



An  
Bord  
Pleanála

## Inspector's Report ABP-311581-21

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<b>Development</b>	Retention of widening of access lane and widening of entrance and associated site development works.
<b>Location</b>	Greaghlonge, Magheracloone, Carrickmacross, Co. Mongahan.
<b>Planning Authority</b>	Monaghan County Council
<b>Planning Authority Reg. Ref.</b>	20/380
<b>Applicant(s)</b>	Magheracloone Group Water Scheme Co-Op Society
<b>Type of Application</b>	Retention permission
<b>Planning Authority Decision</b>	Grant, subject to 3 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	An Taisce
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	27 <sup>th</sup> January 2022
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located in a rural area, 4.8km to the south-east of Shercock and 2km to the east of the R162, which runs between Shercock and Kingscourt. This site lies within an undulating landscape, which is mainly in agricultural use along with small areas of woodland. To the west lies a cluster of four loughs, the largest of which is Greaghlonge or Beagh Lough. The site is accessed off the southern side of the L8903, a secondary local road. Beyond the site access point to the east and on the northern side of the local road lie a farm yard, a former farmhouse, and several new dwelling houses.
- 1.2. The site itself is of linear form and it extends over an area of 0.209 hectares. This site rises in a southerly direction at gentle to moderate gradients. To the east of its southern extremity and at a local high point lies a fenced and gated compound within which are sited the cylindrical tanks of the applicant's group water scheme, a portacabin office, and a small car park.

## 2.0 Proposed Development

- 2.1. The proposal is to retain a widened access lane and a widened entrance to this lane and associated site development works.
- 2.2. The access lane runs between the local road and the site of the applicant's group water scheme. The north/south portion of this lane is the subject of the current application. It has been widened to provide a separate adjoining lane for agricultural use. The hedgerow that formerly ran along the eastern side of the lane was removed to facilitate the widening that has occurred, and a steel post and wire fence has been erected in its place. The new agricultural lane has been surfaced in artificial grass, along with a coating of black rubber granules.
- 2.3. A steel post and wire fence denotes the eastern edge of the widened lane and a concrete post and wire fence denotes the western edge. New hedgerows have been/are being planted to the eastern and western sides of the widened lane. They are protected from livestock by electric fences.
- 2.4. An existing surface water drain runs underneath the eastern side of the original lane. This drain is served by a series of gullies, the most northerly one of which would be

re-sited in conjunction with the provision of a new drainage channel and raised concrete surfaced area at the site entrance.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following receipt of further information, retention permission granted, subject to 3 conditions, which address, amongst other things, the implementation of surface water drainage works and surface treatment works within 1 month of the final grant and the implementation of the landscaping scheme in the first available planting season.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

Further information was sought with respect to the following items:

- Comprehensive landscaping scheme in compliance with Policies LCP 1 & 2 and RCP 3 of the CDP,
- Surface water drainage arrangements to prevent run-off from the site to the public road and to safeguard surface water run-off from the public road,
- Details of steel post and wire fence and surface treatment of new access to serve farm, and
- Respond to objectors.

##### **3.2.2. Other Technical Reports**

Monaghan County Council's Environment, Environmental Health, and Road Sections were consulted, but no reports were received.

### **4.0 Planning History**

- 04/212: New reservoir for water storage on existing water treatment site: Granted.

- 20/176: Single storey administrative office: Retention permission granted.

## 5.0 Policy and Context

### 5.1. Development Plan

Under the Monaghan County Development Plan 2019 – 2025 (CDP), the site is shown as lying within a rural area. The following policies are relevant to the current proposal:

- **RCP 3:** *To require that access to new developments in the countryside are positioned to minimise loss of hedgerow/tree, where possible follow alongside existing boundaries/hedgerows, follow the natural contours of the site and use existing lanes where practical.*
- **RAS 1:** *To apply the visibility standards as set out in Section 15.27 and Appendix 12 - Access Details of the Monaghan County Development Plan 2019-2025.*

Table 15.5 states that for Local Class 2 roads with a design speed of 50 kmph x and y distances should be 2.4m and 70m with an eye height/object height of 1.05m.

- **LCP 1:** *To require all planning applications to include a comprehensive landscaping plan commensurate to the scale of development on site in accordance with the specifications set out in Section 15.19 of Chapter 15 of the Monaghan County Development Plan 2019-2025.*
- **LCP 2:** *Developments which necessitate the removal of extensive hedgerow and trees shall only be permitted in exceptional circumstances. In these instances, a comprehensive landscape plan must be submitted with the proposal which includes a replanting schedule along with the replacement of planting being lost.*

### 5.2. Natural Heritage Designations

There are no designated sites within either the immediate or the wider area of the site.

