



An
Bord
Pleanála

Inspector's Report ABP-309373-21

Development	Demolition of roadside boundary and construction of entrance and access road to serve farm complex, agricultural land and flood defence embankment/dam
Location	The Miles, Clonakilty, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/645
Applicant(s)	Donald Hill
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Donald Hill
Date of Site Inspection	9 th March, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The 0.4481 hectare site of the proposed development is located to the north of the N71 National Secondary Road on the western approach into the town of Clonakilty in County Cork. The site frontage lies within the 60kph speed limit zone for the town on a straight stretch of the national road. The roadside boundary of the site comprises a low natural stone wall in front of which is a footpath. The land behind the wall consists of agricultural lands that have been used for tillage. The location for the proposed access is at the location of a previous construction access (now closed up) created to facilitate the construction of a flood embankment to the north as part of Clonakilty Flood Relief Scheme undertaken by the Office of Public Works.

2.0 Proposed Development

- 2.1. The proposed development would comprise the demolition of part of the existing roadside boundary and the construction of an entrance and access road to serve an existing farm complex, adjacent agricultural land and a flood defence embankment/dam. The proposed entrance would be splayed and would provide sufficient room for a tractor and trailer to pull off the road and adjacent footpath. Paddock-style timber post and rail fencing is proposed to be provided between the gate and the existing road boundary.

3.0 Planning Authority Decision

3.1. Decision

On 13th January 2021, Cork County Council decided to refuse permission for the proposed development for two reasons relating to traffic hazard and injury to visual amenities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted development plan provisions and the reports received. It was submitted that the applicant would still have to traverse the existing access lane in

use to serve the existing agricultural buildings with the provision of the proposed development. The replacement of the existing boundary by a post and wire fence was seen as a form of development not to be encouraged. It was considered it would negatively impact on existing visual amenity and that it would materially contravene County Development Plan objectives HE4-3 and TO 2-1. The Area Engineer's traffic concerns were acknowledged. A refusal of permission for two reasons was recommended.

The Senior Executive Planner concurred with the conclusions of the Area Engineer and Planner and noted the Archaeologist's concerns. It was considered also that the proposal would conflict with the provisions of TM 3-1(c) and (d) of the County Development Plan relating to the restriction of access onto national roads.

3.2.2. Other Technical Reports

The Estates Section had no objection to the proposal.

The Archaeologist considered the proposal to be an adequate distance away from archaeological sites but noted the boundary to be removed was a section of roadside historic wall that is a heritage feature which adds to the historic landscape and sense of place at the approach into the town. Reference was made to Objectives HE4-3 and TO 2-1 of the County Development Plan identifying historic features that should be protected. It was submitted that preference would be for its retention with repair works where necessary but that if it has to be replaced it was recommended that it is reinstated on a like-for-like basis using existing stones and capping to be agreed. It was further recommended that an assessment of the wall be carried out, with a brief description and method statement for any repair or rebuilding agreed with the planning authority.

The Environment Section had no objection to the grant of permission.

The Area Engineer submitted that access is an issue and that it is likely the proposed access would be used as an access for development in the future. It was further submitted that there is an access which serves the applicant's landholding to the west of the site under the applicant's control. Concern was expressed that the proposal would introduce an additional access onto the national road. While acknowledging the level of traffic generated by agricultural use is likely to be very low, it was concluded that the principle of an entrance is likely to lead to further

additional traffic using the entrance in the future. A refusal of permission on traffic safety grounds was recommended.

4.0 Planning History

I have no record of any planning application or appeal relating to this site.

5.0 Policy Context

The site lies outside of the Clonakilty Town Development Plan boundary and outside of the development boundary associated with Clonakilty in the West Cork Municipal District Local Area Plan. It is located within the town's greenbelt as designated in the Cork County Development Plan.

5.1. Cork County Development Plan

Architectural Heritage

Protection of Non-Structural Elements

The Plan notes that many non-structural elements, such as historic gardens, stone walls, ditches and street furniture contribute to built heritage and that carelessness and a lack of awareness can result in the loss of these elements.

The relevant objective is:

HE 4-3: Protection of Non- Structural Elements of Built Heritage

Protect important non-structural elements of the built heritage. These can include designed gardens/garden features, masonry walls, railings, follies, gates, bridges, and street furniture. The Council will promote awareness and best practice in relation to these elements.

Tourism

Protection of Tourist Assets

The relevant objective is:

TO 2-1: Protection of Natural, Built and Cultural Heritage

Protect and conserve those natural, built and cultural heritage features that form the resources on which the County's tourist industry is based. These features will include areas of important landscape, coastal scenery, areas of important wildlife interest, historic buildings and structures including archaeological sites, cultural sites including battlefields, the Gaeltacht areas, arts and cultural sites and the traditional form and appearance of many built up areas.

Transport

National Roads

The relevant objective is:

TM 3-1: National Road Network

This includes the following:

- c)** Restrict individual access onto national roads, in order to protect the substantial investment in the national road network, to improve carrying capacity, efficiency and safety and to prevent the premature obsolescence of the network.
- d)** Avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 50kph apply.

5.2. Appropriate Assessment

The site of the proposed development is located on the west side of the serviced urban area of Clonakilty. This is a location which is separated from Clonakilty Bay SPA (which is located to the east of the town at its nearest point) by extensive buildings, infrastructure and other developments. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the separation distance to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as 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.

