



An  
Bord  
Pleanála

## Inspector's Report ABP 301784-18

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<b>Development</b>	Importation of stone and soil, bricks, tiles, ceramics and concrete for the raising of an agricultural field.
<b>Location</b>	Shanagh, Shanballymore, Mallow, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/4665
<b>Applicant</b>	Sean Sheedy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. Refusal
<b>Appellant</b>	Sean Sheedy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20/12/18
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site which has a stated area of 1.4 hectares, is in the townland of Shanagh accessed from the N73 c. 5km to the west of Kildorrey, c.7km to the north east of Doneraile and c.15km to the north-east of Mallow. It is c. 800 metres to the north-east of Clogher Crossroads where the N73 and R522 intersect. It forms part of a larger holding on which there are two poultry houses and other outbuildings. The lands to which the application refers are to the north of these buildings. The lands slope down from south to north.

The lands are served by a recessed access in the north-eastern corner with a splay provided to the west. Fencing has been erected behind the earthen roadside bank and along the eastern boundary with hedgerows delineating the western and northern boundaries.

The N73 in the vicinity of the site is narrow with no hard shoulders. Double white lines along the road frontage (one broken) restrict overtaking opportunities. The road was noted to be well trafficked. The 100km/hr speed limit applies.

## 2.0 Proposed Development

Permission is sought for the importation of 28,925 m<sup>3</sup> of soil and stone, bricks, tiles, ceramics and concrete to raise and improve agricultural land. It is anticipated that the timeframe for the importation would be 5 years depending on availability of suitable material. Construction and demolition waste is proposed to be used for the access road and turning area equating to 500m<sup>3</sup>.

The improvement of the agricultural lands is so as to facilitate the applicant's poultry farm business and to run it as a free range enterprise.

It is estimated that the works would require an additional 18 vehicular movements to/from the site each week. Consequent to the improvement works the site would generate the same level of traffic as currently exists ie. 6 trips per day.

The application is accompanied by:

- AA-Screening Statement
- Environmental Risk Assessment

- Accident Prevention & Emergency Response Procedure
- Waste Acceptance Procedure
- Surface Water Report
- Closure Plan
- Road Safety Audit – Stage 1, February 2018
- Traffic and Transport Assessment, August 2017

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Refuse permission on grounds that the proposed development would involve intensification of use, that the additional traffic likely to be created would endanger public safety by reason of traffic hazard and that it would conflict with County Development Plan objective TM3-1 and the Department of Environment Guidelines on Spatial Planning and National Roads.

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

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

The Assistant Planner's report recommends a refusal of permission on grounds of traffic hazard.

The A/Senior Executive Planner's report notes that the proposal is similar to that refused permission under ref. 16/7158 albeit that it is proposed to avail of an entrance in the south-eastern corner whereas the previous application involved an entrance in the south-western corner. There are concerns regarding the impacts that would arise from the intensification of use of an existing entrance adjoining a national road which could give rise to traffic hazard. To permit the proposal would be contrary to the Department of the Environment's Guidelines on Spatial Planning and National Roads 2010 and would also be contrary to objective TM 3-1 of the County Development Plan. It is considered that the proposed development, if permitted in advance of the planned upgrade, would have an adverse impact on the national

road. This location has been the scene of a number of HGV conflicts and incidents in the past and as the road is unimproved the additional movements that would be generated by the proposal would impact negatively on the existing road infrastructure. A refusal of permission is recommended.

The above reports are endorsed by the A/Senior Planner.

### 3.2.2. Other Technical Reports

The 1<sup>st</sup> Area Engineer's report dated 10/04/18 recommends further information on sight distances and access. The 2<sup>nd</sup> report dated 03/05/18 notes that a road realignment scheme is in the pipeline but is awaiting TII funding announcements. It is considered that to permit the proposed development in advance of the planned upgrade will have an adverse effect on the National Road. The location has been the scene of a number of HGV conflicts and incidents in the past owing to the narrow road width and constraints. The proposal would negatively impact on the current road infrastructure. A refusal of permission on traffic hazard grounds recommended.

Environmental Office considers that the recovery of construction and demolition waste other than soil and stone eg. bricks, tiles, ceramics and concrete will no longer be considered as this type of waste is not deemed suitable for agricultural benefit. Further information recommended seeking the removal of construction and demolition waste from the materials to be imported and that the access road and turning area should be constructed from quarried materials/products. A site assessment report/agricultural report and details of depth of fill required.

### 3.3. Prescribed Bodies

TII considers the proposal to be at variance with official policy in relation to the control of development on/affecting a national road. It is located on an unimproved section of a national road where the maximum speed limit applies and would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

IFI is not opposed in principle to the proposed development subject to certain conditions.

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

Letter of representation on behalf of the applicant from Kevin O’Keefe TD.

### 4.0 **Planning History**

16/7158 – permission refused for importation of material onto the site for a reason comparable to that in the current appeal.

