



An
Bord
Pleanála

Inspector's Addendum Report

ABP-314460-22

Development

Raise field levels of existing agricultural lands using clean inert soil and stones as per EU Waste Class 17 05 04 and to cover with topsoil so as to improve land quality. An application for a Certificate of Registration will be sought post planning.

Location

Sheskin, Carrickbeg, Carrick on Suir, County Waterford.

Planning Authority

Waterford City and County Council

Planning Authority Reg. Ref.

211074

Applicant(s)

Declan Walsh

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Vanessa Béhal

Observer(s)

None

Date of Site Inspection

10th of July 2024

Inspector

Angela Brereton

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1.0 Introduction

- 1.1. This report is an addendum report to the Inspector's report in respect of ABP-314460-22 dated 19th January 2024.
- 1.2. In accordance with the Board Direction (BD-015852-24) dated 18/03/2024; The board decided to defer consideration of this case and to issue a Section 137 notice to the parties as follows: *"The Board noted that it is stated in the application documentation that it is proposed to access and egress to and from the site, subject to this application and appeal, via an existing entrance, noting that permission has not been sought for a new entrance to the site. The Board considered that on the basis of the information available on file that it was not clear where this entrance was located in the context of the subject site and that in seeking such information that this may comprise a new issue. You are invited to provide your comments in this regard".*
- 1.3. This notice was issued to the parties under Section 137 on the 3rd of May 2024. A response was requested to the issues raised on or before the 23rd of May 2024.
- 1.4. A Section 132 Notice was issued to the applicant i.e. *"You are requested to submit full details of the nature and location of the entrance proposed to facilitate the development including details of sightlines available from the said entrance in both directions.*
- 1.5. This notice was issued to the applicant under Section 132 on the 3rd of May 2024. The applicant was required to submit a response on or before the 23rd of May 2024.
- 1.6. In response to the Board's Direction above, please see additional analysis in relation to the documentation submitted in response to this issue below. This addendum report sets out a summary of the responses received from these parties to the appeal and sets out an assessment of the key issues raised.

2.0 Background - Proposed Development

- 2.1. This development is to consist of the filling in of an existing hollow in the ground and the raising of field levels of existing agricultural lands at Sheskin, Carrickbeg, Carrick on Suir using inert soil and stones as per EU Waste Class 17 05 04 and to cover with topsoil so as to improve land quality. An application for a Certificate of Registration is to be sought post planning.

- 2.2. The Background and Assessment of this proposal is set out in the Inspector's report in respect of ABP-314460-22 dated 19th January 2024.

3.0 Responses to Board's Correspondence

3.1. Applicant's Response

The applicant's response provides that it has been his intension to use the existing entrance to this field. As the roadway width is less than 4m., this entrance which has been in place for in excess of 20 years and would in any event be exempted.

However, it is now submitted that this entrance be located further to the east such that clear sightlines are available from a point 2.5m back from the metalled edge of the roadway for a distance of 55m in each direction to the nearside roadway edge. Declan Walsh is the registered owner of the entire field. The present entrance has already been shown on the site layout plan submitted (and aerial photo attached) and has already been accepted by the Planning Authority. He provides that he has no objection to the above being imposed as a condition in any decision that may be forthcoming.

3.2. Appellant's Response

The Third Party, Vanessa Béhal has in her letter dated 9th of May 2024, commented on the issue of access, egress and entrance to the site proposed by Declan Walsh and has provided 9 attachments with her letter. Her response includes the following:

1. On the 7th of December 2005, Donna Walsh was refused permission to build on this this site due to traffic hazard of the substandard narrow steep road that is the only access from the Carrick on Suir side of Sheskin Hill. It must be noted that the road continues being equally narrow and substandard although not quite as steep on the other side. It is subject to becoming dangerously icy in the winter and there are crashes on the junction most years.
2. There was only one gate to the area of the two sties that comprise the site that Donna Walsh built on PL24.222039 and Declan Walsh hopes to develop. This gate was taken down by Donna Walsh on her site leaving the site that Declan Walsh wishes to develop completely walled in by the original low

stone wall with foliage growing from it. There is no separate entrance for this area. Declan Walsh's site is described as agricultural land. This land is a hill bog and has never been used for agricultural purposes, not suitable for raising animals or growing crops due to the rock, slate, and shale surface and the incursion of wildlife from the surrounding forest. The aquifers that cross the hill bog site area, drain onto her land any interference with the surface will disastrously impact on her property and place the trees at risk. This site contained a slate quarry in the early 1900's as seen on the map.

