



An
Bord
Pleanála

Inspector's Report ABP-301938-18

Development	Construct a new vehicular entrance to facilitate forestry works access
Location	Toor North, Mount Stuart, Co. Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	18242
Applicant(s)	Joan McCarthy.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Giancarla and Michael Alen Buckley.
Observer(s)	PJ Wingfield Anthony Summers and Robbyn Swan John and Niamh Reynolds
Date of Site Inspection	24 th August, 2018
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area approximately 10km to the south west of Dungarvan. The site is located c.4km to the west of the N25 national route and in an elevated area at the base of Carronadavderg Mountain (ht.301 metres).
- 1.2. The area in the immediate vicinity of the site is planted with forestry and there is currently no access point or forestry track in the location of the proposed development. There is an existing forestry access located 300 metres to the north of the appeal site. The road on which the development is proposed is a narrow very lightly trafficked local road that runs to the east of Carronadavderg Mountain.

2.0 Proposed Development

- 2.1. The proposed development comprises a set back splayed vehicular entrance with an extent of c.29 metres onto the local road. Gates are proposed to be set back 12 metres from the road edge and the plans indicate the entrance connecting with a roadway of 5 metres in width though this road is not included in the subject application. The radius of the entrance is 12 metres.
- 2.2. A 225mm diameter drainage pipe is proposed to be constructed across the entrance to the site at the roadside and a soakway is proposed to be constructed across the set back area approximately 4 metres from the road edge.
- 2.3. The application drawings indicate the provision of an 80 metre sight line in each direction and the drawings indicate that the existing roadside ditch would be lowered or set back in order that the 80 metre sight line can be achieved.
- 2.4. The stated purpose of the entrance is as a forestry access and to facilitate access to forestry lands.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority issued a Notification of Decision to Grant Permission subject to two conditions.

Condition No.2 requires, inter alia, that roadside drainage be addressed, that 55 metres sightlines are available from a position 2.4 metres back from the road edge and that the road and wind walls shall be constructed of sod and stone, dry stone, stone faced masonry or natural stone and shall not exceed 1.2 metres in height.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the planning officer notes the objections received, states that the entrance is stated to be for a forestry entrance. A grant of permission consistent with the Notification of decision which issued is recommended.

3.2.2. Other Technical Reports

No other technical reports on file.

3.3. **Third Party Observations**

A significant number of third party objections are recorded by the Planning Authority. The main grounds of objection can be summarised as need for the development, that the access is to be used as an access for a windfarm development rather than forestry and associated issues of project splitting and accurate description of development and visual impact.

4.0 Planning History

There is no record of any valid planning history on the site.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the Waterford County Development Plan, 2011-2017. This plan has been extended on foot of the amalgamation of Waterford City and County Councils and remains the appropriate plan for the area.

The site is located in a rural area outside of any settlement. Under the provisions of the development plan where no specific zoning objective is indicated then the primary use can be assumed to be that already in the area and is likely to be either primarily agricultural or primarily general rural development. All lands outside of the designated settlements and zoning maps is regarded to be zoned as Agriculture A.

The agriculture land use zoning objective is to provide for the development of agriculture and to protect and improve rural amenity.

None of the land uses listed in Table 10.11 of the Plan (land use zoning matrix) specifically relate to forestry use.

Appendix A9 of the Plan contains a landscape evaluation. The appeal site is located in an area that is identified as vulnerable in the plan where such areas are described as *'very distinctive features with a very low capacity to absorb new development without significant alteration of existing character over an extended area'*.

Section 6 sets out the policy with regard to areas identified as vulnerable and states that *'to be considered for permission, development in the environs of these vulnerable areas must be shown not to impinge in any significant way upon its character, integrity or uniformity when viewed from its surroundings'*.

The site is not located such that it is impacted by any designated scenic routes.

5.2. Natural Heritage Designations

The site is located such that it is not within any European site. It is located within c. 3km of the Blackwater River SAC (site code 002170).

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the grounds of appeal:

- Concerns that the primary purpose of the development is construct an access that may be used to facilitate improved access to wind farm development in the surrounding lands rather than solely for forestry use as stated.
- That the description of the proposed development may therefore be seriously misleading.
- That the proposed entrance / access works could amount to project splitting contrary to the principles set out in the O’Grianna judgement.
- That the scale of the entrance is clearly excessive in a rural context and is designed to cater for wind farm development.
- That the letter of consent submitted indicates that the applicant is not the real applicant who is Coillte.
- That there is no assessment of traffic impacts submitted with the application and the proposal was not the subject of assessment by the transportation section of the council. It is unclear what implications the development would have for the wider road network.
- No hedgerow survey or assessment of the impact of the development on the landscape has been submitted.
- The entrance is excessively wide in the context of local landscape policies set out in the plan and policies for the protection of hedgerows.
- That the decision of the planning authority failed to attach any condition limiting the use of the access for timber or forestry purposes.