### 5.0 **Policy Context**

#### 5.1. **Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012**

Required Development Plan Policy on Access to National Roads

The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development.

Exceptional Circumstances

Notwithstanding the provisions above, planning authorities may identify stretches of national roads where a less restrictive approach may be applied, but only as part of the process of reviewing or varying the relevant development plan and having consulted and taken on board the advice of the NRA

Lightly-trafficked Sections of National Secondary Routes - A less restrictive approach may apply to areas where additional development may require new accesses to certain, lightly-trafficked sections of national secondary routes. Such areas would be confined to lightly trafficked national secondary roads serving structurally weak and remote communities where a balance needs to be struck between the important transport functions of such roads and supporting the social and economic development of these areas. In such areas, policies in development plans permitting new accesses to national secondary roads may be considered acceptable where the following criteria apply:

- Traffic volumes are low and are forecast to remain below 3,000 AADT (as verified by the NRA) for the next 20 years;
- There is no suitable alternative non-national public road access available;
- The development otherwise accords with the development plan, and
- Safety issues and considerations can be adequately addressed in accordance with the NRA's Design Manual for Roads and Bridges.

## 5.2. **Cork County Development Plan, 2014**

Objective EE 8-1: Encourage the development of a dynamic and innovative, sustainable agricultural and food production sector by:

- Encouraging the development of sustainable agriculture and infrastructure including farming buildings;
- Encouraging farm diversification through the development of other sustainable business initiatives appropriate to the rural area.

Objective TM 3-1 - seek the support of the National Roads Authority in the implementation of the following major projects:

- N 73 (Mallow – Mitchelstown).
- b) Support and provide for improvements to the national road network, including reserving corridors for proposed routes, free of inappropriate development, so as not to compromise future road schemes.
- d) Avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 50kph apply.

## 5.3. **Natural Heritage Designations**

None in the vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The submission by Cuthbert Environmental and MHL Consulting Engineers on behalf of the 1<sup>st</sup> Party against the notification of decision to refuse permission can be summarised as follows:

- In order to provide the appropriate outdoor area needed to upgrade his existing chicken farm enterprise to a free range facility the area to the rear needs to be raised.
- The Area Engineer's report on the previous application under ref. 16/7157 indicated that an inability to provide the required visibility was a particular issue. This application sought to address this issue with the relocation of the proposed entrance to the existing chicken farm entrance. This is an established entrance. It is proposed to set back the roadside boundary in order to comply with the visibility requirements. This can be achieved on lands in the applicant's control.
- A Traffic and Transport Assessment and Road Safety Audit have been prepared. The development is likely to result in a maximum increase of 18 additional vehicular movements to/from the site per week during the construction period after which it is expected that the same level of traffic as is currently generated by the proposal will occur ie. 6 trips per day. Therefore the only increase is during the importation of material.
- Table 2.1 of the Traffic and Transport Assessment Guidelines states that TTAs are required where traffic to and from a development exceeds 5% of the traffic flow on the adjoining road. With AADT on the N73 at 3300 the increase resulting from the development would equate to 0.7% which is far below the said 5% threshold. The increase will not impact on the capacity of the N73.
- The applicant has accepted all of the issues raised in the Road Safety Audit. Appropriate sightlines are shown to be achievable and will be provided.
- Section 2.6 of the Guidelines on Spatial Planning and National Roads sets out exceptional circumstances where development may be considered. It is

considered that the proposal meets the relevant criteria in that the current AADT is approx. 3300, there is no alternative access available, the proposal otherwise accords with the development plan, and road safety issues have been considered and are addressed as part of the application.

## 6.2. **Planning Authority Response**

None

## 6.3. **Observations**

Representation on behalf of the applicant received from Kevin O'Keefe TD

## 7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development
- Access and Traffic
- Environmental Impact Assessment
- Appropriate Assessment

### 7.1. **Principle of Development**

The proposal before the Board is seeking permission for the importation of 28,925m<sup>3</sup> of material (57,850 tonnes) to allow for the raising and levelling of the field to the rear (north) of the existing poultry sheds so as to allow for the facility to be upgraded to a free range enterprise. The works will entail the raising of the lands by up to 6 metres

In view of the established agricultural use on the site and having regard to the relevant policies and objectives of the current Cork County Development Plan (Objective EE 8-1) which seek to encourage the development of a dynamic and innovative, sustainable agricultural and food production sector, the principle of the development is acceptable.



## 7.2. Access and Traffic

I consider that the substantive issue arising in the case is the vehicular movements that would be generated arising from the importation of materials. The application is accompanied by a Traffic and Transport Assessment and Road Safety Audit Stage 1.

I note that this application constitutes the 2<sup>nd</sup> for the proposed works with that proposed under ref. no. 16/7158 refused permission on the grounds of traffic hazard. In that instance an entrance in the north-western corner, separate from that which serves the poultry sheds, was proposed. As per the agent for the applicant's submission specific regard was had to the Area Engineer's concerns regarding sightlines at the north-western entrance. As a consequence use of the existing entrance is proposed in this application.

