



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314866-22

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<b>Development</b>	Agricultural entrance to lands and associated site works.
<b>Location</b>	Togher Templetuohy, Thurles, Co. Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	2260246
<b>Applicant(s)</b>	Seamus Maher
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Lorraine Hartigan Teresa Hartigan.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> April 2023
<b>Inspector</b>	Peter Nelson

## 1.0 Site Location and Description

1.1. The site is located in the townland of Togher, Templetuoghy, approximately 4 km northeast of Templetuohy, Co. Tipperary. The site is located on a local road, the L7054. The site has a stated site area of 0.157ha and is part of a larger farm landholding. There are native hedgerows along the roadside boundary of the site. There are two dwellings with vehicular entrances on the opposite side of the road. There is agricultural land to the east of the site.

## 2.0 Proposed Development

2.1. The proposed development consists of an agricultural entrance and the associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Tipperary County Council issued a decision to grant permission on 23rd September 2022, subject to 4 no. conditions. These included the provision of 70m visibility in each direction for the entrance. (C3)

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

*Planner's Report dated 12<sup>th</sup> July 2022.*

The initial Area Planners report raised some concerns regarding the proposed development and recommended that further information be requested with regard to one item. This item is summarised below:

- The sightlines submitted have not been measured in accordance with the requirements of Section 10.9.1 Road Design and Safe Access of the North Tipperary County Development Plan 2010-2016 (as varied).

- The applicant is requested to submit a site layout plan (scale 1:500) outlining proposals for sightlines in both directions from the site entrance, which accord with the requirements of Section 10.9.1 Road Design and Safe Access of the North Tipperary County Development Plan.

*Planner's Report dated 23<sup>rd</sup> September 2022.*

- Following receipt of further information, the Area Planner's report concludes that, having regard to the documentation received, the Planning Authority considers that the response to the request for additional information has been satisfactorily addressed.
- The report noted that the lands on either side of the proposed development site are within the applicant's ownership. The report states that it is acceptable that sightlines traverse lands outside the site boundary, as these are under the control and in the applicant's ownership.

### 3.2.2. Other Technical Reports

- District Engineer's report dated 2nd June 2022 recommends requesting further information for sightlines for agricultural entrance.
- District Engineer's report dated 7th September 2022 recommends that further Information be requested for sightlines on the agricultural entrance drawing PL-01 to include all the setback works within the red line area. The report also recommends a condition if permission is granted.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

Third party observations were received from Treasa Hartigan and Lorraine Hartigan. The main points of observation can be summarised as follows:

- Planning permission has been previously refused on this site for an agricultural entrance.

- An unauthorised entrance at the same location as the subject entrance remained open for two years, and the road was destroyed with foul slurry for the applicant's farmyard.
- Frequency of vehicle movements and elevated levels of dust and noise.
- Unsafe conditions for pedestrians and other road users.
- The location of the entrance will create a traffic hazard.
- The applicant has not indicated the level of vehicle movement.
- Entrance will cause distribution and an intrusion on privacy.
- Removal of hedgerows will have a determinantal effect on biodiversity.
- The applicant already has three alternative entrances.
- The site notice was difficult to see.
- Lack of information contained in the application.
- Discrepancies in the planning drawings.

#### 4.0 Planning History

- **ABP ref:** 22.222147 (06/51/1078)

Permission granted for Slatted cubicle house, extension to the existing dairy and milking parlour, convert existing silage pit into loose calf house, new farmyard manure pit and associated works, new entrance subject to 9no. conditions.

Condition no.2 stated:

*2. The proposed entrance shall be omitted from the proposed development, and the remainder of the proposed development accessed via the existing access arrangement to the overall farm complex.*

*Reason: In the interests of traffic safety.*

- **P.A. ref:** 13/51/0244

Permission was granted for an extension to the existing dairy and milking parlour (previously granted as part of planning ref no 07/51/0519) and all other necessary associated site works.

- **P.A. ref:** 07/51/0519

Permission granted to erect a new slatted cubicle house for cows, extension to the existing dairy and milking parlour, convert existing silage pit into loose calf house, new farmyard manure pit and all associated concrete works and drainage.

#### Enforcement

- **P.A. Ref:** TUD 19-075
- Unauthorised entrance. The file was closed as the entrance was closed up, and a soil berm with timber fencing was erected.

## 5.0 Policy Context

### 5.1. Development Plan

The Tipperary County Development Plan 2022-2028 is the operative Development Plan for the area. This plan came into effect on 22nd August 2022.

