



An
Bord
Pleanála

Inspector's Report ABP – 307576-20.

Development	New entrance and construction of a stoned entrance road with alterations to land levels.
Location	Smithstown, Shannon, Co. Clare.
Planning Authority	Clare County Council.
P. A. Reg. Ref.	19 676
Applicant	Flan O'Neill
Type of Application	Permission for retention.
Decision	Grant Permission and Refuse Permission (Split Decision).
Type of Appeal	Third Party
Appellant	James Quinn and Margaret Marcus.
Date of Site Inspection	6 th October, 2020
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site is rectangular in shape, has a stated area of 0.38 hectares and is located to the south side of Smithstown Road and the north side of a minor road (LS-7178) where the alignment is curved on the east side of Shannon. An entrance has been constructed on the frontage comprising a gate along with timber post and rail fencing along the splays, site clearance works have been carried out and an access route has been constructed within the site lands. To the east side is a garden centre and to west side is a recycling centre under the control of the local authority. Access to these developments is off the road on the northern site frontage. There is an entrance to a dwelling at the rear of the garden centre to the east side of the entrance to the application site.
- 1.2. This road on each side of which there are residential and commercial developments is narrow in width, unlit and has no pedestrian facilities and it has a junction a short distance to the east of the site location with a minor road leading to the R471 known as the Airport Road.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for Permission for Retention of a new entrance and, Permission for construction of a stoned entrance with alterations to ground levels. The application was lodged further to the opening of an enforcement file by the planning authority in respect of the works undertaken at the site.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 19th June, 2020 the planning authority issued a split decision.

It decided to grant permission for the stoned entrance road and alteration of land levels subject to a condition regarding drainage.

It decided to refuse permission for retention of a new entrance on grounds of inadequate sightlines at the access point to the site and poor horizontal alignment

along the public road and because traffic generation would endanger public safety by reason of traffic hazard.

3.2. Planning Authority Reports

- 3.2.1. The planning officer in his report recommended an additional information request which was issued on 14th October 2019. The applicant was requested to submit a revised site layout in which sightlines at the entrance of 59 metres in each direction to the nearside verge at a 2.4 metre setback are shown, along with written consent from third parties for works involving their lands, and, details of the applicant's future intended use of the site.
- 3.2.2. The applicant's further information submission includes:
- written consent for the removal of a hedgerow to the west (lands under the control of the local authority and in use as a recycling centre.)
 - confirmation that surface water drainage will be managed by using a gravel surface with drainage passing through to the underlying subgrade, a centre line chamber at the entrance channelling run off to the gravelled space and, installation of soakpits for control of runoff onto the public road.
 - confirmation of the intention to use the site for storage purposes associated with his builders' providers business.
- 3.2.3. The Roads Design Office's initial report notes no written consent being available for the removal of the hedge to the east side and that the submission fails to show the sightline, (stated to be 56 metres) to the nearside road edge as was required. The sightline to the west, along the frontage of the recycling centre which would require consent from the local authority requires, (according to the environment section report) an increased setback of two metres.
- 3.2.4. In the report of 14th October, 2019 serious concern is expressed about public safety due to the horizontal curvature of the road onto which the access is proposed. It is stated that complete removal of the hedgerow on the site frontage and along the frontage of the adjoining properties would be essential to overcome safety concerns and achieve DMURs standards.

3.2.5. The planning officer in the final report, notes the grant of permission under P. A. Reg. Ref. 19/16 for a light industry building with associated development on lands on the opposite side of the road which included a replacement, setback boundary and entrance with the required sightlines. The planning officer states the retention of the proposed entrance would cause traffic hazard. The split decision was therefore recommended.

3.3. **Third Party Observations**

3.3.1. Observations were lodged by the appellant party and one other party in which there are objections to the possible introduction of a commercial use on the site, that the use of the site lands for agricultural purposes has been damaged by development carried out and, adverse impact on biodiversity due to hedge removal at the site.

4.0 **Planning History**

4.1.1. **P.A. Reg. Ref 20/351:** This is a concurrent, undecided application lodged by the applicant for permission for a storage yard for gravel etc. and for a display area for goods such as patio and wall products.

4.1.2. **P A. Reg. Ref. 19/263:** An application for a yard for storage bulk materials, gravel etc. and for a display area for goods such as patio and wall products was withdrawn prior to determination of a decision.

4.1.3. The planning authority holds an enforcement file (UD 19/003) relating to the opening of a new entrance, an internal access road and alterations to land levels subject of the current application.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The operative development plan is the Clare County Development Plan, 2017-2023.

5.1.2. The operative Local Area Plan is the Shannon Town and Environs Local Area Plan, 2012-2018 according to which the site is subject to the zoning objective commercial the purposes of which is to retain lands so used for commercial or related

development and, to redirect other uses to appropriately zoned lands. Retailing is open for consideration, subject to appropriate sequential testing to demonstrate lands as the optimal location.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was lodged by James Quinn and Margaret Marcus, owners of the property on the east side of the application site at which they operate a garden centre.
- 6.1.2. According to the appeal a native hedgerow and dry stone wall were removed, levels were altered, archaeological research was not undertaken and, the applicant lodged a new application on 3rd June, 2020 for construction of storage yard for coal, cement, sand, gravel and building materials including a display area.
- 6.1.3. The appellant objections are:
- Traffic hazard due to traffic including heavy commercial traffic approaching from the west. This traffic would not have visibility of the entrance irrespective of whether the hedgerow is removed. Visibility for this traffic is obstructed by a high wall around the recycling centre and a storage shed within twenty metres of the entrance.
 - There is less than forty metres visibility to the west and less than fifty metres visibility to the east for traffic exiting the site at the proposed entrance.
 - Dust coming from building materials at the application site would damage plants at the appellant's garden centre and result in hazard to the health of staff at the garden centre and at the recycling centre to the other side of the application site.

