



An
Bord
Pleanála

Inspector's Report ABP- 314615-22

Development	Relocation of site entrance to form a new shared entrance.
Location	Donore, Longwood, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	22/853.
Applicant	Amanda Kelly.
Type of Application	Permission.
Planning Authority Decision	Refusal of Permission.
Type of Appeal	First Party v Refusal of Permission.
Appellant	Amanda Kelly.
Observer(s)	None
Date of Site Inspection	22 nd March 2023.
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1.** The address of the appeal site is Donore, Longwood, Co. Meath. The site is located on the northern side of the R-161 and comprises the eastern portion of an existing agricultural field which is currently under grass. The site is located to the immediate east of an existing two storey dwelling which is served by an area of amenity space to its side (west) and rear (north). This dwelling is set back c. 5m from the road edge and currently has no formal boundary to the R-161. This dwelling is also served by an existing vehicular entrance which is located on the eastern side of the dwelling. An additional gated entrance serves the existing field and is located at the western end of the site's roadside boundary. With respect to the site's topography, the site is relatively flat and is consistent with the topography of the lands within the surrounding area. The appeal site has a stated area of c. 0.3035ha.
- 1.2.** In terms of the site surrounds, the appeal site has an eastern abuttal with a driveway serving a detached dwelling and associated farm known as Donore House. There are also a number of rural dwellings located further to the west of the site, on the northern side of the R-161. The remaining lands within the wider surrounds are predominantly in agricultural use.

2.0 Proposed Development

- 2.1.** The proposal seeks planning consent for an amendment to an extant planning permission (Ref. TA20193) comprising the relocation of the permitted vehicular entrance to form a shared entrance with the existing dwelling to west of the appeal site. The proposal will replace the existing entrance serving the field with a new recessed vehicular entrance for the permitted dwelling.

3.0 Planning Authority Decision

3.1. Decision

Meath County Council refused planning permission for the proposed development for the following 1 no. reason:

1. The application site relates to an entrance on the R-161 which has been identified as a Strategic Corridor in the Meath County Development Plan, 2021-2027. The applicant has failed to demonstrate the availability of the required sightlines of 160m to the nearest roadside edge from a setback of 2.4m from the edge of the road in accordance with TII Standards. The proposed development would therefore result in the creation of a serious traffic hazard by reason of the additional traffic movements generated at a location where visibility is restricted. The development would establish an undesirable future precedent and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Meath County Council Planning Report forms the basis for the decision. The report provides a description of the site and subject proposal, it sets out the planning history of the site and sets out the policy that is relevant to the development proposal.

The report refers to the correspondence submitted with the application surrounding the legal proceedings surrounding the use of the private laneway to facilitate access to the appeal site, as permitted by the extant planning permission. The Planning Authority note that the planning system is not designed as a mechanism for resolving disputes and this therefore has not formed part of their assessment.

In terms of access and traffic safety, the Planning Authority refer to the report of the Transportation Department which highlights that the R-161 is identified as a Strategic Corridor under the County Development Plan and concerns are raised with respect to lack of appropriate sightlines and the intensification of the existing entrance. A refusal of planning permission was recommended for 1 no. reason.

3.2.2. Other Technical Reports

Transportation: Report received recommending a refusal of planning permission.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Observations

None.

4.0 Planning History

TA201943: Planning permission granted by the Planning Authority in November 2021 for the construction of storey and a half dwelling, wastewater treatment system, new entrance and associated site works.

5.0 Policy and Context

5.1. Meath County Development Plan (CDP), 2021-2027.

The site is located within a 'Low Development Pressure Area' (Area 3), as per Map 9.1 of the current CDP. A 'Key Challenge' for Area 2 is 'To arrest population and economic decline.' Policies of relevance to the development proposal include:

RD POL 6: To accommodate demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.

Section 9.15.2 (Regional and County Roads) of the current CDP notes that 'It is vitally important that new housing in rural areas that is located along non-national routes is located in such a manner as to avoid endangering public safety by way of a traffic hazard. There are a number of regionally and locally important functions of certain regional and county road type routes that act as particularly important transport links that traverse Co. Meath.

Policies relevant to the consideration of this appeal include:

- **RD POL 38** To ensure that all development accessing off the county's road network is at a location and carried out in a manner which would not endanger public safety by way of a traffic hazard.
- **RD POL 39:** To identify and protect those non-national roads of regional or local importance from unnecessary and excessive individual access/egress points, which would prejudice the carrying capacity and ultimately the function of the road.
- **RD POL 40:** To restrict new accesses for one-off dwellings where the 80km per hour speed limit currently applies in order to safeguard the specific functions and to avoid the premature obsolescence of identified regional and important county link roads (see Map No 9.2.) through the creation of excessive levels of individual entrances and to secure the investment in non-national roads.

Section 9.15.3 (Development Assessment Criteria) notes that exceptions to the above policies relating to regional and county roads will be considered on their merits in the following circumstances:

- For those who have a location specific rural housing need on family owned lands and cannot provide access onto any other non-identified regional or county road and therefore need to access one of the regional or county roads identified on Map No. 9.2. In this circumstance, the applicant will be encouraged to maximise the potential of an existing entrance. The onus shall be on the applicant to demonstrate that they have no other access or suitable sites within their landholding, and;
- Where an existing dwelling with a vehicular entrance that is not considered to constitute a traffic hazard is to be demolished and replaced with a new dwelling.