### 5.3. EIA Screening

Item 10(dd) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2021, “all private roads which would exceed 2000m in length”. Under the proposal, an existing lane has been widened rather than lengthened and so it does not constitute a project for the purposes of EIA.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant begins by describing the site’s context and by making some general comments about the application. With respect to the former, attention is drawn to a native woodland and a watercourse to the north of the site and two examples of vernacular architecture to the east. With respect to the latter, attention is drawn to the omission of visibility splays from the red edge denoting the application site and the omission of a new unauthorised access on the opposite side of the public road from the site. Concern is also expressed over the apparent absence of internal consultation on the application.

The appellant proceeds to review the application and its assessment as follows:

- Hedgerow removal and impacts

The works undertaken on site entailed the removal of over 200m of an established, species-rich, embanked hedgerow along the eastern side of the original access road. Such removal was unjustified as the required agricultural roadway could have been provided on the eastern side of the hedgerow.

The removal of the hedgerow is just another example of a pattern of hedgerow removal on the lands of Northlands Farm Ltd which has led to the loss of over 6kms of native hedgerows with attendant impacts upon landscape/visual amenity, biodiversity, and water quality. (The appellant has made a legal complaint in this respect to the Department of Agriculture, Food and the Marine). Furthermore, tree loss in the vicinity of the applicant’s water treatment facility has left it exposed.

- Further loss of hedgerows and other impacts

The CDP acknowledges the importance of hedgerows and yet the submitted landscaping scheme fails to show the nature and extent of hedgerows that would be removed to ensure that the requisite visibility splays are available and the need for compensatory planting.

Elsewhere, mitigation of e.g. the steel post and wire fence has not been addressed.

The absence of detail with respect to the eastern visibility splay means that a proper assessment of the impacts upon the adjacent vernacular cottage has not been undertaken, e.g. any affect on its setting, any disturbance to bats, and any restriction on its curtilage and hence future viability under any re-use scenario. Likewise, the setting of the vernacular farmhouse further to the east would be harmed.

Insofar as the access road to the applicant's water treatment facility has not been widened and it is not the subject of additional vehicular movements, the further removal of hedgerows is not justified. Instead, the original access road could be accompanied by sufficient visibility splays were the existing hedgerows to be regularly maintained.

- Appropriate mitigation

A detailed survey of the nature and extent of the hedgerows to be further removed should be undertaken and a detailed restitution plan prepared.

The Planning Authority's second condition should be amended to require the planting of semi-mature trees under the supervision of a hedgerow expert, who should be retained for a five-year period to oversee their protection and, in the event of failure, their replacement.

- Surface water drainage and pollution

Local receiving waters are classified as "poor", groundwater is extremely vulnerable, and increasing pressures arise from intensive dairy farming.

The limited permeability of the access road and its steep gradient lead to surface water run-off, which leads to flooding and pollution from contaminants.

Details of the access road are scant, and the surface water drainage depicted serves the overflow to the reservoir. Reliance on surface water infiltrating into underlying subsoil is misplaced, as is evidenced by the repeated relaying of surface material to the access road since April 2020.

With the removal of the hedgerow from along the eastern side of the original access road, surface water run-off has escalated leading to flooding. The existing drainage is readily overwhelmed. It passes underneath the public road and discharges to a stream.

The proposed concrete apron and surface water channel at the foot of the access road would be wholly inadequate to intercept surface water run-off and pollutants, e.g. accumulates of slurry from the new farm access road. A comprehensive engineering solution is needed in this respect.

- Road surface treatment

The farm access road is surfaced in “Astroturf”, i.e. plastic grass. The applicant has not addressed the suitability of this surface treatment to a sloping site. It has not referred to the loose granulated rubber particles that have been spread over the “Astroturf” instead of sand.

The use of loose granulated rubber particles is inappropriate and hazardous. Photographic evidence of the dispersion of such particles locally has been submitted. They pose a threat to water quality, aquatic life, and road safety, insofar as where they are concentrated a reduction in tyre grip occurs.

The appellant concludes by recommending that the Board amends/augments the Planning Authority’s conditions in accordance with the points raised under its above review of the application.

## 6.2. Applicant Response

None

## 6.3. Planning Authority Response

None



#### 6.4. **Observations**

None

#### 6.5. **Further Responses**

None

#### 7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the Monaghan County Development Plan 2019 – 2025 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Preliminary considerations,
- (ii) Landscaping,
- (iii) Access,
- (iv) Water, and
- (v) Appropriate Assessment.

##### **(i) Preliminary considerations**

7.2. During my site visit, I observed that the application site encompasses the north/south portion of the access lane only. This lane also has an east/west portion, which leads up to the applicant's group water scheme compound. This portion is accompanied by an agricultural lane with an artificial grass surface on its southern side that is separated from it by a concrete post and wire fence. There is a gate in this fence at its eastern end adjacent to the southern tip of the application site.

