



An
Bord
Pleanála

Inspector's Report ABP-309132-21.

Development	Single storey extension to rear and side of an existing dwelling, with alterations.
Location	Drumallaght, New Inn, Co. Cavan.
Planning Authority	Cavan County Council.
Planning Authority Reg. Ref.	20/354.
Applicants	Peter Murtagh & Vera Fannin.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant	Transport Infrastructure Ireland.
Observer(s)	None
Date of Site Inspection	18 th February 2021.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by **Transport Infrastructure Ireland** into the proposed extension of an existing dwelling with alterations to an access on the grounds that an additional access onto the N3 in County Cavan would represent a traffic hazard and reduce road capacity.

2.0 Site Location and Description

The appeal site is in rolling countryside in central Cavan, next to the N3 between the settlements of New Inn and Virginia, and east of the town of Ballyjamesduff. The landscape is characterised by gently rolling hills with small agricultural fields bounded by high hedges and trees. The area is relatively sparsely populated with a scattering of dwellings and small commercial operations along the minor road network.

The N3 at this point is a wide single lane each way highway with a hard shoulder, generally 100km/h outside the settlements it runs through. In parts it bypasses the former main road (now the L7020-0), which at this section runs north of the main road as a minor country road serving farms and houses. The appeal site is located between these two roads, with a boundary to each of them.

The appeal site has a site area given as 0.826 hectares and is on a slight ridge, with levels dropping to the south-east. The site is occupied by a 2-storey dwelling facing the south, with large farm buildings on the north-western side. The house is indicated as having a floorspace of 143 sqm. The farm buildings have an entrance onto the L7020-0 at the northernmost corner of the site, while the dwelling has a direct gated access to the N3.

3.0 Proposed Development

The proposed development is described as follows:

Planning permission sought to erect fully serviced single storey extension to the side and rear of existing dwelling, new front porch, with associated alterations to elevations, alterations to site layout and all ancillary works at Drummallaght, New Inn, Ballyjamesduff, County Cavan.

The plans submitted with the application indicate a new vehicular access from the farm buildings running parallel to the house driveway, linking to the existing N3 access.

4.0 Planning Authority Decision

4.1. Decision

The planning department decided to grant permission subject to 10 standard conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- It is noted that it is located in an unzoned agricultural area, relevant policy states that such extension should relate to the character of the existing dwelling.
- Notes that it is a pre-1964 dwelling, but notes planning permissions for minor works.
- Notes '*No referral made to TII. New farm access proposed in this application*'.
- Notes no objection from Engineering section.
- Outlines the details of the submitted designs, notes ambiguity about the proposed farm access to the N3 and repeats that the application has not been sent to TII for comment.
- Requests additional information, including additional consultation with the TII.
- Following the submission of further information, it states that following a telephone conversation with the Area Engineer, it was confirmed that it was considered that the access to the N3 was a legacy access and that the proposed alterations do not represent an intensification of use. It is noted that it is required for access to an adjoining field, so to access it via the minor road would require a longer journey both on the minor road and then on the N3. For this reason, it is considered acceptable.

- With regard to the TII submission, it was considered that having regard to the information submitted, the planning authority is satisfied that the farm entrance is a legacy feature and is positioned directly across the N3 from the applicant's other field access. As such, it provides the quickest and most direct crossing of the N3.
- The other issues (design, water and sewerage, etc) were dealt with and were considered acceptable.
- A grant of permission was recommended.

4.2.2. Other Technical Reports

MD Engineer: No objection subject to standard conditions.

4.3. Prescribed Bodies

Transport Infrastructure Ireland: Objects to the works for the reason that it would result in an intensification of access to the N3 (following a Further Information request).

4.4. Third Party Observations

None on file.

5.0 Planning History

64/553: Install bathroom, water and sewerage facilities.

01/1720: Demolish lean to and build new bedroom and toilet.

6.0 Policy Context

6.1. Development Plan

The site is located in a rural area with no zoning designation or other relevant designations. Policy for alterations to houses in such areas are set out in DM010, DM020, PL02 and PL10 in the Cavan County Development Plan.