The policy also notes that new development proposals onto certain regionally and locally important county road type routes that act as particularly important transport links that traverse Co. Meath shall be assessed having regard to:

- Avoiding unnecessary new accesses, for example where access could be provided off a nearby county road.

- Ensuring that necessary new entrances are located in such a manner as to provide effective visibility for both users of the entrance and users of the public roads so that opportunities for conflicting movements are avoided.
- Avoiding the premature obsolescence of regional roads in particular, through creating excessive levels of individual entrances.

Technical requirements associated with one-off houses for sight and stopping distances are included within Section 9.18 of the CDP.

- **RD POL 43:** To ensure that the required standards for sight distances and stopping sight distances are in compliance with current road geometry standards as outlined in the NRA document Design Manual for Roads and Bridges (DMRB) specifically Section TD 41-42/09 when assessing individual planning applications for individual houses in the countryside.

5.2. Natural Heritage Designations

There are no European designated sites within the immediate vicinity of the site. The nearest designated site is the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299), c. 300m to the south of the site. The River Boyne and River Blackwater Special Protection Area (SPA) (Site Code: 004232) is also located c. 300m to the south of the site.

5.3. EIA Screening

Having regard to the nature and scale the development which consists of the relocation of an existing vehicular entrance to a permitted dwelling, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The First Party planning appeal has been prepared and submitted on behalf of the Applicant. The grounds of appeal can be summarised as follows:

- It is stated that the Planning Authority refused this application, despite it being compliant with the policies of the County Development Plan.
- As per RD POL 43, proposals for new entrances shall comply with the NRA document Design Manual for Roads and Bridges (DMRB) specifically Section TD 41-42/09. Table 3 of TD 41-42/09 provides for relaxations of Stopping Sight Distance (SSD) below the desirable minimum of 160m where the regulated speed of 80km (85km) per hour applies, subject to specific traffic densities. It is stated that one step below desirable minimum reduces SSD to 120m and two steps below desirable minimum reduces SSD to 90m.
- It is stated that traffic counts at two remote locations on the R-161 were undertaken and demonstrate traffic volumes below the 500 Annual Average Daily Traffic (AADT) and therefore the reduced SSD of 90m can be applied in this instance.
- It is contended that the proposed entrance is compliant with the policies of the County Development Plan and the proposal will allow the Applicant to construct their family home.

6.2. Planning Authority Response

A response has been received from the Planning Authority dated 5th October 2022 which notes that the proposed development would create a traffic hazard, and as such would not be in accordance with the proper planning and sustainable development of the area. The Board is requested to uphold the decision of the Planning Authority.

6.3. First Party Response

None.

6.4. Observations

None.

6.5. Further Responses

None sought.

7.0 Assessment

The main issues are those raised in the Third Party's grounds of appeal and the Planning Report, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Vehicular Access & Sightlines
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. The proposed development seeks planning consent for an alteration of an extant planning permission (Ref. TA20193). The singular alteration to the permission comprises the relocation of the permitted vehicular entrance, to form a shared entrance with the existing dwelling to west of the appeal site. The proposal will replace the existing entrance serving the field with a new recessed vehicular entrance for the permitted dwelling. To give a background context to the proposal, permission was approved under the extant permission for the construction of a double storey dwelling on the appeal site. Vehicular access to the dwelling was provided via a new entrance on the site's eastern (side) boundary from the driveway serving the dwelling to the north of the appeal site. The application and appeal documentation confirms that the Applicant did not have sufficient legal interest to undertake the works necessary to facilitate access to the appeal site. Correspondence has been enclosed from the adjoining landowner's legal representatives confirming that legal proceedings would be brought against the Applicant should works commence on foot of the extant permission. The appeal site is located within a 'Low Development Pressure Area' (Area 3), as per Map 9.1 of the current CDP. I do not intend to revisit the issue of the

Applicant's rural housing need and overall compliance with the relevant policies of the CDP. I note that this has been addressed in the original assessment of the extant permission and I am satisfied that the precedent of development at this location has been established by the Applicant. The principle of the proposed development is therefore considered to be acceptable.

- 7.1.2. In terms of the need for an alternative access arrangement, the potential legal proceedings and the inability for the Applicant to rely on the permitted entrance in accordance with the extant permission, I would refer to Section 5.13 of the Development Management Guidelines which state that 'the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts'. Section 34(13) of the Planning and Development Act, 2000 (as amended) is also relevant which notes that 'a person is not be entitled solely by reason of a permission to carry out any development'. In this regard, the issues raised in the application and appeal are not planning matters and are therefore not taken into consideration in my assessment of this planning appeal.

