



An
Bord
Pleanála

Inspector's Report ABP305620-19

Development	Permission for retention of two agricultural entrances and internal farm roadways as constructed.
Location	Knockaunavaddreen, Mallow, County Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	19/5863
Applicant	Ballykitt Farms Ltd.
Type of Application	Retention Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party -v- Grant.
Appellant	Rachel Sheehan
Observers	None.
Date of Site Inspection	18 th December, 2019.
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is located in the rural area of Knockaunavaddreen to the north of County Cork, approximately 8.7 kilometres south-west of the town of Doneraile and 2 kilometres north-west of the village of New Twopothouse. The appeal site is located on the western and eastern sides of a local road, the L1200. This road has a straight alignment in the vicinity and is governed by the 80 kilometres per hour speed limit.
- 1.2. There are a number of individual dwellings and farm structures located further north-west and south-east of the development along the L-1200.
- 1.3. The site forms part of a sizeable land holding which belongs to the applicant's and a number of third-party landowners from whom the applicant's lease lands. Letters from the third-party landowners have been submitted consenting to the works.
- 1.4. The site itself is linear in shape (given that it pertains to internal farm roadways and entrances) and has a stated area of 0.914 hectares. The total landholding farmed by the applicants amounts to circa 106.3 hectares, 41.25 hectares of which are owned. There is a farm dwelling, a milking parlour and some extensive ancillary farm structures located further south of the internal farm roadways (the subject of this appeal).

2.0 Proposed Development

- 2.1. Planning permission is sought for the retention of two agricultural entrances (one each side of the L-1200), erection of piers and gates and internal farm roadways.
- 2.2. The internal farm roadways which are the subject of this appeal are approximately 1.6 kilometres long and vary in width from approximately 3.5 metres to 4.5 metres. They are surfaced with a levelled and fine granular sand-stone type material over a solid base. It is further noted that there are a number of pre-existing internal farm roadways to the west and north-west of the main farm buildings which comprise a further 1.5 kilometres approximately.
- 2.3. A covering letter was submitted with the planning application dated 23rd July 2019 by TG Linehan & Co. Chartered Civil Engineers. The covering letter outlines a

rationale for the entrances and internal agricultural roadways being to reduce the length of round-trip journeys from the main farmyard area to the extensive farm lands.

- 2.3.1. The covering letter also details the sightlines achievable from the agricultural entrances and that Aco-drains will be provided at the entrance points in order to manage surface water run-off. A justification for the agricultural roadway widths has also been submitted and relates to the need to facilitate the use of large agricultural machinery. Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) are also addressed within the content of the covering letter.

3.0 Planning Authority Decision

3.1. Decision

Cork County Council in its decision dated on the 17th day of September, 2019, issued a notification to grant planning permission subject to 12 number standard conditions.

3.2. Internal Reports

3.2.1. Planning Reports

The Area Planner recommended that planning permission be granted subject to conditions. The planner's report sets out details of the proposed development and local development plan policies as they relate to the appeal site. It has provided for the submission of landscaping proposals as part of the planning conditions, albeit that this area is located outside of areas identified as being of High Value landscape.

3.2.2. Internal Reports

- Area Engineer: No objection, subject to conditions. The Area Engineer outlined an issue in relation to dairy cow crossing which the Planning Officer recommended be omitted following discussion with the Area Engineer.
- Environment Section: No objection, subject to conditions.

- County Archaeologist: Recommends that any further development of this scale on the holding or any closer to the archaeological remains should be subjected to Archaeological Assessment.

3.3. Observations

- 3.3.1. A submission was received from the current appellant raising concerns about the proposed development. The main concerns related to road safety, planning rationale, EIA and visual impact. The contents of the submission have been read and noted.

4.0 Planning History

- 4.1. Planning Authority reference number 17/6750: In 2017 Cork County Council granted planning permission to the current applicant for the development of an agricultural shed, underground slatted tank and silage slab.
- 4.2. Two enforcement files are referenced. EF10859 and EF18060 both related to the opening of unauthorised entrances. The entrances were deemed to constitute unauthorised development by Cork County Council.

