



An
Bord
Pleanála

Inspector's Report

ABP-309647-21

Development	Development of new agricultural entrance.
Location	Newrath, Rathnew, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	20/952
Applicant(s)	Noel Heatley.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Rosland Furlong.
Observer(s)	None.
Date of Site Inspection	7 th May.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located within the development boundary of Wicklow-Rathnew. The site comprises agricultural lands and is accessed via a private laneway off the R761. The topography of the lands slopes upwards away from the road. Two Recorded Monuments (WI025-009 and WI025-009001) are partially located within the site and the Varty River is located to the north of the site.
- 1.2. The site is bounded to the road by a stone wall and hedgerow and is open to the field behind.

2.0 Proposed Development

- 2.1. It is proposed to construct a new agricultural entrance.

3.0 Planning Authority Decision

- 3.1. Wicklow County Council determined to **Grant** permission.

3.2. Planning Authority Reports

- 3.3. The final planners report was consistent with the decision of the planning authority, however further information was requested at the outset as follows:
 - Submission of full details of design of the entrance, including the sightlines. In this regard, the Planning Authority notes the existence of an old stone wall of visual amenity value and that to provide a safe entrance, the wall may require setting back either side of the propose entrance. You should support the indicated with of 7.375m and the absence of a bellmouth.
 - Clarify the development description as the relocation of an existing agricultural entrance as opposed to the provision of a new agricultural entrance. In this regard it is noted that the indicated existing agricultural was not proposed as a shared agricultural and dwelling entrance under Plan ref: 17/1053.
- 3.4. Response to further information can be summarised as follows:
 - Stone wall is to be set back to afford improve sightlines.
 - Road is 4.2 metres in width, visibility to the centre line of road is 80m.

- Realigned wall will improve access for large agricultural machinery.
- Entrance width has been reduced to 6.28m to allow for combine harvester to enter lands.
- Swept path analysis demonstrates accessibility to site.
- Applicant shared access with neighbouring landowner however a recent planning permission will prohibit this use, an access into the applicants lands is therefore required.

3.4.1. Other Technical Reports

- None

3.5. Prescribed Bodies

- None

3.6. Third Party Observations

3.7. 1no. objection was received from Rosaland Furlong which can be summarised as follows:

- Development would result in increased traffic.
- Dispute over maintenance of laneway and proposed entrance would complicate this.

4.0 Planning History

17/1053 – - Permission was granted for the construction of a single storey dwelling house and domestic garage, upgrade of existing site entrance, access driveway, onsite sewage treatment system and ancillary site works.

15/373 - Neville Byrne - Permission was **granted** for the reclamation of land through the filling of material comprising clay, silt, sand, gravel or stone on a site having an area of 0.206 hectares, for the purpose of improvement of land, together with site access and roadway and other ancillary site works. The proposed development relates to an activity which requires a Waste Licence.

5.0 Policy Context

5.1. Development Plan

Wicklow County Development Plan 2016-2022

- Chapter 9 Infrastructure - Rural local roads serve an important function providing access to rural properties and agricultural lands within the countryside while also providing linkages to regional and local collector roads.

Wicklow Town - Rathnew Town Plan 2013-2019

- Chapter 9 - Traffic, Transport and Accessibility Natural Heritage Designations

Clermont - Tinakelly Action Area - This action area is located in the townlands of Tinakelly, Newrath, Rosanna Lower and Knockrobin and measures c. 137 ha comprising: c. 52 ha designated 'Clermont campus' c. 23.5 ha of employment zoned land (16.5ha EI and 7haE2).

- The site is located on lands zoned 'Enterprise and Employment' and is also located within the ClermontTinakelly Action Area.

5.2. The nearest Natura 2000 site is the Murrough Wetlands SAC and SPA which is located c. 1.2km to the east of the development.

6.0 The Appeal

6.1. Grounds of Appeal

- Lands surrounding the site are zoned industrial.
- There is currently an entrance that provides access to the lane.
- The road is a private lane to be maintained by its inhabitants.
- Additional dwellings have been built on lane in recent years.
- This has resulted in increases in traffic.
- No need for an additional entrance.
- Existing walls are historic and should be retained.

- In the event that lands are developed they should be accessed via the existing entrance onto the R761.
- Water mains run under area of proposed entrance, lands are therefore not suitable to support heavy machinery.

6.2. Planning Authority Response

- None

6.3. Observations

- None

7.0 **Assessment**

7.1. This is a third party appeal against the decision of Wicklow County Council to grant permission for a new agricultural entrance at Newrath Lane. The appeal site is located within the development boundary of Rathnew to the north east of the town. The lands are subject to an enterprise and employment zoning objective and are currently used for agricultural purposes.

7.2. Given the current use of the lands and the zoning objective which pertains to said lands, I consider that the proposed development is acceptable in principle at this location. It is important to outline at the outset that further information was submitted which included the proposal to remove part of the existing stone wall, an alteration to the width of the entrance and the provision of a bell mouth access. These alterations will be considered within the assessment hereunder.