7.2. Vehicular Access & Sightlines

- 7.2.1. As noted, the proposal seeks to amend the extant permission by relocating the permitted entrance from the eastern (side) boundary to the western end of the site's roadside boundary. This will then form a new shared entrance with the existing dwelling to the west of the appeal site. Under the extant planning permission, the permitted dwelling is accessed via the existing entrance and driveway to the east which serves the property to the north. I note that a right-of-way over this driveway had not been identified on the submitted plans and concerns over this matter were not raised as an issue during the Planning Authority's assessment of the application. The previous application was assessed under the Meath County Development Plan, 2013-2019 and the Planning Authority included a condition (Condition No. 2) which required the Applicant to provide and maintain sightlines of 90m to the nearside road edge from a setback of 2.4m. Since then, a new Plan has been adopted (2021-2027) and the R-161 has now been identified as a Strategic Corridor under Map 9.2 of this Plan. Within

the Report of the Planning Authority's Transportation Department, a refusal of permission was recommended as the Applicant has not shown the required sightlines of 160m as per the TII requirements and has only indicated 90m sightlines in each direction on the submitted plans. It is noteworthy that 160m sightlines in a westerly direction from both the existing (i.e. permitted arrangement) and proposed entrances cannot be achieved given the current alignment of the road.

7.2.2. As per Policy RD POL 40 of the current CDP, the Planning Authority will seek 'To restrict new accesses for one-off dwellings where the 80km per hour speed limit currently applies in order to safeguard the specific functions and to avoid the premature obsolescence of identified regional and important county link roads (see Map No 9.2.) through the creation of excessive levels of individual entrances and to secure the investment in non-national roads. Notwithstanding this, Section 9.15.3 (Development Assessment Criteria) notes that exceptions to this policy will be considered for those who have a location specific rural housing need on family owned lands and cannot provide access onto any other non-identified regional or county road and therefore need to access one of the regional or county roads identified on Map No. 9.2. In this circumstance, the Applicant will be encouraged to maximise the potential of an existing entrance and the onus shall be on the Applicant to demonstrate that they have no other access or suitable sites within their landholding. Although I am satisfied that the Applicant has demonstrated a rural housing need, on the basis of the information on file I cannot conclusively determine that there are no other suitable sites within the family landholding that the Applicant could rely upon to meet their housing need.

7.2.3. Within the appeal submission, the appellant has referred to Table 3 of TD 41-42/09 which provides for relaxations of Stopping Sight Distance (SSD) below the desirable minimum of 160m where the regulated speed of 80km (85km) per hour applies, subject to specific traffic densities. The appeal submission includes traffic counts taken over six days at two separate locations, which demonstrates traffic volumes below the 500 Annual Average Daily Traffic (AADT). It is therefore contended by the Appellant that a reduced SSD of 90m can be applied in this instance and the proposal would therefore

be in compliance with the relevant TII standard, and as a consequence will accord with RD POL 43 of the CDP. Notwithstanding this, it would appear that the 90m sightlines identified on the site layout plan submitted as part of the current proposal is in the same position as the 90m sightlines on the plans associated with the extant permission (i.e. taken from the existing entrance and not the proposed entrance). I would therefore question the accuracy of the notations included on the submitted documentation and whether it is even feasible to achieve the reduced sightlines (i.e. 90m) from the relocated shared entrance.

- 7.2.4. It is also noteworthy to highlight that with the extant permission, the red line site boundary extended further to the west of the site to include the 90m sightline taken from the existing entrance with the R-161. However, the current red line boundary on the site layout plan does not include this sightline and it is confirmed in the appeal submission that the existing dwelling to the west of the appeal site is the subject of obligatory sale to disburse the proceeds of the estate to the entitled beneficiaries. Therefore, as these lands may no longer be in the ownership of the Applicant's family, I have concerns that the ongoing maintenance of sightlines in a westerly direction may be outside of the Applicant's control and any condition requiring same may be unenforceable. In this regard, I have significant concerns with regard to the creation of a new vehicular entrance to serve the permitted dwelling and the potential for the creation of a serious traffic hazard at a location where visibility is restricted. The proposed development fails to accord with Policy RD POL 40 of the current CDP and is therefore contrary to the proper planning and sustainable development of the area.

7.3. Appropriate Assessment

- 7.3.1. The nearest designated sites are the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the River Boyne and River Blackwater Special Protection Area (SPA) (Site Code: 004232), which are both located c. 300m to the south of the site. I am of the opinion that taking into consideration the modest nature, extent and scope of the proposed development (i.e. alteration of an extant planning permission) and the nature of the receiving environment, with no direct hydrological or ecological pathway to the European site, that no appropriate

assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The proposal to create a new entrance on the R-161 (Strategic Corridor) is considered to be contrary to Policy RD POL 40 of the Meath County Development Plan, 2021-2027, which seeks 'To restrict new accesses for one-off dwellings where the 80km per hour speed limit currently applies in order to safeguard the specific functions and to avoid the premature obsolescence of identified regional and important county link roads (see Map No 9.2.) through the creation of excessive levels of individual entrances and to secure the investment in non-national roads'. In this regard, the proposed development would result in the creation of a serious traffic hazard at a location where visibility is restricted and would therefore be contrary to the proper planning and sustainable development of the area.

Enda Duignan
Planning Inspector

29/03/2023