



An
Bord
Pleanála

Inspector's Report

ABP-310149-21

Development	To alter existing farm entrance and retention of a roadway leading from the upgraded entrance to the existing permitted house.
Location	Jerpoint West, Thomastown , Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	21/90
Applicant(s)	Peter Raftice
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Peter Raftice
Observer(s)	Tommy and Anne Behan
Date of Site Inspection	10 th of November 2021.
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The site is located in Jerpoint West, Thomastown, which is the area between the town of Thomastown and the Mount Juliet golf resort and hotel. The entire area is under considerable development pressure from one off housing and in depth residential developments.
- 1.2. The subject site is part of a family farm landholding. The farmyard is positioned along Station Road beside a high concentration of linear residential developments. The subject site is located off a cul-de sac, L82031-4, which is off Station Road (LS8203). The cul de sac serves a number of dwellings, commercial properties and farmland.
- 1.3. The appeal site is a field. The road frontage of the field is narrow, only 20metres in width. The road frontage which includes an access to the field and newly constructed road, is positioned along the cul de sac between two dwelling houses. The newly constructed access road consists of a hardcore surface through the field in an easterly direction for circa 300metres. It is approximately 3metres in width. The road leads from the public road to a newly constructed dwelling, owned and occupied by the applicant. There is a link to the applicant's farmyard from the access road, which is a further 250metre due north-east.
- 1.4. The appeal access is narrow, poorly aligned and consists of a rubble surface. The residual road frontage is a dense hedgerow.

2.0 Proposed Development

- 2.1. The development is to alter an existing entrance to create a splayed recessed entrance and to remove the hedgerow and provide a new 1m bund roadside boundary.
- 2.2. The application also includes retention of the access road approximately 3m x 300metres which extends from the public road to a newly constructed dwelling house owned by the applicant permitted under planning reference 17/719 in 2017.

3.0 Planning Authority Decision

3.1. Decision

Kilkenny Co. Co. refused the development for one reason:

Having regard to:

- *The existing deficiency in the road network serving the site;*
- *The extremely restricted width of the road serving the site;*
- *The precedent that a grant of permission for the proposed development could create for other similar developments in the vicinity, it is considered that the additional traffic movements generated by the proposed development would endanger public safety by reason of traffic hazard.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report assessment can be summarised as follows: -

- Permission has been refused twice to the applicant for access on to the cul de sac. It was accepted the applicant could have a new dwelling with access through the existing farmyard under his ownership. The old farmhouse has been converted to an office. By relocating the entrance to via the farmyard, reasons 1, 2 and 3 of the previous refusal were overcome.
- The current proposal is to provide access to the dwelling off the cul de sac which has been under severe pressure for one off housing. The reasons for refusal on the planning histories need to be overcome before the development could be considered favourably.
- There are 5 dwellings within 250metres of road frontage on the local tertiary road, therefore reasons 1 and 2 of the earlier refusal would still apply.
- It is acknowledged the road improvements proposed at the junction of the two roads will benefit all road users. The Area Engineer had requested Further Information on this issue.

- The narrowness and deficiency in the cul de sac have not been addressed in the current application.

3.2.2. **Other Technical Reports**

Area Engineer: The exact outline of the hedge to be removed at the junction of the cul de sac with Station Road needs to be submitted. The current drawing does not indicate any setback measurements or the amount of hedge to be removed. In addition, a section showing grass margin and new hedgerow to be indicated.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

There were 3No. third party submissions on the planning application file citing the following concerns:

- Dangerous entrance leading to a narrow laneway which has a concealed entrance;
- The entrance is not there for over 60years;
- The applicant does not use the entrance for livestock and farm machinery;
- The access has been refused by the planning authority due to the deficiency in the road network;
- The access road was never exempt;
- The applicant does not graze livestock on the adjoining lands;
- The entrance is a traffic hazard with increased and extraordinary volumes of traffic, domestic, commercial and agricultural, and they are astounded by the volume of usage.

4.0 **Planning History**

4.1 **Enforcement Notice 200067**

An Enforcement Notice was issued to the applicant from the planning authority in 2020, regarding the unauthorised development of access road.

4.2 Planning Reference 17/719

Planning permission granted in 2017 to the same applicant, Peter Raftice, for change of house type granted under reference P16/712

4.3 Planning Reference P16/712

Planning permission granted to Peter Raftice in 2017 to replace existing farmhouse with a new four bedroom single storey dwelling, using existing access, to construct effluent treatment system and to convert existing farmhouse to an office at Jerpoint West.