5.0 Policy and Context

- 5.1. The site is governed by the policies and provisions contained in the Cork County Council Development Plan 2014 – 2020.
- 5.2. In relation to agricultural development the development plan seeks to maintain the vibrant and healthy agricultural sector based on the principles of sustainable development. Section 6.8.1 relates to agricultural development.
- 5.3. Specific objective EE 8-1 encourages the development of a dynamic and innovative sustainable agricultural and food production sector by:
- Encouraging the development of sustainable agricultural practices and food sector infrastructure including, farm buildin

5.4. Natural Heritage Designations

None Relevant.

5.5. Environmental Impact Assessment

See section 7.2 below.

6.0 Grounds of Appeal

6.1. The main grounds of appeal may be summarised as follows:

- 6.1.1. No planning rationale has been submitted with the application to justify the need for the proposed development. The appellant contends that alternatives access options are available to the applicant and/or that a cattle underpass could be developed.
- 6.1.2. The proposal would endanger traffic safety if the entrances are to be used for the crossing of dairy cattle on a daily basis as the public road (the L1200) is a busy road. The appellant acknowledges that the road is straight at the point of the entrances, but this in turn facilitates high traffic speeds. Reference is made to a number of fatalities that have occurred on this road, two since 2014 and that the development could exacerbate this situation.
- 6.1.3. A Road Safety Audit should be submitted to determine if the development has the potential to impact upon the local road safety.
- 6.1.4. An Environmental Impact Assessment Report should have been submitted as the development, taken in conjunction with pre-existing farm roadways, would exceed the two kilometre trigger for the development of roadways as set out with Schedule 5 of the Planning & Development Regulations 2001 (as amended).
- 6.1.5. If permission is to be granted, the gates should be secured at all times and not left swinging open.
- 6.1.6. No details of the duration of the land lease arrangements have been submitted.

6.2. **Planning Authority Response**

No additional comments were noted from the Planning Authority in relation to the appeal.

6.3. **Applicants Response**

The applicants have stated that they are aware of the dangers of the L-1200 and the proposed entrances and farm roadways will remove their large farm machinery from the local road network and improve local road safety. The new entrances are larger and wider than the original one and therefore safer. Generous sightlines are available at the entrances (the subject of the appeal). The development will improve health and safety on the farm and ensure that public road users are not inconvenienced with delays.

6.4. **Response on behalf of the Appellant**

The appellant has responded to the applicant's response to the grounds of appeal, largely addressing the same issues as raised within her submissions to the Planning Authority.

7.0 **Planning Assessment**

7.1. I consider that the main issues to be addressed are those raised in the grounds of appeal. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues are considered to comprise:

- Environmental Impact Assessment
- Justification for proposed development.
- Traffic Safety and Sightlines.
- Other issues.

7.2. **Environmental Impact Assessment**

7.2.1. The applicant submitted a cover letter (dated the 23rd July 2019) with the planning application made to the planning authority. Within this document it is stated that a

mandatory EIA is not required as the farm roadways, the subject of the planning application, are less than two kilometres in length and below the threshold for the submission of an Environmental Impact Assessment Report.

7.2.2. For the purposes of Environmental Impact Assessment, the relevant class of development, in the first instance, is class 10(dd) of the Planning and Development Regulations 2001 (as amended) which pertains to the development of private roadways exceeding 2000 metres in length. The development, subject of the current appeal, is approximately 1.6 kilometres in length and does not exceed this threshold. In this instance, given the extent of pre-existing roads on the land holding, estimated to be in the region of 1.5 kilometres in length, Class 13 of the Planning and Development Regulations 2001 (as amended) also has to be considered.

