



An
Bord
Pleanála

Inspector's Report

ABP-308702-20

Development	Construction of a new bellmouth vehicular entrance to existing dwelling.
Location	Ballinlough, Belturbet, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	20378
Applicant(s)	John O'Reilly
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	John O'Reilly
Observer(s)	None
Date of Site Inspection	22 nd of February 2021
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The subject site is located in the rural area in the townland of Ballinlough, Belturbet and is approximately 2km east of Belturbet Town. The site is on the south side of the R197.
- 1.2. There is an existing dwelling and vehicular entrance on the subject site. The existing single storey cottage is sited close to the road and has been extended at the rear. The vehicular entrance is narrow and somewhat restricted at the entrance.
- 1.3. There is a shed to the east of the site, with concreted area and set back from the road (not part of the subject landholding). It was closed and cordoned off by metal barriers on the day of the site visit. There is a setback along the road frontage that provides a parking area.
- 1.4. The applicant's landholding extends further to the east and there is a hedgerow along the road frontage of the site, that has been cut back. While the proposed entrance has not been developed the route of the driveway relative to the proposed entrance has been laid out on site. The land to the east is a green field area and there appears to be a yard area to the south of the existing house.

2.0 Proposed Development

- 2.1. This proposal seeks to develop a new bellmouth vehicular entrance to existing dwelling and associated works.
- 2.2. A Site Layout showing the existing and proposed entrances has been submitted.

3.0 Planning Authority Decision

3.1. Decision

On the 23rd of October 2020, Cavan County Council refused permission for the proposed development for the following reason:

Having regard to the location, layout and extent of the proposed new entrance driveway and boundary treatment, the Planning Authority considers that the proposal, on the basis of information submitted, would be contrary to the

objectives, DMO23, DMO24 and DMO25 in the Cavan County Development Plan (2014-2020), would set an undesirable planning precedent for the development of new entrances onto a Regional Road, would result in the creation of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the interdepartmental reports. They noted that no submissions were made. Their Assessment included the following:

- They consider that the principle of the proposed new entrance has not been established having regard to the Regional Roads and Roadside Boundaries subsection 10.15, objectives DMO23 – DMO27 of the Cavan CDP (2014-2020).
- They have regard to the planning history and to the Council's permission for the extension (Reg.Ref.16/96 refers) and to the layout of the entrance on site.
- They are concerned about the length of the proposed new driveway and the visual intrusion of the proposed new entrance.
- They consider that it would set an undesirable precedent relative to the removal of roadside hedgerow.
- They refer to traffic safety considerations and note the concerns in the report of the Municipal District Engineer.
- They consider that having regard to the scale and nature of the proposal that an AA is not required in this case.
- In conclusion they provide that the proposed development would not be in accordance with the proper planning and sustainable development of the area and recommend refusal.

3.3. Other Technical Reports

Municipal District Engineer

They note the existing entrance to the east of the dwelling and have regard to condition no. 7 of the previous permission on this site - Reg.Ref. 16/96 refers.

They recommend refusal for 3no. reasons which in summary include lack of demonstrated justification; impact on open drains; they consider that the increase in the length of the vehicular entrance would increase possible access/egress points and would result in a greater likelihood of a road traffic accident occurring.

3.4. Prescribed Bodies

None

3.5. Third Party Observations

None

4.0 Planning History

As noted in the Planner's Report, the following is relevant to the subject site:

- Reg.Ref.16/96 – Permission granted by the Council subject to conditions to John O'Reilly to extend and refurbish dormer style cottage, with single and dormer extension, replacement effluent treatment system and percolation and associated site works.

Condition no.7 is of note relative to the entrance. A copy of this permission is included in the History Appendix.

5.0 Policy Context

5.1. Cavan County Development Plan 2014-2020

This is the pertinent plan and contains several policies and objectives relevant to the proposed development. These include:

Development Management

Section 10.14 provides the 'Development Management Standards' for rural one-off dwellings.