6.2. Natural Heritage Designations

There are no Natura 2000 sites within 10 km of the site. The Lough Sheelin SPA (004065) is about 15 km to the south-west but is not within the catchment. The upper reaches of the River Boyne and River Blackwater SPA is just over 13km to the south.

6.3. EIAR Screening

Having regard to the limited nature and small scale of the proposed development, the planning and development history of the site, and the absence of any significant environmental sensitivity in the vicinity and 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.

7.0 The Appeal

7.1. Grounds of Appeal

Transport Infrastructure Ireland

- It is acknowledged that the site already has an existing farm gate access to the minor road to the north.
- It is noted that the proposed development was not referred to TII despite its location on the N3.
- It is considered that the provision of a new access to serve the agricultural lands concerned creates an adverse impact on the national road, impacts the safety of all road users and creates an unacceptable precedent for similar proposals on the national road network.
- The submission provides an overview of the importance of the N3 for local economic development and highlights the range of policies intended to protect the capacity of the road and reduce traffic accidents.

- National Policy is outlined (Spatial Planning and National Road Guidelines for Planning Authorities 2012) in this regard. It is considered that the decision made by Cavan County Council conflicts with this policy, in particular section 2.6.
- It is noted that the Cavan County Development Plan, 2014-2020 has a number of related policies, notably Objective PIO22 with regard to accesses to the highway. It is submitted that the proposed development is contrary to this policy.
- It is submitted that granting permission would set an undesirable precedent for other such developments on the highway.
- It is submitted that it will represent an intensification of access to the N3 and is essential to the delivery of enhanced regional accessibility as required under the National Planning Framework.
- With regard to safety, the number of deaths on such roads is highlighted, and it is argued that the intensification of an existing highway at a 100kph section of road can contribute to collisions and fatalities. It is noted that no road safety audit was carried out by the Council.
- It is argued that alternative arrangements for the access to the farmlands via the minor road are feasible to address the applicant's specific concerns.
- It is again emphasised that granting the proposed works would represent an undesirable precedent.
- As a final point, it is noted that the National Development Plan emphasises the need to protect public investment in the road network.

7.2. Applicant Response

- It is noted that the entrance is long established and authorised. It is stated that at present both farm vehicles and domestic vehicles share the track (photos attached in the submission), which is a potential hazard. It is argued that the proposal, to separate both types of traffic, would mitigate risk during the summer months.

- It is specifically emphasised that the proposed split access will not generate additional traffic but is intended simply to separate traffic within the site for safety purposes. It simply reroutes existing traffic and will not intensify use.
- Figure 4 in the submission shows the access to the applicant's land on the opposite side of the site entrance.
- Figure 7 in the submission shows the required alternative route if farm vehicles cannot use the existing access. This would mean entering the minor road, driving north-west, then joining the N3 at the existing road junction, then driving along the N3 before making a left turn into their land.
- It is stated that the farm is a small, part time suckler farm, with no intentions to expand or intensify. The applicants have off-farm jobs and do not intend to expand or intensify the farm.
- It is re-emphasised that the proposal simply splits and widens the access for safety reasons and will not intensify the use.

7.3. Planning Authority Response

- It is stated that the planning authority decided to grant permission on the basis that this is an existing legacy entrance which has a combined farm and residential use that is authorised. It is not considered that it represents an intensification of use.
- It is not considered that the works represent a new access onto the N3.
- It is accepted that TII should have been consulted originally but notes that they were consulted at FI stage.
- It is argued that the Planning Authority took a balanced view in its determination with regard to existing policy and considered that in this specific case the proposed development would not intensify the use of a legacy access and that the alternatives could potentially be worse, due to the location of the applicant's farmland across from the house.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that this appeal can be addressed under the following general headings:

- Principle of development
- Access issues
- Other planning issues
- Appropriate Assessment

8.1. Principle of development

The proposed development consists of a relatively minor extension to an existing dwelling, that appears to date to around the 1950's. The works include alterations to the wastewater treatment system. The issue of contention in the appeal is the proposal to 'double-track' the access to the N3 in order to separate domestic vehicles from farm vehicles using this legacy access and to widen the entrance accordingly. The applicant has a small area of farmland directly opposite the site, across the N3 to the south.