7.2.3. The farm roadways, the subject of the current appeal being 1.6 kilometres in length, in effect, constitute an extension to the pre-existing internal farm road network which has a length of approximately 1.5 kilometres. Class 13 (a) (i) pertains to development where an extension brings the entire development within a class, the extension must bring the size of the overall development over the relevant threshold. Where the existing development has already been subject to an Environmental Impact Assessment, the first requirement is automatically met. Class 13 (a) (ii) pertains to: any change or extension of development already authorised, executed or in the process of being executed which would result in an increase in size greater than: -

- 25 per cent, or
- An amount equal to 50 per cent of appropriate threshold, whichever is the greater

The internal farm roads would increase in length by in excess of 100 per cent (greater than 25 per cent allowable under Class 13) and also would exceed 50 per cent (one kilometre) of the two kilometre threshold set out in class 10 (dd). I am satisfied, therefore, that a mandatory Environmental Impact Assessment is required in this instance.

7.2.4. This appeal pertains to permission for the retention of development. Section 34 (12) of the Planning and Development Act 2000 (as amended) outlines the following in this regard: A Planning Authority/The Board shall refuse to consider an application to

retain unauthorised development of land where the authority/board decides that had an application for permission been made in respect of the development concerned before it was commenced the application would have required that one or more than one of the following was carried out-(a)-an environmental impact assessment (b) a determination as to whether an environmental impact assessment is required (c) an appropriate assessment.

- 7.2.5. In the circumstances of the subject application, being that which seeks retention permission, the Board is precluded from granting permission, as the development concerned would have been subject to a mandatory Environmental Impact Assessment.

7.3. Justification for Proposed Development

- 7.3.1. The grounds of appeal argue that the applicant has failed to submit a sound planning rationale for the agricultural development. The rationale submitted by the applicant is that the development makes it easier for him to traverse between the various land parcels that he farms. I am satisfied that the current proposals will reduce the need for the applicant to traverse the local roads with his agricultural machinery. I note the location of the historical farm entrances used to access the L-1200 from this farm holding, some of which appear to be un-used and fenced off. I consider that the current access arrangements, for which retention permission is sought, represent a safer option to serve the agricultural holding in terms of their increased dimensions and location on a straight stretch of the L-1200, a local county road.

7.4. Traffic Safety and Sightlines

- 7.4.1. The farm lands which the entrances and internal farm roadways serve is very extensive. The Area Engineer acknowledges that adequate sightlines of 80 metres from a 4.5 metre set back from the carriageway edge have been demonstrated on the Site Layout Plan submitted by the applicants. I am satisfied that the agricultural entrances do not in my view constitute a traffic hazard.
- 7.4.2. The internal farm roadways traverse the L-1200 which is a local county road. Given the low level of traffic attributable to the development, the majority of the roads are internal farm roadways and the category of road which the farm entrances adjoin, it

is not considered that the submission of a Road Safety Audit would be warranted in this instance.

8.0 Appropriate Assessment

Having regard to the nature and limited scale of the development and nature of the receiving environment together and the absence of any connectivity to any European site, no Appropriate Assessment issues arise and it is not considered that the development would have been likely or is likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

9.0 Recommendation

- 9.1. It is recommended that planning permission be refused for the reason and considerations set out below.

10.0 Reasons and Considerations

On the basis of the submissions made in connection with the planning application and the appeal, it appears to the Board that the farm roadways in question, circa 1.6 kilometres in length, constitute an extension to the pe-existing internal farm roadway network, circa 1.5 kilometres in length.

By reference to class 10 (dd) , relating to private roadways and Class 13 (a), relating to changes and extensions to developments, of Schedule 5, Planning and Development Regulations, 2001 (as amended), the Board is satisfied that the proposed development should have been subject to a mandatory Environmental Impact Assessment.

In the circumstances, where the application is for the retention of the development, the Board in accordance with section 34 (12) of the Planning and Development Act 2000 (as amended), is precluded from granting permission.

Fergal O'Bric,
Planning Inspector.

6th February, 2020.