Section 10.14.10 refers to access to National, Regional and County Roads and includes the following objectives:

DMO22 - *To ensure that future development affecting national primary or secondary roads shall be assessed in accordance with the guidance give in the document 'Spatial Planning and National Roads – Guidelines for Planning Authorities'. January 2012.*

DMO23 – *To ensure that all development accessing off the county's road network is at a location and carried out in a manner which would not endanger public safety by way of traffic hazard.*

DMO24 - *New development proposals onto certain regionally and locally important county road routes that act as particularly important transport links and that traverse County Cavan shall be assessed having regard to;*

Avoiding unnecessary new accesses, for example, where access could be provided off a nearby county road.

Ensuring that necessary new entrances are located in such a manner as to provide effective visibility for both users of the entrance and users of the public roads so that opportunities for conflicting movements are avoided.

Avoiding the premature obsolescence of regional roads in particular, through creating excessive levels of individual entrances.

Section 10.15 seeks to encourage the retention of Roadside Boundaries but notes that occasionally they may need to be removed to improve visibility at the junction of a new entrance onto a road. *Where an alternative site is available and otherwise suitable, applicants should consider a location that avoids the necessity for widespread boundary removal.*

DMO25 *To avoid the removal of existing roadside boundaries except to the extent that this is needed for a new entrance, and where required for traffic safety reasons.*

DMO26 *If traffic safety requires that the existing front boundary treatment must be set back, it will be requirement that a replacement boundary is put in place and that this boundary is similar to the one removed. In cases where the boundary to be removed consist of non native species than the replacement boundary shall be a mix of native species.*

DMO27 *New front boundaries of rural dwellings shall comply with guidelines for landscaping as outlined in section 3.0 of 'Design Guide for Single One off Rural Houses within Cavan Rural Countryside.' The new front boundary shall replicate the original roadside boundary and walls shall be permitted for entrance splay only and shall be of a design and height appropriate to the rural area.*

5.2. **Natural Heritage Designations**

The site is located within the SAC/SPA buffer zone for the Lough Oughter and Associated Loughs and the SPA Buffer Zone of Natura 2000 sites.

5.3. **EIA Screening**

Having regard to the nature and scale of the proposed development (a vehicular entrance) and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A First Party Appeal has been submitted by the Applicant John O'Reilly. The grounds of appeal are summarised as follows:

- The cottage is situated on a narrow site and the vehicular entrance 4.8m wide is located on the East side and is confined between the cottage and hedge boundary.

- Reference is had to Condition no. 7 of Reg.Ref. 16/96 relative to the entrance then granted.
- Due to the footprint of the cottage and its proximity to the Public road the bellmouth could not be considered with approved perimeters. Sightlines to the west are poor due to the roadside hedge boundaries over which the applicant has no control.
- He recently purchased additional lands so that he could gain permission for a new vehicular entrance. The existing entrance is unsafe for entering and exiting and unsafe for children due to the restrictive nature of this access along the side of the dwelling and entrance on the public road.
- The location of the proposed entrance is positioned to provide good sight lines in both directions, to minimise the extent of removal of existing hedgerow, along with providing a layby on either side of the entrance to comply with Council requirements.
- The proposed entrance achieves required sightlines and complies with Objective DMO23, DMO24. DMO25.
- They include a copy of the Site Map and Site Layout Plan which illustrate the width of the site and confined nature of the entrance.
- They ask the Board to consider their safety concerns in terms of safety and the need for a new entrance.

6.2. Planning Authority Response

They note the Applicant's grounds of appeal submitted and their response includes the following:

- They consider that having regard to the Planner's Report and to that of the Municipal District Engineer that the proposed new entrance will give rise to potential traffic hazard.
- They note that the site already has 2no. entrances on either side of the existing dwellinghouse and that first entrance to the immediate west is unauthorised.