There are no specific policy issues raised for the proposed works to the dwelling as it is an established residential farmstead. The issues raised in the appeal entirely relate to the proposed works to the road access. As the TII as outlined in its submission, there are a range of national, regional, and local policies specifically directed towards preventing additional accesses, or the intensification of existing accesses, onto the main road network in order to protect road capacity and to reduce accidents.

Policies in this regard are consistent and unambiguous that permission should not be granted to works that could lead to a significant intensification of legacy accesses onto a National Road. I would therefore consider that there is a strong policy presumption to refuse permission for any such development unless there are specific circumstances that justify a permission.

I therefore conclude that the key question in this appeal is whether the proposed works represent an intensification of the use of the access and/or whether there are reasonable alternatives that would be safer and more appropriate.

8.2. Access issues

The site has two accesses – both apparently long established. A narrow farm road accesses the L-road to the north of the site and appears well used. The domestic access is directly onto the N3. I observed from my site visit that this access is partially vegetated over and seems not to have been used for some time, by either domestic or agricultural vehicles.

The submitted development proposes a separate paved internal road for domestic and agricultural use, which I would consider acceptable in principle. The use of the existing entrance for domestic use is a legacy use and not in dispute. The applicant states, and I have no reason to question this assertion, that the sole use of the gate for agricultural use would be to access the small fields on the opposite side of the main road. As this is a small agricultural operation, this would likely be relatively infrequent and seasonal. The alternative is to use the access to the north and access the main road about 400 metres north-west of the site, resulting in significant round trip including a right hand turn where there is no turning lane to access the field.

It is accepted that the use of this proposed access would be relatively infrequent – the objection of TII largely comes down to a potential intensification of the legacy domestic use and the potential precedent set by the planning permission.

The key question therefore in this appeal is whether the proposed use represents a genuine intensification of use and if so, whether the circumstances justify a grant of permission. There is clearly a high degree of subjectivity in this as the specific impacts of granting permission for the development as proposed is likely to be minor at worst, the key question is whether it could set a precedent either for intensification on the site or in other similar proposals.

While I accept that refusing permission would result in the applicant having to take a more tortuous route to access parts of the landholding, on balance I recommend upholding the appeal by TII. The key reason for my recommendation is that based on my site visit I saw minimal evidence that the access has been recently used, and even less evidence that it has been used by any agricultural vehicles. The agricultural access to the north appears to operate satisfactorily and in the circumstances of the location next to a key national road, I recommend that the

principle be upheld that no additional uses of legacy entrances be permitted when there are reasonable alternatives, as there is in this case.

8.3. Other planning issues

As apart from the issues raised in the appeal, the proposed development involves relatively minor improvements and alterations to an existing dwelling, with a significant separation distance from other houses in the area, I do not consider that there are any issues of visual or residential amenities arising. I also consider that the proposals for wastewater treatment and the provision of well water are in accordance with regulations and there are no planning objections. There are no historic buildings or records of archaeological remains in the vicinity.

If the Board is minded to grant permission, I would therefore recommend that it attach conditions generally similar to those used by the planning authority.

8.4. Appropriate Assessment

Having regard to the generally small scale of the development, within an existing developed site, and the separation distance from Natura 2000 sites - the Lough Sheelin SPA (004065) is about 15 km to the south-west but is not within the catchment, and the upper reaches of the River Boyne and River Blackwater SPA is just over 13km to the south, 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.

9.0 Recommendation

I recommend that planning permission for the proposed development be refused for the following reasons and considerations.

10.0 Reasons and Considerations

It is considered that the proposed development, which includes for alterations to an existing legacy access onto the National Primary Road N3 at a point where the speed limit of 100km/h applies, and for which an alternative access for agricultural

vehicles is in use on the north side of the site accessing a country road, would endanger public safety by reason of traffic hazard and the additional and conflicting traffic movements generated by the development would interfere with the safety and free flow of traffic on the public road and would set an undesirable precedent for other such developments. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Philip Davis
Planning Inspector

2nd March 2021