6.2. Applicant Response

A response on behalf of the first party and prepared by Coillte was returned by the Board as it was received beyond the appropriate period. Coillte were subsequently invited to submit their comments on the grounds of appeal. The following is a summary of the main issues raised in the submission:

- That the estate of Joan McCarthy has been in partnership with Coillte for almost 20 years. It is stated that Coillte have in excess of 600 such arrangements nationwide where the ownership of the lands remains with the owner and Coillte manages the forestry crop over the full cycle/ After the crop is harvested the management of the lands reverts to the landowner.
- A map is enclosed showing the McCarthy estate lands, Coillte lands, the proposed access and the existing access A.
- Stated that Coillte are not the applicants. The McCarthy estate are the applicants. Coillte will undertake the works.
- That the size of the entrance sought is consistent with the standard set out in the Forest Road Manual- Guidelines for the design, construction and management of forest roads.
- Stated that the recommended forest road length for plantation of this size would be 300 metres and that consent for this will be sought from the forest service.
- That a traffic impact assessment was submitted with the planning application. Stated that copy enclosed with the submission however it was not received with the response.
- That the L-2023 is an agreed haulage route with the council for timber. All timber from the Carronadaverg property (c.153 ha) has and will continue to use this route accessing and egressing at Point A on the map (existing access).
- That Coillte would have no issue with a condition that the entrance would be solely used for timber haulage, plantation management and landowner use.
- That there are no monuments within 1500 metres of the proposed access.

- That Coillte and the McCarthy estate are only seeking to develop an access to the 12.5 ha. that is in the ownership of the McCarthy estate for the management and haulage of timber.

6.3. **Planning Authority Response**

The following is a summary of the main issues raised in the response received from the planning authority:

- That permission was sought for a forestry access and the application was assessed on this basis.

6.4. **Observations**

Three observations on the appeal have been received. The following is a summary of the main issues raised in these submissions:

- That the purpose of the development is to facilitate the construction of a wind farm rather than forestry use.
- That Coillte are actually the effective applicants in this case.
- That the description the development is therefore misleading.
- That if for the purpose of facilitating wind farm development then the application could be considered to constitute project splitting and to be contrary to the O’Grianna judgement.
- That the entrance is excessively wide for a rural location and would have adverse visual and ecological impacts.
- That there is no traffic assessment submitted with the application.
- That no limitation by way of condition limiting the use of the entrance to the stated forestry purpose has been attached by the Planning Authority.

- That the observers have been impacted by existing windfarm development in the area and if the Knocknamona windfarm goes ahead this will further exacerbate the existing amenity issues.

7.0 **Assessment**

7.1. In my opinion the following are the most significant issues in the assessment of this appeal:

- Principle of development
- Traffic issues
- Visual Impact
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The appeal site is located in a rural area that is characterised by existing forestry activity. The proposed new access is for the stated purpose of accessing a forestry plantation that is located on the eastern side of the local road in the vicinity of the site. The first party state that the proposed new access is required to facilitate the maintenance and felling of a forestry plantation on lands that are in the ownership of the applicant Ms Joan McCarthy and which are currently being managed by Coillte.

7.2.2. With regard to the intended purpose of the development, the appellants and observers have raised concerns that the access could be used in connection with the construction of a wind farm development on the surrounding lands. It is therefore stated that the description of the proposed development is misleading and that were the access used to facilitate the construction of a wind farm that this would constitute project splitting. The appeal response submission from Coillte on behalf of the applicant and land owner Ms McCarthy is clear in its statement that the access is intended solely for the purpose of facilitating access to the forestry plantation in this area and for the management and harvesting of forestry. I note this response, and

also the fact that the first party have indicated that they are happy to accept a condition which limits the use of the access for forestry purposes. On the basis of the information presented I accept the statement regarding the intended use of the access put forward by the first party and consider it appropriate that in the event of a grant of permission that the use would be restricted to being connected with or for the purposes of forestry by way of condition.

7.2.3. With regard to the need for a new access in this location, the first party appeal response includes a map which indicates the relative locations of the McCarthy lands, other Coillte controlled lands, the existing forestry access located to the north of the site and the location of the currently proposed access. The appeal response states that Coillte are looking to develop the entrance to access the 12.5 ha. that is in the ownership of the McCarthy estate for the management and haulage of timber. It is further stated that all timber from the Carronadavderg property (c.153 ha) has and will continue to use this route accessing and egressing at Point A on the map (existing access).

7.2.4. The map submitted with the first party response appears to indicate the location of the referenced 153 ha. of existing Carronadavderg property being the hatched area. It also indicates the McCarthy lands at Toor North. What is unclear however is why it is not possible to manage and fell the plantation on the McCarthy lands via the existing forestry access point A. As can be seen from the submitted plans and particularly from the aerial view, there are existing forestry tracks that run along the northern boundary of the McCarthy lands and via which it would appear that access to the public road at Point A could be obtained. There may be reasons relating to ownership or legal issues why this is not feasible however they are not clearly put forward in the application documentation or in the first party appeal response.