7.3. I consider that the proposed development is acceptable in principle at this rural location, by reference to the policies and objectives of the Wicklow County Development Plan and having reviewed the plans and particulars of the application and the appeal I consider that the issue for consideration before the Board relates to the suitability of the access in terms of traffic safety.

7.4. The appellant has made comment within the grounds of appeal to land ownership and the future development of the surrounding lands. Speculation of potential future development is not a matter for the Board and one which cannot be considered within

the parameters of this appeal. In addition, the appellant has raised issues with regard to the ownership of land and the maintenance of the private road, these are civil matters and are also not matters that the Board can adjudicate on. Section 34 (13) of the Planning and Development Act, states that the granting of permission does not entitle a person to carry out development and covers the eventuality that the development cannot be implemented for legal reasons.

7.5. I note that the previous access to these lands appears to have been near to the proposed new entrance at the location of planning reference 17/1053. At the time of inspection, it was apparent that a new dwelling was under construction and is now utilising the field entrance as a residential entrance as permitted within planning reference 17/1053. The use of this entrance was not intended as a shared entrance as per the plans submitted in relation to permission for the dwelling. Alternative suitable access arrangements are therefore necessary to serve the existing agricultural lands.

7.6. **Suitability of access**

7.7. The applicant is proposing a new agricultural entrance to be access via a private lane which is a cul de sac supporting 7 houses. It is of note that the existing lane is only 4.2 metres wide and is not of sufficient width to allow for two cars to pass, as such vehicular speeds are low. It was noted at the time of site inspection that sightlines are restricted by the stone wall along the site frontage, the applicant proposes to recess a section of this wall either side of the entrance to provide for adequate sight lines. It is stated within the information submitted with the application that 80 metre sightlines can be achieved at the entrance in both directions to the centre of the road, 50 metres can be achieved to the road edge in both directions.

7.8. In instances where actual road speeds are low a relaxation of sight distances can be permissible; the applicant has demonstrated that adequate sight lines can be achieved and has provided an entrance of sufficient depth to cater for the proposed use. A track analysis has been carried out and illustrated within the plans submitted and demonstrates that the proposed entrance can adequately accommodate large agricultural machinery.

7.9. Of note is the junction of the lane with the R761 which is a relatively busy road, sightlines emerging from the lane from which the appeal site is accessed are in excess of 120 metres. No issues therefore arise in relation to road safety at this point. Overall,

given the location of the entrance which emerges onto a narrow, short cul de sac, I consider the proposed entrance to be acceptable in terms of road safety.

- 7.10. I note that the appellant would prefer that the landowner continue to share an entrance with the new dwelling which is currently under construction, I consider this to be an unreasonable expectation. I consider that the use of a residential entrance for large agricultural machinery would compromise the safety of inhabitants of this dwelling and such arrangements should be discouraged.

Other Matters

- 7.11. I note that the appellant raises concerns in relation to the historical nature of the existing stone wall and argues that this wall should remain unaltered. The wall is not a protected structure and it is proposed to reuse stone from the section of wall to be recessed within the new section of stone wall at the entrance.
- 7.12. I note that two recorded monuments are located in proximity to the development site, WI025-009 and WI025- 009001, I further note that 5 test trenches were investigated as part of the planning assessment for the permitted dwelling under planning ref 17/1053 and found no evidence of archaeological material. The field to be accessed via the propose entrance has been ploughed and planted for a considerable period of time, I therefore consider that given the limited nature of the proposed development archaeological impacts will not arise.

Appropriate Assessment

- 7.13. Having regard to the minor nature of the development, its location abutting a serviced urban area, and the separation distance 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.
- 7.14. Overall, I consider the proposed development to be compliant with the provisions of the Wicklow County Development Plan 2016-2022 and the Wicklow Town – Rathnew Development Plan 2013-2019, the provision of an agricultural entrance at this location is a reasonable request and will not give rise to a traffic hazard or impact the visual or historical amenity of the area to any significant level.

8.0 Recommendation

8.1. I recommend that permission is granted subject to the following conditions:

9.0 Reasons and Consideration

9.1. Having regard to the provisions of the Wicklow County Development Plan 2016-2022 and the Wicklow Town – Rathnew Development Plan 2013-2019, the existing pattern of development in the area, 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 not seriously injure the amenities of the area or of property in the vicinity and would not endanger safety by reason of a traffic hazard. 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 submitted to the local authority on the 24th March 2021 and 18th January 2021 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. Water drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. The proposed development shall be constructed in such a manner so as to protect any water infrastructure within the road verge, any damage to such infrastructure shall be the sole responsibility of the applicant to repair.

Reason: In the interest of public health.

Sarah Lynch
Planning Inspector

5th May 2021