7.3. The applicant has not provided any background information to its proposal. It may be the case that, prior to the widening of the north/south portion of the lane and the continuation of the agricultural lane with an artificial grass surface that has been facilitated thereby, the aforementioned gate was used by livestock to access the pre-existing gravel lane. If that was indeed the scenario, then the impetus for the proposal would be the opportunity it provides for a dedicated agricultural lane with a

surface treatment that is easier on the hooves of livestock (cf. notation to this effect on drawing no. 700 21 01).

- 7.4. During my site visit, I also observed that on the opposite side of the local road from the application site there is an access point to a further lane that leads to the farm yard to the east. The appellant draws attention to the unauthorised status of this access point. The case planner refers in his report to alleged unauthorised works outside the application site which are the subject of an enforcement enquiry. I deduce that this access point maybe one of these works.
- 7.5. If the question is asked does the application site encompass the entire agricultural route that is surfaced in artificial grass, then the answer is that its does not. If the question is asked does this site encompass the continuation of this route to the north of the local road, then the answer is that it does not. Nevertheless, the Planning Authority accepted the validity of the application for retention purposes. Insofar as it involves widening, the works undertaken within the application site can be distinguished from works that appear to be related to it to the west and to the north.
- 7.6. I conclude that the Board can proceed to assess/determine the application as submitted based on the extent of the works shown therein.

#### **(ii) Landscaping**

- 7.7. The works undertaken on the site entailed the removal of over 200m of hedgerow from along the eastern side of the pre-existing lane. The appellant draws attention to this removal and questions the need for it, e.g. the agricultural lane could have been provided on the far side of this hedgerow. The applicant has not explained its actions in this respect.
- 7.8. I consider that the removal of the hedgerow, in the circumstances outlined above, to indeed be regrettable. The practical difficulty is of course that this hedgerow cannot literally be reinstated. Instead, the applicant undertakes to plant new hedgerows on either side of the widened lane. To this end, a landscaping scheme has been prepared (cf. drawing no. 700 21 010), which would entail planting 60 semi-mature native tree species and the planting of hedging at regular intervals.
- 7.9. During my (unannounced) site visit, I observed that some of the planting in the above cited landscaping scheme has occurred and more was being undertaken. The appellant states that such planting and its subsequent inspection over a 5-year

period should be supervised by a hedgerow expert. I consider that such supervision would be appropriate to ensure that the promise of the landscaping scheme is fulfilled. A condition requiring such supervision should be attached to any permission.

- 7.10. The appellant also draws attention to the absence from the submitted plans of details as to any further hedgerow removal that may be necessary to ensure the needed visibility splays are available at the widened site entrance. I agree that this omission should be made good, and that compensatory planting should be shown behind the lines of these splays. Details in this respect should be conditioned.
- 7.11. I conclude that, provided details of any further loss and replacement of hedgerow in connection with visibility splays are submitted and the planting of hedgerows is supervised by an expert, the applicant's landscaping scheme would, in time, secure some compensation for the hedgerow removal that has occurred.

### **(iii) Access**

- 7.12. The pre-existing access has been effectively widened by the provision of the adjoining agricultural lane. The eastern entrance pillar and some hedging have been removed and a more expansive access from the local road formed. The portion of the adjoining local road is of relatively straight and level alignment. The applicant has submitted site plans which show indicatively the requisite visibility splays of 2.4m x 70m and the accompanying sterilisation of land. Agreement to such sterilisation has been given by the landowners.
- 7.13. The appellant expresses concern over the implications of the eastern visibility splay for an adjacent vacant and semi-derelict vernacular building. The footprint of this building is shown on the above cited site plans. I am satisfied that it would be unaffected by the provision of this splay. I am also satisfied that the setting of the former farmhouse further to east, which is identified in the NIAH (ref. no. 41403015), would not be significantly affected by the proposal.
- 7.14. As discussed under the second heading of my assessment, more details are needed on the implications for hedging of the required visibility splays. Likewise, the eastern entrance pillar should be reused to recover the symmetry of the pre-existing site entrance or new matching pillars should be specified. Details of gates to the site

entrance and their setback from the roadside should also be shown. These matters could be conditioned.

7.15. I conclude that the widened site entrance would be capable of being used in manner consistent with road safety.

**(iv) Water**

7.16. The applicant has submitted a site drainage plan (MOWS-RA-003A), which shows the presence of a stream to the north of the site. During my site visit, I observed a wet ditch, too, on the northern side of the local road. The applicant has also submitted a site drawing (700 21 01), which shows the route of a surface water drain that runs through the site with 5 accompanying gullies. This drain is shown as passing under the local road to an outfall point to another drain on the north of this road.