3. This shows a map of both her property and the site in question. The xxxx marks where the old stone wall was breached and broken to give access to the site for machines to clear it of all the natural undergrowth of the bog and level the stoney areas.
4. This is the planning map of Donna Walsh's property showing where the old gate was removed from, and where the new entrance was made.
5. This is a map of the steep narrow road that is the access to Declan Walsh's site, showing the dangerous junction and the length of the steep hill which is the subject of a strong flow of water in wet weather, that can lead to slippery driving conditions. The forest that surrounds the incline of the hill made control of the flow of water away from the road surface impossible.
6. Photos of the new entrance to Declan Walsh's site showing stones cleared from the old wall and the point where the wall was breached on the left side.
7. Photo of the cleared area with a part of the old stone wall visible in the first picture, the second picture shows a view from inside of the quarry to the cleared area of the old wall designating the new entrance.
8. Recent photographs showing the cleared entrance area and its relationship to the old quarry which is just inside the entrance. This area is closely overshadowed by the ancient trees along her boundary. Should Declan Walsh develop this land and be allowed to fill in the quarry this would almost certainly mean that the trees will have to be cut down, so they do not present a problem to any development. This in turn will open her property to being more vulnerable to the weather that presents on top of the hill since her circle of trees and shrubs will be laid open. Her property was built in 1899 and was

planted out with shrubs and trees at that time. No other building was close by due to the nature of the land and access to it.

9. Three photos show the dangerous junction in icy weather this year where once again a vehicle crashed into the stop sign and knocked it down, also depicting the narrowness of the road and the steep incline which falls to the side of the junction. One photograph shows her dog on the road outside Declan Walsh's site in the snow, showing how narrow the road is. The direction is away from Carrick and towards her house entrance.

The Appellant encloses photographs relevant to each of the points made and requests that the Board takes this information into consideration.

3.3. Planning Authority Response

They refer to the correspondence received from the Board dated 3rd of May 2024 regarding this application, specifically in relation to the entrance. They note that the Board considered that the exact location of the entrance remains unclear. They advise the following:

- The site layout plan indicated an existing field entrance in the south-eastern corner of the site denoted by 2 parallel black lines at 10.0 contour level, as per site layout date-stamped 17th of November 2021 (they refer to the attached map).
- From the site inspection it is confirmed that a field opening was in-situ on the ground. The Planning Authority was satisfied that same would serve the development. If the Board are minded to seek further details from the applicant on this matter, the Planning Authority would have no objection.

3.4. Further Responses

A further letter has been submitted by the Appellant Vanessa Béthal on the 31st of May 2024. This reiterates many of the points already made in her previous letter and includes photographs. This also includes:

- The Appellant has lived in Sheskin House for over 30 years and is witness to there being no separate entrance for this area. The only entrance that had

been in existence for over 20 years was the gate that Donna Walsh took down and moved her own entrance further down the hill. The map attached shows both her property and the site in question. The xxx marks where the old stone wall was breached and broken to given access to the site for machines to clear it of all the natural undergrowth of the bog and level the slate surface.

- She attaches photos of the existing entrance which clearly shows water gathered as it does in wet weather and the natural growth of marsh grass. This entrance has only been in existence since the low wall was breached to allow for a vigorous clearance of the site in April 2021 using heavy machinery. No permission was ever sought for this entrance, and it was falsely described as being an existing entrance.
- The natural flow of water over the top of the hill will be interfered with, where vehicular access to a previously untouched piece of land will affect wildlife and ecology of the remaining hill bog on the hill which comprises the site and her land lying below it, should this site be developed, and drainage be implemented, taking the water away from such entrances and any interior development. She understands that EU rulings are recommending the preservation of sites that have natural ecologies and this site, at the top of Sheskin Hill is the top of the hill bog over which water flows supplying her land. Use of chemicals to poison the land used last year, and the proposed ground works which will involve destroying the natural flora, will serve to decimate this ecology.