4.4 Planning Reference 16/394

Planning permission was refused in 2016 to the applicant for a dwelling house for four reasons:

1. The proposal represents a random rural development in a rural area under urban influence where there is an excessive density of dwellings, and would be contrary to policies in the County Kilkenny Development Plan and the Thomastown LAP 2015-2020.
2. The proposed development is the 5th house within 250metres of road frontage, creating overdevelopment of ribbon development.
3. The road network has deficiencies, as it is extremely narrow in width, poorly aligned junction with local road, and it would set an undesirable precedent.
4. Visually inappropriate development

4.5 Planning Reference 15/448

Planning permission was refused in 2015 to the applicant for a dwelling house located 200 metres from the current application for the same reasons as reference 16/394.

4.6 Other

There is a list of planning applications previously refused along the laneway giving access to the proposed development. Namely references P14/138, P06/378,

P08/191 and P03/1356. These were one-off houses and not houses associated with farmsteads.

5.0 Policy Context

5.1. Development Plan

Kilkenny County Development Plan 2014-2020

5.2. Natural Heritage Designations

The site is not located within or close to any designated sites. The nearest designated site is approximately 1.5Km to the south of the site, the River Barrow and River Nore SAC (Site code 002162).

Other European sites in the vicinity of the appeal site are

- Thomastown Quarry SPA which is located c.3km from the site, and
- Hugginstown Fen SAC which is located c.9km from the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

Pertter Thomson Planning Solutions has taken this appeal on behalf of the applicant Peter Raftice.

6.1.1 No consideration in the planning assessment was given to the health and safety issues in respect of the existing house being accessed through a working farmyard. The applicant bought the farm in 2009 (52.5ha). He decided not to use the farmhouse and to build a new family home where he could operate the farm. He was refused access from the cul de sac and he had no other option but to access the new dwelling through the farm at the time. His priority was a family home close to the farmyard.

6.1.2 There are 130-140 cattle kept in the shed with milking cows brought to the parlour daily across the yard, animal feed and loading of animals into trucks occurs in the

yard. There are photographs showing what family and visitors to the family home have to face to access the house.

6.1.3 Despite the extensive landholding, the applicant has limited road frontage. The farmyard and the proposed access are the only sections of road frontage. Their nine year old son has to go through the yard to school and bring his friends to the house via the yard.

6.1.4 The sightline improvements to the cul de sac and local road junction represent a major improvement to road safety, a fact confirmed by Area Engineer. The proposals will be completed at no cost to the Council, and the residents living on the cul de sac will benefit from this improvement.

6.1.5 The granting of the permission for a residential access which will occasionally be used to transport cattle will not serve as a precedent.

6.2. **Planning Authority Response**

There was no further comment from the planning authority on appeal.

6.3 **Observers**

6.3.1 ***Tommy and Anne Behan***

They have lived thirty years in the dwelling looking out onto the roadway. The roadway has been constructed on a disused quarry. Since the quarry has been filled in, it has only been used for grazing cattle. The field access onto the L82031 was not used for any other access purpose.

It makes no sense that the applicant thought the roadway would be exempt development having been previously refused planning permission for the same roadway.

The applicant has rarely used the access off the cul de sac and he did not use the gateway to give him access to sheds rented from Mr. O'Connell. The letter on file from Mr. Nicholas Kelly claims the applicant grazes cattle on the lands. However they have never seen livestock on it as it is only tillage.

Since the completion of the roadway in August 2020, the volume of traffic on the laneway has increased significantly. The new access is dangerous, and vehicles existing the entrance have nearly collided with pedestrians.

There is an access opposite the subject entrance that is used for livery stables and used by the landowner to access his allotment daily, and with the increased volume of traffic and the size of the vehicles, there is an accident waiting to happen.

The proposed entrance is too close to existing domestic entrances.

7.0 Assessment

- 7.1. There is a protracted planning history associated with the applicant, his dwelling house and the access to the house. In short, the applicant purchased the farm (52.5Ha) in 2009 and decided not to use the old farmhouse in the farmyard and to build a new family home. He had stated in previous planning applications, the justification for a new dwellinghouse was his concern, about the safety for his children living alongside the farmyard. He applied for a dwellinghouse with the access at the subject location in 2015, under planning reference 15/448. This was refused planning permission by the planning authority due to the deficiency in the road network, the restricted sightlines at the junction, and the precedent it would set creating a traffic hazard.
- 7.2. The existing entrance is an established field farm entrance onto the cul de sac L82031-4. The cul de sac serves nine one-off houses. Having been refused planning permission, the applicant applied for a new dwelling house with access through his farmyard on Station Road, (LS8203). He was still concerned about the safety and welfare for his children with the domestic access going through a busy farmyard with livestock. In 2020, he constructed a new access road to his dwelling house, which he considered to be exempted development. Following a site inspection of the unauthorised development by the planning authority, an Enforcement Notice issued to the applicant regarding the access and access road, which is now the subject of this appeal.
- 7.3. The applicant's dwelling house was granted planning permission in 2017 (P17/719). It has been constructed and is occupied by the applicant. It is setback circa 300metres from the cul de sac public road, and 250metres from the farmyard due

northeast. The original farmhouse, which is located alongside the yard, has been converted to office use.

