



An
Bord
Pleanála

Inspector's Report

ABP-306141-19

Development	To replace the existing agricultural entrance with a domestic entrance to provide access to residence. The site is within the curtilage of a Protected Structure.
Location	Mount Congreve, Killotteran, Co. Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	19/690
Applicant	Ray Sinnott on behalf of Mount Congreve Trust
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant
Appellants	John & Joan Walsh
Date of Site Inspection	19.02.2020
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located on a local road approx. 3km west of Waterford city and is associated with the Mount Congreve estate. Mount Congreve House and Gardens is a notable visitor attraction.
- 1.2. The site comprises an existing gated agricultural entrance and track. The gate is set back several metres from the public road. There is a continuous centre line in the local road to the front of the site. There is a stone wall either side of the metal gate with trees and vegetation along the roadside boundary. The agricultural roadway inside the entrance is in poor condition. There is a single-storey house adjacent to the east.
- 1.3. The site has a stated area of 0.675 hectares.

2.0 Proposed Development

- 2.1. Planning permission is sought to replace the existing agricultural entrance with a domestic entrance to provide access to a house at Mount Congreve.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to grant permission subject to 2 no. conditions.

3.2. Planning Authority Reports

- 3.2.1. The Planner's Report is the basis for the planning authority decision. The Planning Officer considered that the proposed development was acceptable and in accordance with the policy of the Waterford County Development Plan 2011-2017, (as extended), and in accordance with the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Roads Department/District Engineer – No objection subject to conditions.

Conservation Officer – The Planner's Report states that, in a verbal report, no objection was raised.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

1 no. submission, with photographs, was received from John and Joan Walsh, Killoteran Hill, Old Kilmeaden Road. The issues raised are largely covered by the grounds of appeal with the exception of the following:

- The appellants were guaranteed when they bought the house that the subject entrance would only ever be used for agricultural purposes.
- Dust and debris from work that has already taken place.
- There are already possibly two entrances for the house and the need for another entrance is queried.
- There is a query whether it will be taxpayers paying for the roadway and the City Council is making the application to the City Council so they will automatically get it.

4.0 **Planning History**

None relevant.

5.0 **Policy Context**

5.1. **Waterford County Development Plan 2011-2017 (as extended)**

- 5.1.1. The site is an area zoned 'Integrated Rural Tourism and Recreational Complexes' in the Waterford City Environs map where it is a zoning objective to provide for the

development of integrated tourism facilities which include accommodation, sporting and recreational facilities and associated support services.

- 5.1.2. Table 10.1 (Minimum Sightline Requirements) cites a sightline requirement of 55 metres on an 80kph local road.

5.2. **Natural Heritage Designations**

- 5.2.1. The closest Natura 2000 site is Lower River Suir SAC approx. 300 metres to the north.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are submitted by John and Joan Walsh, Killoteran Hill, Old Kilmeaden Road. The main issues raised in the appeal can be summarised as follows:

- While the application is described as a proposal to replace an existing agricultural entrance with a domestic entrance it is in fact a proposal to change the use of an existing agricultural entrance to use as a domestic entrance which will become the entrance road to the house. It is also for the retrospective surfacing of part of a worn agricultural track, some of which has already taken place without permission, and should therefore have been subject of a retention application.
- The applicant has no authority to make the application as he is merely an employee of the estate. The application site is part of the Mount Congreve estate which is in state ownership and held in trust by Waterford City and County Council and the written consent of the Office of Public Works or the local authority should have been obtained.
- The application form states the applicant on behalf of the Mount Congreve Trust is the owner having acquired it in 2018. The property was not sold in 2018 though the local authority became a trustee in 2017.