6.2. Applicant Response

- 6.2.1. There is no submission from the applicant on file.

6.3. Planning Authority Response

- 6.3.1. There is a statement from the planning authority on file dated, 31st July, 2020 in which it is confirmed that the planning authority made a split decision on the application.

7.0 Assessment

- 7.1. The current application before the Board on appeal is solely a proposal for permission for the alterations to the land levels the stoned entrance road and a proposal for the entrance that have been constructed at the site frontage.
- 7.2. The application does not include proposals for use of the site although the applicant indicated his intentions in the further information to operate a builder's yard and builder's providers business. The application lodged with the planning authority for a development of this nature under P. A Reg. Ref. 20/351 was withdrawn prior to determination of a decision. However, it is agreed with the planning officer that given the commercial zoning objective for the site, positive consideration of the proposed the ground works and stoned entrance road on the site would be reasonable.
- 7.3. The proposals in the further information submission as to surface water drainage through the gravelled surface to the underlying material and arrangements for surface water collection at the entrance towards which there is a slight fall in the site is acceptable.
- 7.4. The issue of objection as to adverse impact on the garden centre's stock of plants and on staff due to over potential dust emissions emanating from a builders' providers' is a matter of consideration outside the scope of consideration of the current application which does not include proposals relating to the use of the site.
- 7.5. Adverse impact on visual amenities and on natural amenities due to extensive removal of the indigenous hedgerow to which the appellant has objected is understandable. However, there are no specific designations or objectives to provide for their retention, the comes within the settlement boundary for Shannon and its environs and it is located within an area zoned for commercial development.
- 7.6. Given the foregoing, there is no objection to the alteration to land levels and the stoned entrance road within the site.

- 7.7. With regard to the proposed retention of the entrance, the road on to which the entrance is located are those of a minor, formerly rural road with irregular horizontal alignment. This road has been increasingly utilised within the wider road network to service commercial and industrial development, and traffic generated within a wider area of industrial and commercial development, primarily in estates and business parks and, associated with Shannon airport linked by a modern road network connected to the national road network via the M18. However, there is a significant curvature along the frontage of the site within which the entrance proposed for retention is located especially towards to east from the entrance location.
- 7.8. The fifty-six metres sightline to the east indicated on the plan included with the further information submission is not shown to the edge of the carriageway as required. It is shown to the opposite side at the junction with the road leading southwards to the R471. Provision for the required standards, (having regard to the Section 28 guidance, "*Design Manual for Urban Roads and Streets*", (59 metres from 2.4 metres setback to the edge of the carriageway), as pointed out in the Roads Design Engineer's report and the planning officer's report requires extensive alteration to the road frontage, hedgerow removal and the consent of the adjoining property owner which is available.
- 7.9. The fifty-nine metres sightline to the west indicated on the plan included with the further information submission is over the lands in use as a recycling centre and under the control of the Local Authority and would require significant alteration to the frontage to the road. While the Engineer for the Department of Physical Development (Environment) has indicated, some fencing requirements, if the hedgerow on the frontage is removed, a formal written consent from the local authority along with details of the proposed boundary which would be required are not available.
- 7.10. Separately, it is considered that the proposed timber construction at the entrance is not of a suitable standard for an entrance on lands zoned for commercial development within the settlement boundary of a settlement. It is considered that a replacement construction in suitable materials are necessary in the event of possible favourable consideration.

7.11. Given the foregoing, it has been concluded that permission for retention of the entrance should be refused.

7.12. Environmental Impact Assessment – Screening.

7.12.1. Having regard to the minor nature of the proposed development and its location removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.13. Appropriate Assessment.

7.13.1. Having regard to the scale and nature of the proposed development and to the location, no Appropriate Assessment issues arise. The proposed development would not 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. In view of the foregoing, it is recommended that the planning authority decision to issue a split decision be upheld. Draft Reasons and considerations and conditions follow.

8.2. Grant Permission for the retention of the proposed entrance road and alteration to the land levels at Smithstown, Shannon.

Reasons and Considerations.

Having regard to the Shannon and Environs Local Area Plan, 2012-2018, as amended, it is considered that subject to the conditions set out below, the proposed development would not seriously inure the amenities or character of development in the area and would be in accordance with the proper planning and sustainable development of the area.

Conditions.

1. The development shall be in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged

with the planning authority on 22nd August, 2020 on 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. Arrangements for the collection and disposal of surface water generated within the site shall be in accordance with the details submitted to the planning authority on 22nd August, 2020 to the satisfaction the planning authority.

Reason. To prevent runoff from the site onto the public road and orderly development

8.3. Refuse Permission for the retention of the new entrance at Smithstown, Shannon.

Reasons and Considerations.

The proposed development would endanger public safety by reason of traffic hazard having regard to the deficiencies in attainable sightlines in each direction at the entrance and, the poor horizontal alignment of the road onto which access is proposed.

Jane Dennehy

Senior Planning Inspector.

14th October, 2020.