason, which is as follows...

1. It is the Council's policy under Policy TI3 Strategic Road Network to avoid the creation of any additional accesses onto Strategic Routes subject to exemptions. The Planning Authority considers that the applicant has failed to demonstrate exceptional circumstances apply as set out in Policy TI3. Accordingly the proposed development would contravene Policy TI3 of the North Tipperary County Development Plan 2010 (as varied) and would be contrary to the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

Planning report (27/11/17): Further information required with the applicant advised that Council policy is not predisposed to permitting additional access on the R499, which is a Strategic Regional Route. The applicant was requested to identify all lands within their ownership and the changed exceptional circumstances since ref no. 10/510422 was permitted.

Planning report (22/01/18): The response to further information was noted and no exceptional circumstances were demonstrated. It was noted that the original permission under ref no. 10/510422 entailed upgrading of the existing access, which has not been carried out. Refusal was recommended based on the reason outlined above.

### **3.2.2. Other Technical Reports**

District Engineer (11/12/17): No objection subject to conditions.

## **4.0 Planning History**

10/510422: Permission granted for a single-storey dwelling, upgrade of existing entrance and all associated site works. A shared agricultural and residential access was a crucial element of the application.

## **5.0 Policy Context**

### **5.1. Development Plan**

The relevant development plan is the North Tipperary County Development Plan 2010.

The R499 is identified as a Strategic Regional Route.

Policy TI3

It is the policy of the Council to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to Strategic Routes, subject to the following policies exceptions:

- (a) New access to facilitate orderly urban development on Strategic Routes in appropriately zoned land on the approaches to or exit from, urban centres that are subject to a speed limit of 60 km before a lower 50km limit is encountered may be permitted subject to a road safety audit carried out in accordance with the TII's requirements and avoidance of a proliferation of such entrances.
- (b) New access to lands adjoining Strategic Routes within 50 km speed limits may be considered in accordance with normal road safety, traffic management and urban design criteria for built up areas.
- (c) New accesses to Strategic Routes may be permitted in exceptional circumstances, in the case of development of national and regional strategic importance which by their nature are most appropriately located outside urban areas, and where the locations concerned have specific characteristics that make them particularly suitable for the developments proposed.
- (d) Proposals for new rural houses to access onto a Strategic Regional Road of a National Secondary Road will only be permitted where compliance is demonstrated with Policy SS5: Housing on Strategic Regional Roads and Policy SS6: Housing on National Secondary Roads.
- (e) All development proposals shall demonstrate compliance with development.

Development Management Standards are under Chapter 10

Regional Roads require 160m sightlines.

## 5.2. **Natural Heritage Designations**

None in the vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first part appeal has been lodged by Kieran Dooley, Lisnageely, Silvermines, Nenagh, Co. Tipperary. The grounds of appeal are as follows.

- The appeal submission includes copies of the decision and the applicant/appellant's further information submission with no new documentation outlining grounds of appeal.
- The applicant/appellant notes that no exceptional circumstances have occurred since the granting of permission ref no. 10/510422 however the applicant/appellant has found the combined residential and agricultural entrance to be unsatisfactory.
- The primary reason of the proposal is on traffic safety grounds with it noted that at certain periods of the summer large agricultural machinery use the existing entrance resulting on vehicles meeting and having to reverse onto the public road, which has potential to cause an accident.
- The applicant/appellant notes a separate residential entrance and agricultural entrance would be a safer arrangement and eliminate the need for agricultural machinery to reverse onto the public road.

### 6.2. Planning Authority Response

Response from Tipperary County Council.

- The Planning Authority have no observations to make.

## 7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Development Plan policy

Traffic safety

Appropriate Assessment

7.2 Development Plan policy:

7.2.1 The appeal site is located on the southern side of the R499 regional Route, which runs between Silvermines and Dolla and is located within the 80kph speed limit zone. The site is occupied by an existing dwelling permitted under ref no. 10/510422. The existing dwelling on site uses an existing entrance located to the west that also serves an existing farmyard complex. The proposal seeks to provide a new entrance to the east of the existing dwelling from the R499 and no longer share an access with the existing farmyard complex.