- The house is currently accessed from lands which were originally part of the Mount Congreve estate but have been disposed of. There are alternative access options including connecting to the main estate access and egress.
- The agricultural access was originally proposed to serve the appellants' house (P.A. Reg. Ref. 92/137) but it was deemed unsuitable to serve a house. The vehicular entrance was relocated 25 metres to the east. The current access is the exact location deemed unacceptable in 1992.
- The change from agricultural to domestic use will result in a significant intensification of use to the severe detriment of road safety. While sightlines can be achieved the entrance will present an additional hazard to the appellants', those using the opposite entrance and those using the road.
- The local road, L4411, is heavily trafficked and speeding is an issue. The Council's Area Roads Engineer required 100 metres sightlines rather than the Development Plan requirement of 55 metres.
- There is a hedge between the front of the appellants' house and the entrance/access road. This is kept low to allow daylight and sunlight to the front/south facing elevation. The use of the entrance and access road to the house, to the front of the appellants' house, will be a source of noise and light nuisance from cars and the opening and closing of gates.
- The applicant's house would become backland development and the appellants' house would suffer the typical symptoms of backland development such as noise and light nuisance, potential loss of privacy and traffic.
- The development implies the access road is to be upgraded to a domestic access road standard. Work to upgrade the access took place a number of years ago. It does not appear the planning authority was aware of this and the consent of the owner or the then trustee had not apparently been obtained. The application should have been for retention of the road.
- If the gates are left open there will be a security issue for the appellants. The party boundary is not a solid boundary and there will be no natural surveillance. This should also be a safety and security issue for the local authority as trustee of the estate.

- The appellants' house will be devalued as a result of the unauthorised works and the proposed development.

6.2. Applicant's Response

The main points raised can be summarised as follows:

- As stated in all documentation the applicant is acting on behalf of Mount Congreve Trust and does not claim to be the owner of the property. The application had to be made to provide a future access to the house occupied by the applicant but owned by the Trust. Access will have to be provided regardless of occupant. The current access will be unavailable after 24.01.2020 as the section of land used to access the house has been sold. A map indicating the existing access route is attached. It has not been possible to make provision for the continued use of this route and the applicant will be relying on the good will of the new owners until the new access is completed.
- Any alternative option would require passing directly by the main house or through the gardens. A map of these routes is attached. Proposed works to increase Mount Congreve's profile as a tourist attraction would mean that these alternative access routes would be crowded with visitors and would not be practical.
- The agricultural entrance has always been at this location with a farm track running through the trees and along the boundary. The only works carried out were the removal of grass at the centre of the track and general repairs and maintenance. Use as a domestic entrance will mean more frequent use though by lighter vehicles. The entrance layout and 18 metres distance from the appellants' entrance is enough to ensure both entrances can be safely used.
- As part of the Part 8 application for the development of Mount Congreve the local authority Roads Department recommended that a 50kph speed limit be introduced on the roads leading to the estate with traffic calming measures closer to the entrance which will reduce traffic speed and make the entrances safer for all users.

- Lights from domestic vehicles will not be able to shine over the boundary hedge which is over 1.8 metres high. The line of the access track immediately curves left. It is foreseen that the entrance and roadway will be further upgraded which will reduce road noise.
- A domestic entrance will improve security and safety.

6.3. **Planning Authority Response**

None received.

7.0 **Assessment**

The main issues are those raised in the grounds of appeal and the Planning Report 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:

- Principle of Development
- Traffic Safety
- Impact on Adjacent Residential Amenity
- Impact on Protected Structure
- Validation Issues
- Appropriate Assessment

7.1. **Principle of Development**

- 7.1.1. The applicant has set out the background to the application in the original application and in the response to the appeal. The appellants state that there are alternative access options available.
- 7.1.2. The existing house, which is owned by the Mount Congreve Trust and currently occupied by the applicant, is located within the grounds of the estate, approx. 270 metres north of the access point subject of the planning application. The house is

currently accessed through land originally part of the estate from the local road L4411 to the east. The land through which the existing access traverses has been sold and, as of 24.01.2020, it is stated the applicant is relying on the good will of the landowner for temporary access.

- 7.1.3. The main vehicular entrance to the Mount Congreve Estate is on the L4411 approx. 400 metres to the west. The alternative options to provide access to the subject house appear to be via the main estate road. There is a proposed Part 8 development which has the objective 'to develop Mount Congreve House and Gardens into a world class visitor experience'. The applicant states that using the main estate road would lead to conflict with visitors and would not be a practical solution.
- 7.1.4. Having regard to the foregoing I consider that the use of the existing access point for the house to be acceptable in principle.