- 7.4. The applicant's dwelling house is orientated towards the cul de sac road, L82031-4. According to the applicant, the access off the cul de sac is the only alternative road frontage (20metres) available to him within his landholding apart from the farmyard access. In principle, the separate access to the dwelling is reasonable because the house is detached and independent of the farmyard. The applicant's dwelling is not an urban generated dwelling, it is a rural generated dwelling, as the applicant owns the surrounding farm. Therefore, the additional access is not contributing to ribbon development in the area. I would be favourably disposed towards granting permission for the access and access road based on principle alone. As this is not an urban generated dwelling, therefore an undesirable precedent will not be set in the area by granting permission for the access road.
- 7.5. The proposed works represent an enhancement to the existing entrance which I consider to be a traffic hazard in its current layout. The visibility at the current entrance is severely restricted. The existing narrow width and vertical alignment of the existing access is substandard. As stated the road frontage is narrow in width at 20metres. The hedgerow needs to be removed in full and a new spayed entrance provided. According to the third-party submission, the field where the access road has been constructed was formerly a quarry. The quarry has been filled in and used to grazed livestock. It is claimed the field access was not used in recent times until the unauthorised access road was constructed in 2020. According to the application drawings, the existing roadside boundary ditch will be removed and replaced with a 1.4metre bund, with planting on the inside of the bund. The recessed access and new roadside boundary fence are acceptable in principle and on traffic safety grounds.
- 7.6. The access road is a domestic access road serving the applicants dwelling house. There is an intersection with the access road to the farmyard. This form of internal link roads is integral to farms and it is quite normal in modern farmyards to have the dwelling house detached from the farmyard with a separate independent access and access road.

7.7. The reason for refusal cited the extremely restricted width of the road serving the site and the deficiency in the road network serving the site. The cul de sac is narrow and serves 9No. dwellings and the applicants farm holding and other premises. Under the current proposal there are works to be carried out to improve the sightlines at the junction of the cul de sac with Station Road. These improvements will benefit the residents of the cul de sac. The Area Engineer, in his report dated 26th of March 2021, had no objection to the proposed development and requested further details regarding the exact length of the hedgerow removal at the junction to provide the required sightlines and details of maintenance of the new grass verge and sod and stone mound. In my opinion, these details could form a condition of a decision to grant permission for the development.

7.8. On balance, one must examine the context of the applicants dwelling house in relation to the farmyard, and the context and legibility of the dwellinghouse relative to the neighbourhood character. Having regard to the relationship of the dwelling to the newly created independent access and access road, it would appear to me to be a natural access to the dwelling house. Having considered the reasoning for a new separate access, as opposed to the permitted access traversing the farmyard, the reasons appear to be genuine, as the same reasons have been consistently presented throughout the planning history associated with the dwelling house. In my opinion, the traffic associated with the farmyard should be retained at the farmyard entrance on Station Road. Only domestic traffic associated with the dwelling house should use the cul de sac access and access road which is the subject of this appeal.

7.9. **Appropriate Assessment**

Having regard to the nature of development, which is for a relatively minor alteration and addition to the access of a permitted dwelling house assessed under planning reference 17/719, which was screened for Appropriate Assessment, with no appropriate assessment issues arising, and it is not considered that the proposed development would 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 planning permission be granted for the development.

9.0 Reasons and Considerations

Having regard to the established and permitted residential use on the site, the existing separate farmyard access off Station Road, the relationship of the subject access and access road to the dwelling house permitted under planning reference 17/719, it is considered, subject to the conditions below, that the development would not result in a traffic hazard and would be in keeping with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained 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. 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The subject access and access road shall <u>only</u> be used for domestic purposes associated with the dwelling house permitted under planning reference 17/719. All other traffic associated with the farm shall use the existing farmyard access on Station Road.</p> <p>Reason: In the interests of traffic safety</p>
3.	<p>(a) The entrance gates shall be set back not less than four metres and not more than six metres from the edge of the public road. The wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.</p>

	<p>(b) The roadside boundary hedgerow shall be removed and replaced by a 1metre high wall/ fence with a hedge planted on the inside.</p> <p>Reason: In the interest of traffic safety.</p>
4.	<p>a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water shall discharge onto the public road or adjoining properties.</p> <p>(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p>Reason: In the interest of traffic safety and to prevent pollution.</p>
5.	<p>Within three months of this decision the applicant shall submit to and agree in writing with the planning authority full details regarding the proposed sightline improvements at the junction of the LT82013 (cul de sac) and LS8203 (Station Road) including the long-term maintenance of the realigned hedgerow and grass verge.</p> <p>Reason In the interests of traffic safety.</p>

Caryn Coogan
 Planning Inspector

30th of November 2021