7.3. **Traffic Issues**

7.3.1. The appellants and observers have raised concerns with regard to the road and traffic implications of the proposed development. Specifically the capacity of the road network to cater for the proposed development is questioned and the absence of a traffic impact assessment with the application noted. The scale / width of the entrance is also questioned and considered to be excessive.

- 7.3.2. The appeal response submitted states that the L-2023 is an agreed haulage route with the council for timber. It would appear that this is likely to be the case given the location of the existing access at point A to the north of the site. As highlighted by the third parties however in the absence of a Roads report on the appeal file it is not possible to verify this fact.
- 7.3.3. The application documentation contains information regarding the proposed timber movements using the new access. This information is contained on the Supplementary Planning Application Data Sheet submitted with the application and prepared by Coillte. This shows that the movements from the 12.5 ha. plot are 12 - 41 30 ton loads in the years up to c.2035 and approximately 175 such loads per annum in the two years of final clear felling in 2035 / 2036. In the years up to 2035 the level of traffic generated by the development does not appear to me to be excessive and even in the final clear felling period the volumes equate to approximately 1 load every two days. In the event of a grant of permission it is recommended that the developer be required to submit a haul route from the site for the agreement of the Planning Authority. Given the period of operation I do not consider that a pre and post development road condition survey is appropriate. The Board may however consider it appropriate that a bond would be required from the developer to cover potential future damage to road infrastructure.
- 7.3.4. As highlighted by the third party submissions on file, I also note the fact that no traffic impact assessment was submitted with the application. The first party response to the grounds of appeal makes reference to a traffic assessment however no such document or details were submitted. As set out above, subject to the submission of details of the haul route for agreement and potentially a bond I do not consider that the proposed development is unacceptable from a traffic impact perspective. It is also worth noting that the proposed access will not in itself result in the planting of additional forestry in this location and will not therefore lead to an increase in traffic over and above that which would likely be generated in any event by the use of alternative access points.
- 7.3.5. The appellants contend that the size of the entrance sought is excessive in terms of width and the scale proposed appears to reinforce their suspicions regarding the end use of the access. I note that the access is proposed to be approximately 29 metres in width at the road edge and that in order for an 80 metre sight line to be achieved

there would be additional roadside to be removed. The first party however have indicated that the dimensions of the proposed access are consistent with the standard set out in the Forest Road Manual - Guidelines for the design, construction and management of forest roads and an extract from this manual is submitted with the appeal. To me, given the narrow road width and low traffic speed characteristics of the site it would appear that the design of proposed entrance with a 12 metre radius is generous. No justification for this entrance radius on the basis of the likely vehicles using the access has been presented. On balance, however, on the basis of compatibility with the Forest Road Manual it is considered that the engineering design of the proposed access is acceptable in principle.

7.4. Visual Impact

- 7.4.1. With regard to visual impact, the site is located in a relatively scenic upland location. As per the landscape evaluation contained at Appendix A9 of the County Development Plan, the appeal site is located in an area that is identified as vulnerable where such areas are described as *'very distinctive features with a very low capacity to absorb new development without significant alteration of existing character over an extended area'*. Section 6 of Appendix A9 sets out the policy with regard to areas identified as vulnerable and states that *'to be considered for permission, development in the environs of these vulnerable areas must be shown not to impinge in any significant way upon its character, integrity or uniformity when viewed from its surroundings'*. The proposed development, while of a significant scale in terms of its plan dimensions and being such that it would result in a significant amount of existing roadside boundary is not a development typology that would have a visual impact over a wide area. The development is not, therefore in my opinion a type that would impact on the character, integrity or uniformity when viewed from outside its immediate surroundings. I also note the fact that the site is not located such that it is impacted by any designated scenic routes. For these reasons it is my opinion that while the proposed development would result in a significant change in the local landscape it would not be such to impact negatively on the wider landscape character or integrity.

7.5. Other Issues

- 7.5.1. The third parties make reference to the potential impact of the proposed development on ecology and the potential impact on wildlife corridors. The site has not been the subject of any habitat survey however there is no indication that the site is of particular habitat significance.
- 7.5.2. The site is not located within or close to any European site. It is located within c. 3km of the Blackwater River SAC (site code 002170).
- 7.5.3. The proposal provides for roadside drainage by the inclusion of a 225mm diameter storm drain across the entrance. A surface water soakaway across the entrance is also proposed.
- 7.5.4. With regard to the issue referred to by the appellants as to who are the effective applicants in this case, the relationship between the landowner (Ms McCarthy) and Coillte has been set out in the first party response submission. It is clear that Coillte are involved in the development in their role as managers of the site for the duration of the forestry crop.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the agricultural zoning objective for the area and the pattern of development in the area which is characterised by existing forestry plantations, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area would not have an adverse impact on ecology and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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. Details of the design of the proposed access, including drainage shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interests of traffic safety.

3. The permitted access shall be used solely in connection with timber haulage, plantation management and landowner use connected to forestry or agriculture.

Reason: To clarify the purpose of the permitted access.

Stephen Kay
Planning Inspector

11th October, 2018