7.2. Traffic Safety

- 7.2.1. The grounds of appeal state that the use of the agricultural entrance as a domestic entrance will have a significant impact on traffic safety.
- 7.2.2. The existing agricultural entrance is located on a straight stretch of the local road which has a continuous centre line. It is close to the crest of a hill with road levels sloping down to the west. The access exists and therefore a new access is not being created. The appellants' vehicular entrance is to the east with another domestic entrance on the opposite side of the road which serves two houses.
- 7.2.3. Table 10.1 (Minimum Sightline Requirements) of the Waterford County Development Plan 2011-2017, as extended, requires a minimum 55 metres sight distance onto an 80kph local road. The Site Layout Plan drawing (Drawing No. MCT-09-19) submitted with the application shows this sightline distance to both sides. Notwithstanding, it appears that a distance in excess of the minimum 55 metres required can be achieved to both sides even taking into consideration the drop in the road level to the west of the entrance. Condition 2 (b) of the planning authority decision requires the maintenance of the sightline to the west, which is within the estate lands, for a distance of 100 metres and, notwithstanding the fact that sightlines in accordance with the Development Plan are 55 metres, it is considered this condition is reasonable.

7.2.4. I do not consider that the change of the existing entrance from agricultural to domestic would have any adverse impact on traffic safety at this location and minimum sightlines can be achieved.

7.3. Impact on Adjacent Residential Amenity

7.3.1. The appellants state that the change of use to a domestic entrance will have a significant adverse impact on the amenity of their property from noise and light nuisance, privacy and security.

7.3.2. I consider that the proposed access is the most appropriate and reasonable access to the house given that there is an existing access point at this location, the land through which vehicular access is currently obtained is no longer available and the alternative options appear to involve the main access road to the estate. It is accepted by the appellants that the access is currently used for agricultural purposes though there are differences in the type of vehicles and times of day of use between agricultural and domestic uses.

7.3.3. The access would serve one house. There would likely be a relatively limited amount of traffic associated with the house. I do not consider that traffic associated with the house would have an undue adverse impact on the residential amenity of the adjacent house.

7.4. Impact on Protected Structure

7.4.1. The development is located within the curtilage of Mount Congreve, which is a Protected Structure, RPS No. 35, of the County Development Plan 2011-2017, as extended. It is described as a 'Country House and Demesne'.

7.4.2. The proposed works are limited and will not have any impact on the House which is located approx. 750 metres to the north west. The Plan and Elevation drawings (Drawing No. MCT-09-19) indicate that the only change to the roadside boundary is the fitting of new gates. The existing farm roadway adjacent to a tree line, which appears to be generally approx. 4 metres wide, is to be repaired and rolled with seven surface water gullies on its length leading to soakaways. I note the Planner's Report states that the planning authority Conservation Officer had no objection to the development.

7.4.3. Having regard to the relatively limited intervention and alteration proposed I do not consider that there would be any undue impact on the Protected Structure as a result of the proposed development.

7.5. Validation Issues

7.5.1. The grounds of appeal raise issues with the applicant's authority to make the application and allege unauthorised activity has already been carried out.

7.5.2. Validation of the planning application is a matter for the planning authority and the planning authority accepted the application as submitted. The Board has no powers or role in enforcement matters.

7.6. Appropriate Assessment

7.6.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, where there is no hydrological pathway to any 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

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Waterford County Development Plan 2011-2017, as extended, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety, would have negligible impact on the Protected Structure and would not seriously injure the amenities of the

area or of property in the vicinity. 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. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of public health.

3. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

4. (a) The sightline to the west of the entrance shall be provided for a distance of 100 metres. The roadside verge area shall be maintained to provide for same.
(b) Gates shall not open outwards.

Reason: In the interest of traffic safety.

Anthony Kelly

Planning Inspector

28.02.2020