



An
Bord
Pleanála

Inspector's Report ABP-302244-18

Development	Permission for (1) Retention of location of as constructed Unauthorised Vehicular Access (2) Planning Permission to realign existing unauthorised roadside boundary and (3) Permission for retention of existing unauthorised first floor extension to existing shed.
Location	Red City, Fethard County Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	17/601426
Applicant(s)	Tom O'Brien
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Thomas Wright
Observer(s)	(1) Regina Christen (2) Liam Hayes

Date of Site Inspection

03rd September 2018

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.362 hectares, is located approximately 2km to the south west of Fethard in Co. Tipperary. The site is located on the northern side of the LS-70202-1, which is a lower category county road. The appeal site is occupied by an existing two-storey dwelling and associated out buildings including a, two-storey shed and a single-storey shed. Adjoining lands are agricultural lands.

2.0 Proposed Development

- 2.1. Permission is sought for retention of the location as constructed of an unauthorised vehicular access including roadside boundary walls/wing walls. Permission is sought to realign the existing unauthorised roadside boundary to achieve maximum sight lines, and for the completion of the existing entrance including the removal of part of the existing wall boundary/wing wall to the east of the site with the provision of a drainage channel at the entrance. Permission is also sought for retention of the existing unauthorised first floor extension to an existing shed. Permission is sought to replace an existing porch on the front elevation of the dwelling with a new conservatory.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 4 conditions. Of note are the following conditions....

Condition no. 2: Within one month of the grant of permission the block wall to the east of the access is to be replaced by the proposed post and rail fence.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Municipal Engineer (26/01/18): Available sightlines insufficient.

Planning Report (20/02/18): Further information required including provision of sufficient sightlines (70m with a 4.5m setback) and the provision of details of use of the first floor of the shed.

Municipal Engineer (04/07/18): It is noted that the revised proposal is the best achievable sightlines and that the public road at this location has a low volume of traffic.

Planning Report (13/07/18): The design and scale of the extensions to the dwelling and shed were considered satisfactory. The proposal for the entrance were considered satisfactory on the basis of the fact there is an existing dwelling on site and the low volume of traffic on the public road. A grant of permission was recommended based on the conditions outlined above.

3.3. Third Party Observations

Submission by Thomas Wright, Killerk North, Fethard, Co. Tipperary.

- The submission questions the validity of the application due to the site notice issues.
- The submission notes that the original entrance to the dwelling was located further southwest and notes that the level of sightlines available have not been detailed with it questioned what standard should be achieved and no comparison to what was available at the original entrance.
- The submission raises concerns regarding the proposed drainage channel and where water will discharge to.
- The submission questions the structural integrity of the proposed first floor extension to the shed.

4.0 Planning History

No planning history.

5.0 Policy Context

5.1. Development Plan

The relevant South Tipperary County Development Plan 2009

Table 10.1 Sightline requirements for Local Roads less than 4.25m in width is 70m

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been lodged by Thomas Wright, Killerk, Fethard, Co. Tipperary.

- The level of sightlines available at the entrance are less than the minimum standards set down under the County Development Plan.
- It is noted that sightlines at the original entrance to the site were better than that achievable at the entrance permitted under this application.
- The appellant raises an issue concerning sightlines and direction of traffic.
- It is noted that the lands to the east and west of the entrance are under the control of the applicant and that a far more significant improvement of sightlines is possible, but has not been insisted upon by the Council.

6.2. Applicant Response

Response by The Planning Partnership on behalf of the applicant Tom O'Brien.

- It is acknowledged that sightlines achievable are not considered within the 70m standard under the County Development Plan. It is noted that the entrance serves an existing dwelling, is located on a road with low traffic

volumes and that it is interest of the proper planning and sustainable development to permit the entrance as proposed.

- It is noted the original entrance located to the south west was restricted in sightlines due to the existing shed to the east. It is noted that the current entrance subject to retention is an improvement over the original entrance to the site.
- It is noted that the influence of traffic direction on the length of sightline is considered negligible.
- It is noted that the appellant's arguments that sightlines could be further improved by altering the boundaries on the lands adjoining the site (in applicant's ownership) would be detrimental rural character (removal of hedgerow and habitat).
- It is noted that procedural matters are not a material consideration.
- It is noted that in relation to the first floor of the shed an amended condition restricting use should be considered to ensure its continued use ancillary to the dwelling.
- It is noted that the design and scale of the conservatory is acceptable in design and scale.