- In a subsequent site visit they noted that the applicant has closed off the unauthorised entrance by constructing a low level stone wall.
- The existing entrance (as approved under Reg.Ref.16/96) is considered to be adequate and wide enough to permit safe access and egress onto the site.
- There is a gate which has been constructed at a location set-back from the edge of the carriageway. Therefore, they do not concur that the entrance is unsafe for children.
- The Planning Authority requests the Board to uphold their decision to refuse permission for the proposed development.

7.0 Assessment

7.1. Regard to Principle of Proposed Development and Planning Policy

- 7.1.1. The application site is located on the southern side of the R197, a Regional Road and is c. 2kms from the town of Belturbet. There is an existing vehicular entrance to the east of the existing single storey dwelling. The existing dwelling which comprises a former cottage that has been extended at the rear and is sited close to the road.
- 7.1.2. As put forward in the First Party Grounds of Appeal, the main rationale for the proposed development is that the Applicant wishes to provide for a safer entrance to his house and for his family, than that existing. It is provided that the existing entrance is restricted and that the proposed entrance has improved sightlines and will address the traffic and safety issues alongside the cottage. The existing entrance at the cottage will be closed to provide a safe site for his children.
- 7.1.3. Section 10.14.10 of the Cavan CDP 2014-2020 refers to access to National, Regional and County Roads and includes Objectives DMO23 and DMO24 which seek to avoid the creation of unnecessary new accesses onto Regional Roads and to ensure that all development accessing off such roads is at a location including the provision of adequate sightlines and carried out in a manner which would not endanger public safety by way of traffic hazard. The proliferation of entrances along Regional Roads is discouraged.

- 7.1.4. Section 10.15 is also of note in that it seeks to retain roadside boundaries, including stone walls and hedgerows except to that needed for a new entrance and where for safety reasons. Objectives DMO25, DMO26 and DMO27 (as noted in the Policy Section above) refer. DMO27 includes that new front boundaries for rural dwellings comply with guidelines for landscaping as outlined in Section 3.0 of 'Design Guide for Single One-off Rural Houses within the Cavan Rural Countryside'.
- 7.1.5. The Council's concerns including that of the Municipal District Engineer relative to lack of justification for the need for the creation of the new access have been noted in the Planner's Report and in the Planning Authorities response to the Appeal. Regard is had to the Council's reason for refusal and to the issues raised by the First Party in this Assessment below.

7.2. **Regard to Planning History**

- 7.2.1. It is noted that the original cottage has been on site for some time. Reference is made to the Planning History and in particular to Reg.Ref.16/96 where permission was granted to the Applicant by the Council to extend and refurbish the dormer style cottage, replacement effluent treatment system and associated site works. The extension has been constructed. Regard is had to Condition no. 7 of this permission and the Council's Municipal District Engineer notes that this has not been complied with. Condition no.7 is as follows:

The entrance shall be of the bellmouth type with a minimum width of 3 metres at the gates and a depth of at least 5 metres. The outer piers shall be set back 4 metres from the existing tarred carriageway fronting the site and new boundary shall be set back in line with these outer piers. The type of material used in the new front boundary should be in keeping and sympathetic with the original roadside boundary.

Reason: In the interests of road safety.

- 7.2.2. Drawings submitted with that application show the entrance on the east side of the property and the gates set back. The entrance there at present does not appear to be set back or completed in accordance with this condition. As noted in the Planner's Report, the unauthorised access to the west of the existing dwelling does not appear to be in use.