4.0 Assessment

- 4.1.1. Having reviewed the responses and documentation received, I am satisfied that the matters to be considered in this addendum report to the original Inspectors Report for appeal ABP Ref. ABP-314460-22 (dated 19th January 2024), are as provided in the Board Direction dated the 18th of March 2024, and relate to clarification of the location of the access and egress of the site. In this respect I would also refer to Section 7.3 of the Inspector's Report which refers to Access and Traffic and in particular to paragraphs 7.3.4 and 7.3.5 which concern this lack of clarification as regards the location of the access.

- 4.1.2. In view of the issues raised, on the 10th of July 2024, I revisited the site to ascertain the location of the entrance to the site. I noted again, that the access to this site, is not clearly visible or defined. The site frontage is overgrown and there is no recessed or gated entrance to this site.
- 4.1.3. I have had regard to the mapping (aerial photo extracts) and note that the Google Map shows the site in earlier times (dated c.2009). It appears that the site had then been cleared and that there was an entrance (not gated) to the site. However as shown on the Bing Map (c.2024) and as seen on my sites visits (3rd of October, 2023 and the 10th of July 2024) the site frontage is vegetated with no defined entrance.
- 4.1.4. The Board Direction requested the applicant: To submit full details of the nature and location of the entrance proposed to facilitate the development including details of the sightlines available from the said entrance in both directions. This request is relatively specific as to the information sought. The applicant's response has been noted. He has not provided full details of the location of the 'existing entrance' or of sightlines as requested. He submits that this entrance be located further to the east such that clear sightlines area available from a point 2.5m back from the metalled edge of the roadway for a distance of 55m in each direction to the nearside roadway edge. Therefore, it is noted that sightlines from the 'existing entrance' are not adequate.
- 4.1.5. It is not clear from the details submitted as to the precise location of such a revised entrance. The 'existing field entrance' as shown on the Site Layout Map submitted is close to the southeastern site boundary (area shown in red). While the applicant says that he is the registered owner of the entire field, a map showing his land ownership (with a blue line boundary) has not been submitted. Therefore, it is difficult to ascertain whether such an entrance would be within the redline boundary of the subject application site.
- 4.1.6. The responses from the parties to the Board Direction are noted. This consists of the two separate responses from the Third Party and the response from the Council. The former provides a history and background to the site and includes photos and mapping. Point no.2 of their response dated 31st of May 2024 includes that there was no separate entrance for this area. That she has lived in Sheskin House for over 30 years and is witness to this.

- 4.1.7. The Planning Authority refers to the location of the field entrance in the south-eastern corner of the site denoted by 2 parallel black lines at 10.0m contour level as shown on the site layout plan. They provide that their site inspection confirmed that a field opening was in situ on the ground and that they are satisfied that same would serve the development.
- 4.1.8. I noted when I was onsite, that the area along the frontage and shown as the 'existing entrance', is now vegetated and is not defined/levelled as an entrance and while the vegetation is at a lower level in this location, it was not clear that there was/is an entrance to the site at this location.
- 4.1.9. The Public Notices do not refer to the opening of a new entrance to the site to facilitate the proposed works. In my opinion, it would not be possible to facilitate these works without having a defined entrance and showing that adequate sightlines are available. Therefore, the Public Notices should have included the provision of a vehicular entrance to facilitate the works, and drawings should have been submitted showing the precise location and sightlines for such an entrance.

5.0 Recommendation

I refer to the previous Inspector's Report and recommendation dated 19th of January, 2024. Having regard to the queries raised in the Board Direction dated the 18th of March, 2024, and to the applicants response and that of the Third Party and the Council, I would conclude that the applicant has failed to adequately address the issues as raised by the Board in their Direction in relation to access and egress to the site. I would therefore recommend that permission be refused as per my 2no. reasons for refusal in the Inspectors Report dated the 19th of January 2024. This includes reason no.2 which is reiterated below.

6.0 Reasons and Considerations

2. The Board is not satisfied that sufficient information has been submitted including relevant to site entrance details and sightlines to demonstrate that the proposed development, located on a minor road which is seriously substandard in terms of width and in particular vertical alignment would not endanger public safety by reason of traffic hazard. In the absence of such

site-specific information the proposal would be contrary to Development Management Policy DM 36, Volume 2 of the Waterford City and County Development Plan 2022-2028. As such it has not been shown that the proposed development would not impact on traffic safety and the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Angela Brereton
Planning Inspector

18th of July 2024