5.3. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The planning authority did not consider the application on its own merits.
- The proposal would not endanger public safety by reason of traffic hazard and would not create an additional access onto the N71. The application seeks to reopen an entrance which was created by OPW relating to flood relief works. The entrance provides sufficient space for a tractor and trailer to pull off the road and footpath while opening and closing the gate. The proposal also includes the removal of an existing access at the western site boundary which is at an unsafe location.
- The proposal represents essential infrastructure to continue agricultural work on the site and adjacent lands. Previous access to the lands north of the N71 was severed as a result of flood relief works and a replacement access was provided which necessitates traversing a ramp which is unsuitable for large agricultural machinery.
- The local access road to the west of the applicant's property cannot be used to access this part of the holding.
- While primarily used for agricultural activities, the proposed access would also be used as a safe maintenance access for the old farmyard / historic mill complex and the embankment of the flood defence scheme.

- The proposal would not remove a section of historic wall or established hedgerow and would not, therefore conflict with objectives HE 4-3 and TO 2-1 of the County Development Plan.
- The appellant has no objection to a condition being imposed by the Board requiring the replacement of the post and rail fence by a traditional stone wall to the Council's specification.

Details submitted with the appeal included pre-planning correspondence and an engineering submission relating to the existing and proposed entrances.

6.2. **Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

6.3. **Further Submissions**

The Development Applications Unit of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media noted the proposed development is not within the Clonakilty Bay Special Protection Area. Reference was made to waste management of material arising from excavation material.

7.0 **Assessment**

7.1. Introduction

- 7.1.1. I consider that the principal planning issues relate to traffic safety and the impact on the boundary wall. Prior to considering these issues, it must be emphasised that the proposed development is for the construction of an entrance and access road to serve an existing farm complex, adjacent agricultural land and a flood defence embankment. The established agricultural land use is that which is proposed to be served by the entrance and the maintenance of the recently constructed OPW embankment. This proposal does not include the use of the access for any other development purpose. It appears that the planning authority considered this proposal premised upon speculation relating to some potential future development. Clearly the

Board's considerations will be on the use of the proposed entrance for the purposes intended in this planning application.

7.2. Traffic Impact

- 7.2.1. There is no indication that the nature of the farming activities at this location would result in heavy volumes of traffic regularly utilising the public road. The planning authority has not raised any particular traffic concerns relating to the applicant's farmholding. It may reasonably be determined that use of the entrance for agricultural purposes would not likely be of a high frequency and its use would likely bring with it relatively low volumes of traffic onto this approach road into the town.
- 7.2.2. The proposed entrance would access the N71 National Secondary Road on a straight section of this road. This section of the N71 lies within the 60kph speed limit zone for the town of Clonakilty. The 80kph zone commences further west at a junction with a minor local road beyond agricultural structures west of the appeal site. The frontage along this northern side of the national road comprises a low stone wall. With the proposed splayed entrance, vehicular traffic entering the public road from the lands would have clear, unimpeded and extensive sightlines available to the east and west along this section of road. There would be no traffic concerns relating to the availability of sightlines. The vertical and horizontal alignment of the road is good at this location, as is the structural condition of the road. There would not be any concern about vehicular traffic turning movements off the public road into the lands. I note that the splayed entrance would accommodate agricultural traffic pulling up safely at the entrance.
- 7.2.3. I note that the planning application was referred by the planning authority to Transport Infrastructure Ireland. There is no record of any response to this correspondence or concerns raised about the proposed development by TII.
- 7.2.4. It is my submission to the Board that this proposed access would not pose any notable traffic concerns given the prevailing speed limit, the condition of the road, and the use to which the proposed access would be put, i.e. for agricultural use. The planning authority has not demonstrated how the proposed development would

endanger public safety by reason of traffic hazard and there is no reason to determine that this would arise with this proposal.

- 7.2.5. Finally, the proposal could not reasonably be seen to materially contravene Objective TM 3-1 of the County Development Plan, given that it would not undermine the carrying capacity, efficiency or safety on this road based upon the intended use, which is to serve the established agricultural land use and which would be located within the speed limit control zone for the town of Clonakilty.

7.3. Impact on the Boundary Wall

- 7.3.1. The location for the proposed entrance is where there was a previous entrance opened to serve the works by the OPW relating to flood defence measures for the town. It is clear from examining the wall at the location for the proposed entrance that what exists is not the original wall, which remains further east and west of the location for the proposed entrance. It is mistaken to determine that the proposal would result in the removal of an established roadside boundary wall which is a historic stone wall. The location for the proposed entrance does not form part of the historic stone wall that is of concern to the planning authority.
- 7.3.2. I note the proposed splayed entrance is intended to include paddock-style timber post and rail fencing. I concur with the planning authority that this would not be conducive with maintaining a degree of continuity and compatibility with the historic stone wall in the vicinity. I note that the replacement wall which exists at the former flood works entrance appears as a wall faced in stone with provision for a capping that permitted it to be grassed. I consider that the splayed entrance should consist of stone walls that are more in keeping with the established stone wall and be capped such that they are consistent with this historic wall. Such details could reasonably be agreed with the planning authority prior to the commencement of development.

8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 Reasons and Considerations

Having regard to the established nature of the agricultural land use, the intended use of the entrance for agricultural purposes, the siting of the proposed entrance at the location of a recent former vehicular entrance, the siting of the entrance within a 60kph speed limit zone, and the adequacy of available sightlines, it is considered that the proposed development would not endanger public safety by reason of traffic hazard, would not adversely impact on the visual amenities of the area, would be consistent with the provisions of Cork County Development Plan, and would otherwise 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.

Reason: In the interest of clarity.

2. The entrance hereby permitted shall be used solely as an agricultural entrance and as an access for maintenance associated with flood defence works on the adjoining lands.

Reason: In the interest of clarity

3. The proposed splayed entrance shall be constructed of natural stone consistent with the adjoining natural stone wall adjoining the public road. Details of the form, scale and height of the associated walls and the proposed gate shall be

agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

4. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

Kevin Moore
Senior Planning Inspector

31st March 2021