7.2.2 The R499 is identified as a Strategic Regional Route under Development Plan policy. Policy TI3, which is outlined above. "It is the policy of the Council to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to Strategic Routes" subject to a number of exception (5 exceptions). It is notable that the applicant/appellant's circumstances do not come under any of the exceptions outlined under Policy TI3 and the provision of a new entrance as proposed would be contrary to Policy TI3 of the North Tipperary County Development Plan 2010.

7.2.3 It is notable that a crucial factor in permitting the dwelling on the appeal site under ref no. 10/510422 was that it was proposed to share an existing access off the R499. The current plan and Policy TI3 was in force at the time permission was sought and granted and the use of an existing entrance was a major determining factor as a proposal for a new access would have been and is still currently contrary to Development Plan policy. It is also notable that the proposal for the dwelling under ref no. 10/510422 includes proposals to upgrade the existing access with splayed walls and improved layout and that these upgrades have not been implemented at the existing access.



### 7.3 Traffic Safety:

7.3.1 The appellant notes that the justification for the new entrance is improved traffic safety with the existing entrance being used by large agricultural machinery periodically (summer) and that such vehicles exiting and entering the entrance at the same time result in larger machinery having to reverse back onto the public road having the potential to cause an accident. As noted above the existing access was meant be upgraded in layout as part of permission ref no. 10/510422 (under this application it is noted that the existing entrance, farmyard and existing dwelling to the west were in the applicant's control despite the fact they are not show under his ownership in this application). There was clearly an opportunity and ability on the appellant/applicant's part to upgrade the existing access and this has not taken place. I do not consider that the applicant's/appellant's contention regarding agricultural machinery is a justification for a new access with scope for the exiting vehicle to be the one to reverse or the provision of a passing bay along the laneway access. Notwithstanding such it appears that it not a constant issue throughout the year, which I consider can be addressed without the provision of a new access.

7.3.2 The proposed new entrance is located on the eastern side of the dwelling on site. The alignment of the road is straight with a single broken line along the site frontage. The site plan indicates visibility of 160m in each direction with the front boundary of the site set back. I would question whether such visibility is available currently and would consider that it likely to require significant alteration of boundaries to the east (under the applicants control), to the west the boundary would be setback along the dwelling on site and is a post and rail fence along the dwelling to the east so is more readily available with less alterations (road frontage of site only). I would consider that visibility standards required are achievable. Notwithstanding such, I would note that the proposed provides for an additional entrance off a heavily trafficked Regional Route in the 80kph speed limit zone, where there are existing and adequate access arrangement for the dwelling on site. Taken in conjunction with the existing access points in the vicinity (existing access to dwelling on site and the dwelling to the west), the proposal would lead to an over proliferation of access points off a busy Regional Route identified as a Strategic Regional Route under the County Development Plan. The proposal would constitute a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

#### 7.4 Appropriate Assessment:

7.4.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest 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.

### 8.0 **Recommendation**

8.1. I recommend refusal based on the following reason.

### 9.0 **Reasons and Considerations**

1. The proposal entails the provision of a new vehicular access off the R499, which is identified as a Strategic Regional Route under the North Tipperary County Development Plan 2010. Under policy TI3 “it is the policy of the Council to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to Strategic Routes” except under certain exemptions. The proposal and the applicant’s circumstances do not fall under the exemptions under Policy TI3 with the proposed development contrary to stated Development Plan policy and contrary to the proper planning and sustainable development of the area.
2. The proposal provides for a new vehicular access off a heavily trafficked Regional Route within the 80kph speed limit zone, where adequate existing access is provided for the existing dwelling. The proposal taken in conjunction with the existing access points to the west would lead to an over-proliferation of access points at this location, would constitute a traffic hazard and be contrary to the proper planning and sustainable development of the area.

---

Colin McBride  
Planning Inspector

14/05/18