7.17. The site drawing also shows the re-siting of the most northerly gully in conjunction with the provision of a drainage channel and a raised concrete area at the site entrance. This channel would be tilted towards its centre where the re-sited gully would be.

7.18. Under the OPW's flood maps, the site is not shown as being the subject of any identified flood risk.

7.19. The appellant draws attention to surface water run-off from the lane, which has increased with its widening and the removal of the eastern hedgerow. It also draws attention to the proposed drainage channel and re-sited gully, and it questions the adequacy of these measures. The appellant states that a comprehensive engineering solution is needed to the problem of surface water run-off onto the local road.

7.20. During my site visit, I observed the gullies along the rising lane along with its gravel surface. I also observed a puddle at the site entrance. I recognise the appellant's concern that with increased surface water run-off the local road is likely to be more affected than hitherto. I also recognise the scope for the said gullies to become blocked with gravel and the proposed drainage channel to be overwhelmed. In these circumstances, I concur with the appellant that a comprehensive engineering scheme is needed. Such a scheme should seek to quantify surface water run-off and

to design measures that would be capable of coping with such run-off. It should also identify mitigation measures to allay the risk of blockages.

7.21. The appellant also draws attention to the risk that surface water run-off would convey pollutants into watercourses. It expresses particular concern over the use of black rubber granules as a coating to the artificial grass, which has been laid on the agricultural lane. The applicant has not explained why these granules were used instead of e.g. sand. Clearly, they pose a threat to the environment e.g. aquatic life. During my site visit, I observed them in places along the length of the agricultural lane. I consider that they need to be removed to negate the threat that they pose to the environment. Such removal may necessitate they're collection by hand. It should be conditioned.

7.22. I conclude that the surface water run-off from the site needs to be the subject of a comprehensive engineering solution and that the black rubber granules along the agricultural lane need to be removed in order to avoid ponding on the local road and the pollution of watercourses.

#### **(v) Appropriate Assessment**

7.23. The site is not in nor near to a Natura 2000 site. The site does not lie within 15km of such a site, and I am not aware of any source/pathway/receptor routes between it and such sites that are further away again. No Appropriate Assessment issues arise from the proposal.

7.24. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the proximity to the nearest European site, 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.

## **8.0 Recommendation**

That retention permission be granted.

## 9.0 Reasons and Considerations

Having regard to the Monaghan County Development Plan 2019 – 2025, it is considered that, subject to conditions, the proposal would be compatible with the visual amenities of the area, the maintenance of water quality in local water bodies, and road safety. The grant of retention permission would thus accord 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, as amended by the further plans and particulars submitted on the 11<sup>th</sup> day of August 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 within the stated time period and outstanding works shall be completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Within 12 weeks of the date of this order, the developer shall submit to the Planning Authority a comprehensive engineering scheme to handle surface water run-off from the site. This scheme shall be based on the quantification of surface water run-off from the site, and it shall address how the risk of blockage to gullies and channels can be mitigated.</p> <p>Once agreed in writing with the Planning Authority, the developer shall fully implement the agreed scheme within a further 12-week period.</p> <p><b>Reason:</b> In order to ensure the satisfactory handling of surface water run-off from the site.</p>
3.	<p>Within 12 weeks of the date of this order, the developer shall remove from the surface of the artificial grass within the site all black rubber granules. Thereafter, neither such granules nor any similar materials shall be laid on this grass.</p>

	<p><b>Reason:</b> In order to avoid any continuation in the pollution threat that these materials pose to the environment.</p>
4.	<p>Within 12 weeks of the date of this order, the developer shall submit to the Planning Authority comprehensive plans of the site entrance. These plans shall show the following:</p> <p>(a) Any hedgerow that would need to be wholly or partially removed to achieve the required visibility splays.</p> <p>(b) Arising from (a), compensatory hedgerow planting behind the line of the visibility splays.</p> <p>(c) The siting and design of entrance pillars and their accompanying gates.</p> <p>The plans shall be accompanied by a timetable for their implementation.</p> <p>Once agreed in writing with the Planning Authority, the developer shall fully implement the agreed scheme in accordance with its timetable.</p> <p><b>Reason:</b> In the interests of road safety and the visual amenities of the area.</p>
5.	<p>The landscaping scheme shown on drg no. 700 21 01, as submitted to the planning authority on the 11<sup>th</sup> day of August 2021, shall be carried out within the first planting season following the date of this order.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the first planting season following the date of this order, shall be replaced within the next planting season with others of similar size and species.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<p>Within 12 weeks of the date of this order, the developer shall submit to the Planning Authority the name of a recognised hedgerow expert and, thereafter, this expert shall supervise all hedgerow planting and any subsequent replacement planting within the site.</p> <p><b>Reason:</b> In order to ensure that planting is properly undertaken.</p>

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Hugh D. Morrison  
Planning Inspector

2<sup>nd</sup> February 2022