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Bord  
Pleanála

## Inspector's Report

**ABP-304135-19**

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<b>Development</b>	Vehicular access entrances off R115 Road and off L1059 road
<b>Location</b>	Laragh Castle (Protected Structure), Laragh East , Glendalough, Co Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	181427
<b>Applicant(s)</b>	Janet Halpin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Niamh O' Shaughnessy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> July 2019
<b>Inspector</b>	Emer Doyle

## **1.0 Site Location and Description**

- 1.1. The site is located in the centre of Laragh, Co. Wicklow. Laragh Castle is a protected structure and the existing access to the site is via a right of way from a private road from the R115 Military Road. Part of the lands is located adjacent to St. John's Church on the local road L1059.
- 1.2. Military Road is a very busy road serving the Sally Gap and there are double yellow lines on both sides of the road at this location. The private road serving Laragh Castle is in very bad condition with poor surface treatment and is very narrow. The lands surrounding the castle appear to be over overgrown.

## **2.0 Proposed Development**

- 2.1. Permission sought for two new entrances- one off the R115 regional road and the other off the L-1059 local road to serve lands associated with Laragh Castle, a protected structure.
- 2.2. Details submitted in response to a Further Information Request provided for a detailed justification for the proposed entrances.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 5 No. conditions. Condition No. 2 required that before any development commences, the applicant shall submit detailed proposals for the design and construction of the culverts to the existing drainage channels on the public road. Condition 3(a) required that the entrances shall be formed by the erection of a galvanized farm gate and gate posts. All other conditions are of a standard nature.

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

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

The initial planner's report (11/02/19) considered that the provision of two new vehicular entrances off the adjoining public road network in the absence of a genuine need is not recommended. It was considered that further information was required to

demonstrate why the new entrances were required. The second report (14/03/19) considered that the provision of the proposed 2 No. entrances to facilitate access to the lands for drainage and maintenance purposes as outlined in the submission was reasonable and permission was recommended.

### 3.2.2. Other Technical Reports

**Area Engineer:** No objection to the proposed development.

### 3.3. Prescribed Bodies

No reports.

### 3.4. Third Party Observations

One third party objection was received. The issues raised are similar to those in the grounds of appeal.

## 4.0 Planning History

PA 14/1766

Permission granted for retention of works carried out to Laragh Castle a protected structure.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is the Wicklow County Development Plan 2016-2022.

The site is located within the boundary of the Laragh- Glendalough Settlement and Tourism Plan 2016-2022 and zoned as a secondary development area.

TR27 New means of access onto regional roads will be strictly controlled and may be considered if one of the following circumstances applies:

- The regional road passes through a designated settlement and a speed limit of 50km/h or less applies;

- where the new access is intended to replace an existing deficient one;
- where it is demonstrated that the entrance is essential and no other means of access is available.

## **5.2. Natural Heritage Designations**

5.2.1. The nearest Natura 2000 site is the Wicklow Mountains SAC c. 100m to the west of the site.

## **5.3. EIA Screening**

5.3.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

## **6.0 The Appeal**

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

- The main issues raised relate to land ownership and drainage.

### **6.2. Applicant Response**

- None submitted.

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

- None submitted.

### **6.4. Observations**

- None.

## 7.0 Assessment

7.1. Having inspected the site and examined the associated documentation, the following are the relevant issues in the appeal.

- Traffic Safety
- Legal Issue
- Appropriate Assessment

### 7.2. Traffic Safety

7.2.1. Permission is sought for two new entrances serving Laragh Castle, a protected structure with associated agricultural lands.

7.2.2. The applicant was advised in a Further Information Request dated the 13<sup>th</sup> day of February 2019 that the provision of additional entrances on the public road network in the absence of a genuine need is unlikely to be recommended and required to submit a justification for the proposed entrances. The application provided a justification in the response submitted to the Planning Authority dated the 22<sup>nd</sup> day of February 2019 which included the following:

- The land on the L1059 is only accessible from the main entrance to Laragh Castle on the R115.
- This entrance is a right of way entrance with the laneway being owned by the adjoining neighbours.
- The laneway is in poor condition and any further traffic i.e. machinery, would have a bad effect on the already poor condition.
- As the laneway is not considered a public laneway by Wicklow County Council, there is a constant problem of cars being parked on the laneway and blocking the entrance to Laragh Castle and the lands on the L1059.
- While there is an entrance on the L1059, the land adjacent to the L1059 cannot be accessed. The bastion of the wall protrudes out to the edge of the road thus blocking access.
- The land has not been maintained for many years. The existing drainage has not been kept clear and this has caused water logging of the land.

- The lack of proper drainage has resulted in the loss of the oak tree where the new entrance is proposed, plus a further seven trees on the same lands.
- The land is at a higher level to the church on St. Johns Road and needs to be drained properly, as the lack of drainage is causing dampness in the church.
- The land is zoned and should have its own entrance without disturbing the entrance to Laragh Castle.
- The entrance on the R115 is necessary as the land is in need to drainage and maintenance and it currently cannot be accessed.

7.2.3. I note that the policy for new entrances on regional roads is set out in Objective TR27 of the Wicklow County Development Plan 2016-2022. I am satisfied having regard to the justification submitted by the applicant that it has been adequately demonstrated that the proposed entrance is essential for the purposes of drainage and maintenance of lands. These lands are currently inaccessible and are very overgrown and haven't been maintained for many years. I examined the existing right of way serving Laragh Castle from the private laneway off the regional road. It has poor surface treatment and is very narrow and I would share the concerns of the applicant that further traffic on the laneway would have a negative impact on the already poor condition. I consider that the applicant has also demonstrated that a new access is necessary from the L1059.

7.2.4. I note that both proposed entrances have good sightlines and the Area Engineer has not raised any issues in relation to traffic safety. Having regard to the justification submitted in relation to the need for the proposed entrances, and the nature of the use for the maintenance and drainage of existing agricultural lands, I am satisfied that the proposed entrances would not constitute a traffic hazard and would be in accordance with the proper planning and sustainable development of the area.

### 7.3. **Legal Issue**

7.3.1. I note that the objector has raised an issue regarding ownership of lands at this location and has provided a copy of folio deeds of land in her ownership. I note that the applicant submitted information in the response to the further information request that the objector is blocking access from an existing 200 year old entrance.

7.3.2. The proposed entrances are not located on lands included in the folio documents submitted by the appellant.

7.3.3. In any case, I consider that any dispute relating to land ownership is not a planning matter and is a civil matter. Section 34(13) of Planning and Development Act 2000 states the following: 'A person shall not be entitled solely by reason of a permission under this section to carry out any development.' As such, this issue is not a matter for the Board to adjudicate on.

#### 7.4. **Appropriate Assessment**

7.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the 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 permission subject to the following conditions.

### 9.0 **Reasons and Considerations**

Having regard to the nature and location of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience.

### 10.0 **Conditions**

1. The development shall be carried out 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 in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The agricultural entrances for which permission is sought shall be fitted with an appropriate agricultural gate and piers. The gates shall open inward only. Detailed drawings illustrating the gate and piers shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. Drainage arrangements for the site including detailed proposals for the design and construction of culverts to the existing drainage channels on the public road, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to prevent flooding of the public road.

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Emer Doyle  
Planning Inspector

11<sup>th</sup> July 2019