The site is to the north of the N73 National Secondary Road which was noted to be well trafficked with a high proportion of HGVs. The 100kph speed limit applies with vehicles noted to be travelling at speed. The road in the vicinity is unimproved, is narrow with no hard shoulders and has severely restricted overtaking opportunities. As per the Area Engineer's report on file there are plans for the road's realignment subject to availability of TII funding. I note that the proposed improvement works constitute an objective of the current County Development Plan as set out in Objective TM 3-1.

It is estimated that the importation of 28,925m<sup>3</sup> of material which equates to 57,850 tonnes would result in the region of an additional 18 HGV movements in/out of the site per week. Subject to the availability of suitable materials it is anticipated that the works associated with the importation could take 5 years. Consequent to the completion of the works it is anticipated that the vehicular movements from the site would revert to those currently experienced which is stated to be 6 trips per day.

I submit that the additional traffic generation, in itself, is not material in the context of that existing on the national secondary road and falls materially short of the 5% increase over AADT figures at which the need for a TTA would be triggered. However, I consider of greater import is the adequacy of the access arrangements on the unimproved section of road.

Whilst the drawings accompanying the application delineate 215 metre sight lines in either direction I note that the Road Safety Audit states that although recent clearance works to the east of the entrance have improved visibility they do not satisfy TII requirements and fail to provide the appropriate visibility splay distance and may result in collision between egressing vehicles and fast moving passing vehicles. It is recommended that adequate junction visibility splays and associated forward visibility onto the proposed junction are provided. Whilst the agent for the applicant states that the necessary works can be undertaken no plans or details have been provided. At a minimum it would require the setting back of the fencing to the west of the access.

Notwithstanding, I consider that the turning movements that would be generated by the proposal onto an unimproved, narrow and well trafficked section of the road would give rise to a traffic hazard. Whilst it is accepted that on completion of the works the anticipated vehicular movements would revert to existing levels equating to 6 trips in and out per day, the period of 5 years estimated for the completion of the works cannot be considered to be temporary. In that context I consider that the proposed development would be contrary to both the Spatial Planning and National Roads Guidelines and objective TM 3-1 of the current County Development Plan which preclude the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 60kph apply.

The agent for the applicant considers that the Planning Guidelines provisions for exceptional circumstances could apply in this instance. Notwithstanding the fact that the current County Development Plan does not identify this stretch of national road where a less restrictive approach may be applied, which is a prerequisite of the provision, I note that the N73 in the vicinity of the site with an AADT figure of 3300 already exceeds the 3000 threshold. It is not unreasonable to assume that this figure will increase into the future. In addition the road does not serve either a structurally weak or remote community. I therefore do not consider that the provisions for exceptional circumstances as detailed could be considered in this instance although I do accept that there is not suitable alternative non-national public road access available and, as noted above, the development otherwise accords with the development plan.

In conclusion I concur with the planning authority's assessment and recommend that permission for the development be refused on traffic safety grounds.

### 7.3. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### 7.4. **Appropriate Assessment**

The application is accompanied by a Stage 1 Screening Statement for Appropriate Assessment.

#### *Project Description and Site Characteristics*

The proposed site location and development are as described in sections 1 and 2 above.

#### *Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives*

The Blackwater River (Cork/Waterford) SAC site code 002170 is c. 2km to the south.

The qualifying interests include coastal habitat, Old sessile oak woods, Alluvial forests, Freshwater Pearl Mussel, White-clawed Crayfish, Sea Lamprey, Brook Lamprey, River Lamprey, Twaite Shad, Salmon, Otter and Killarney Fern.

Detailed conservation objectives have been drawn up for the site, the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest.

#### *Assessment of Likely Effects*

As the site is not within a designated site no direct impacts will arise.

There is no hydrological connection between the proposed site and the Blackwater River (Cork/Waterford) SAC. Taking into consideration this absence of hydrologic connection, the nature and extent of the development as proposed and the relative separation of 2km no indirect impacts are envisaged.

### *Screening Statement and Conclusions*

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and in particular Blackwater River (Cork/Waterford) SAC (site code 002170) in view of the site's Conservation Objectives and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

Having regard to the documentation on file, the grounds of appeal, a site inspection and the assessment above I recommend that permission for the above described development be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

It is considered that the proposed development would endanger public safety by reason of traffic hazard because the site is located alongside the heavily trafficked National Secondary Road N73 at a point where the speed limit of 100 km/h applies and the additional traffic turning movements generated by the development would interfere with the safety and free flow of traffic on the public road. The proposed development would also contravene objective TM3-1 of the current County Development Plan and the requirements of the Spatial Planning and National Roads Guidelines for Planning Authorities, 2012 which seek to preserve the level of service and carrying capacity of the N73 National Secondary Road and to avoid the generation of increased traffic from existing accesses. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**January, 2019**