7.3. Access and Road Safety

- 7.3.1. The First Party provides that he purchased the adjoining lands to the east in order to facilitate a new safer access with improved sightlines as shown on the drawings submitted with the current application. It is proposed that on completion of this, the existing access adjacent to the house will be closed off.
- 7.3.2. The new entrance is shown sited c.50m to the east of the existing access. It is to include a bellmouth entrance shown c. 9m in width, the gated entrance is to be set back c.5m and then there is a long winding driveway in excess of 5m in width that traverses the newly acquired lands to the east via the rear of the shed and to the rear of the existing house. Thus, a considerable distance across adjoining lands relative to the existing access.
- 7.3.3. As shown on the Site Layout Plan submitted and noted in the Planner's Report there is a lengthy driveway (which as noted on site the route has been set out although the roadside boundary hedge remains in place), extends over two pipelines serving the existing septic tank for the adjacent shed (which is outside the ownership of the applicant) and that of the existing treatment system serving the existing dwelling.
- 7.3.4. It is of note that the Council's Municipal District Engineer is concerned that no justification has been provided demonstrating why it is deemed necessary to change the proposed entrance location from that specified in Reg.Ref.16/96. They note that the proposed entrance would result in additional sections of open drain requiring piping. Their preference is to maintain open drains where possible for capacity and maintenance reasons. Also, they consider, that with regard to the existing entrance to the east of the dwelling and the existing layby, this proposed entrance would extend the length along the applicant's boundary that vehicles could access/egress the property. They consider that this increase in possible access/egress points would result in a greater likelihood of a road traffic accident occurring.
- 7.3.5. Details have not been submitted relative to the operations of the large shed that is centrally located between the site of the house and the more recently acquired lands to the east. It is stated that it is in separate ownership and this area was cordoned off and the shed does not appear to be operational as seen on the day of the site visit. The operations of the shed in particular relative to access/egress and the use of the lay by along the frontage would have a bearing on the safety of the current proposal.

- 7.3.6. In the current case in order to facilitate sightlines as shown on the Site Layout Plan & Bellmouth Elevation submitted, an amount of roadside boundary hedgerow will have to be removed. Section 10.15 of the Cavan CDP refers to and seeks the retention of Roadside Boundaries, where possible except to the extent that there is need for a new entrance, and where required for safety reasons. Objectives DMO25 to DMO27 refer. Reference is also had to Section 3.2 of the *Design Guide for Single One-Off Houses within Cavan Rural Countryside* refers to *Entrance/boundary* treatment. This includes the importance relative to the rural character of the area and biodiversity of retaining hedgerows, stone walls etc where possible.
- 7.3.7. Having regard to the documentation submitted, I am not convinced that it has been established as to the need for the scale and location of the proposed entrance and driveway to serve the existing dwellinghouse. It does not appear domestic in scale and it appears that it maybe intended to serve a yard area to the rear, although I didn't see any sign of any commercial operations on site. I would consider that use of the existing entrance to the side of the dwelling as granted in Reg.Ref. 16/96 and as specified in Condition no.7 of the Council's permission would be preferable in this rural context.

7.4. Screening for Appropriate Assessment

- 7.4.1. The site is located within the SAC/SPA buffer zone for the Lough Oughter and Associated Loughs and the SPA (site code: 04049) and SAC (site code: 000007) Buffer Zone of Natura 2000 sites. It is relatively proximate to the Natura 2000 sites (c.290m). Watercourses were not seen traversing the site.
- 7.4.2. Having regard to the nature and scale of the proposed development (for a proposed vehicular entrance for an established rural dwelling) and the nature of the receiving environment and the distance to the nearest European site (c.290m), 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 that permission be refused for the Reasons and Considerations below.

9.0 Reasons and Considerations

1. Having regard to the location, scale and extent of the proposed new entrance and driveway, it is considered that it is excessive to serve an established rural dwelling which already has a vehicular entrance as has been permitted by Cavan County Council, in Register Reference 16/96. It is considered that sufficient justification has not been submitted as to the need for this new entrance and that as such it would create an unnecessary new access onto the Regional Road and would be contrary to Objective DMO24 of the Cavan County Development Plan 2014-2020. In order to achieve sightlines, it will result in the removal of a significant length of roadside boundary hedgerow and as such would be contrary to Objective DMO25 of the said Plan. It would not be conducive to traffic safety, would set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

3rd of March 2021