6.3. Planning Authority Response

Response by Tipperary County Council

- It is considered that the proposal is an improvement of the existing access arrangements with the proposal to replace a block wall with a post and rail fence to the east. It is also noted that the entrance serves an existing dwelling and the road is lightly trafficked.

6.4. Observations

Observation from Regina Christen, Redcity Fethard, Co. Tipperary.

- The observer notes that the permission granted will help public safety on the road.

Observation from Liam Hayes, Redcity, Fethard, Co. Tipperary.

- The observer notes that the permission granted will enhance public safety on the road.

6.5. Further Responses

Response by the appellant, Thomas Wright.

- The appellant notes their motivation to appeal is traffic safety and reiterate their view that sightlines could be increased by using the lands under the control of the applicant as well as noting that sightlines at the original entrance were better.
- The appellant reiterates their concern regarding traffic safety.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

Traffic safety/vehicular entrance

Design/scale of development

Appropriate Assessment

7.2. Traffic safety/vehicular entrance

7.2.1 The proposal has a number of aspects, retention of a vehicular entrance, retention of a first floor extension to a shed and permission to construct an extension to the front of an existing dwelling. The appeal concerns the vehicular entrance and contends that such does not have sufficient sightlines and would be unsatisfactory in the context of traffic safety. The proposal is for retention of a vehicular access and wing walls. The proposal and permitted development also includes removal of an existing

block wall constructed to the east of the entrance and provision of a post and rail fence setback further from the road edge to improve sightlines over the existing arrangement.

7.2.2 The appellant notes that sightlines proposed are not sufficient and notes that sightlines at an original entrance located further to the south west were better as well as noting there is scope to improve sightlines further by use of road frontage on adjoining lands to the east. The first factor of note concerning this proposal is that there is an existing and long established dwelling on site. Secondly this dwelling has based on the information on file had the benefit of vehicular access for a significant period of time. Based on the information on file the dwelling on site originally had a vehicular entrance located further to south west and on the opposite side of the existing shed on the road frontage. This entrance was closed a significant period of time ago and a new entrance opened. It appears that works have been carried out at this entrance including construction of new walls and that such is subject to retention under this application.

7.2.2 The standards under Chapter 10, Development Management Standards of the County Development Plan note that required sight lines (Table 10.1) are 70m for local road of 4.25m or less. This is based on a setback of 2.4m for single residential or 4.5m for multiple residential/ commercial/agricultural/other (eye height 1.05m). It appears that a setback of 4.5m is used as the entrance serves a dwelling, some sheds and a landholding. A set back of 4.5m would appear be an unnecessarily larger setback for the scale of development on site. It is clear that the sightline standards under table 10.1 are not achievable at this location. Notwithstanding such there are number of factors for considerations. As noted above the entrance serves an existing dwelling and a vehicular entrance has been established at this location for a significant period of time. Based on the information on file, I do not consider that the original entrance further to the south west was necessarily a better entrance arrangement as such was in close proximity to the shed on the road frontage and did not appear to feature any splay or setback. The entrance for retention does feature such and would be a better layout than the original entrance to the south west. The

site is located off a lower category county road (the LS-70202-1), which is not heavily trafficked road. Having inspected the site and driven into and out of the entrance in question, I would note that the layout of the entrance as proposed would be satisfactory in the context of traffic safety and would not endanger public safety on basis that the proposal serves an existing dwelling, sightlines are sufficient in standard based on the volume of traffic using and design speed of the public road. I would note that although the applicants do own lands to the east, I do not consider that it is necessary to use such to improve sight lines and that such would require removal of a significant level of hedgerow and be detrimental to the rural character of the area.

7.3 Design/scale of development:

7.3.1 The overall design and scale of the extension to the front of the dwelling and the retention of the first floor area of the shed would be satisfactory in the context of visual amenity and are of a scale in keeping with the character of existing development on site.

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 a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

9.1. Having regard to design and scale of the proposed development, the fact that the entrance for retention serves an existing dwelling, the level of sightlines available and its location on a lower category road with low traffic volumes, the proposed

development would be satisfactory in the context of visual amenities of the area and in the context of traffic safety. 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 and particulars submitted to the planning authority, 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. Within one month of the grant of permission, the block boundary wall to the east of entrance shall be replaced by a post and rail fence as detail in the plans submitted.

Reason: In the interests of clarity and orderly development.

3. The first floor area of the shed subject to retention shall be used for purposes incidental to use of the dwelling on site and shall not be used as an independent dwelling unit or for any commercial or industrial purposes.

Reason In the interests of orderly development.

4.

(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

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

Colin McBride
Planning Inspector

12th October 2018