#### *Policy SO – 6*

To support a sustainable, diverse and resilient rural economy, whilst integrating the sustainable management of land and natural resources.

#### *Policy SO – 7*

To protect, enhance and connect areas of natural heritage, blue and green infrastructure and waterbodies for quality of life, biodiversity, species and habitats while having regard to climate change adaptation and flood risk management measures.

#### *Policy 10 – 3*

Support and facilitate the development of a sustainable and economically efficient

agricultural and food sector and bioeconomy, balanced with the importance of maintaining and protecting the natural services of the environment, including landscape, water quality and biodiversity.

*Volume 3 Development Management: 6.1 Road Design & Visibility at a Direct Junction.*

This section details road junctions' design requirements, including those onto Local Roads.

## **5.2. Natural Heritage Designations**

Non-Relevant

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The main points of appeal from Teresa Hartigan can be summarised as follows:

- There are currently 4no. entrances to the existing landholding.
- It appears that the local authority did not have regard to the current development plan when making its decision.
- A sightline assessment form was not completed as part of the further information submission.
- Adequate sightlines have not been achieved for the 80km/h speed limit.
- From a submitted assessment, a minimum sightline of 120m needs to be achieved. This cannot be achieved due to the significant bend in the road.
- The proposed entrance would result in the unnecessary removal of mature hedgerows.

- There are no economic or sustainable reasons for granting permission for a fifth access.
- Soil detritus from agricultural traffic when the unauthorised was open present a significant traffic hazard, particularly in inclement weather conditions.

6.1.2. The main points of appeal from Lorraine Hartigan can be summarised as follows:

- As the applicant already has a number of farm accesses, there is no justification for destroying so much mature hedgerow.
- No evidence has been submitted to demonstrate that the loss of hedgerows will be compensated for in biodiversity terms.
- The acceptance of a sightline of 70m violates council policy.
- The sightline standards in the 2022-2028 Development Plan should be adhered to.
- The proposed entrance will be substandard in relation to the requirements of the current Development Plan.

## 6.2. Applicant Response

- None

## 6.3. Planning Authority Response

- None

## 6.4. Observations

- None

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Enforcement Issues

- Principle of Entrance
- Traffic Safety
- Appropriate Assessment

## 7.2. Enforcement Issue

- 7.2.1. The appellant has referred to the unauthorised opening of an entrance to the site. The Board should note that this entrance has since been closed, and the hedgerow has been reinstated. The Planning Authority's enforcement file on this issue has been closed.

## 7.3. Principle of Entrance

- 7.3.1. I acknowledge that the applicant's farm has an existing main entrance off L3309 Togher Road. Given the nature of the subject road and the fact that the entrance serves a farm, I am satisfied that the local road network has adequate capacity to accommodate the traffic types and volumes associated with the farm. Whilst the proposed entrance will be positioned opposite an existing residential entrance, agricultural traffic already utilises this road with a number of farmsteads present in the immediate vicinity. This is a rural area with agriculture being the predominant land use and the usage of the surrounding road network by agricultural machinery etc.

## 7.4. Traffic Safety

- 7.4.1. The proposed entrance is on a local road with an 80km speed limit. The sightline distances achieved are 70m (Y-Distance) from a setback distance of 4.5m (X-Distance) from the road's edge. I note that the creation of the entrance will result in the removal of over 70m of existing hedgerow, some outside the site outlined in red. In the Further Information submitted with the planning application, the applicant states that he owns all the hedgerows to be removed.
- 7.4.2. The Tipperary County Development Plan 2022-2028 requires that the distance back from the nearside edge of the existing road from which full visibility is measured (Y-



Distance) for an agricultural entrance should be 4.5m. The proposed visibility from the entrance has been measured from this 4.5m setback.

7.4.3. The Development Plan requires that for a road where the mandatory speed limit is 80km/h, the Y-Distance of 160m should apply. On non-national roads, the use of a lower design speed for a given mandatory speed limit may be acceptable to the Council. In these cases, the Plan states that the applicant must demonstrate to the satisfaction of the Council that the 'operational speed' of the road is less than the mandatory speed limit. If this is the case, reduced visibility distances (Y-Distances) may be accepted. The applicant has not demonstrated a reduced 'Operation Speed'. I note from the appeal from Teresa Hartigan that the agent assessed the 'operational speed' of the road to be approximately 68-70km/h. In this case, to comply with the development plan, the visibility distance (Y-Distance) should be 120m. I note that this is the same standard detailed in Table 5.5 of the Transport Infrastructure Ireland 'Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade-separated and compact grade-separated junctions).'

DN-GEO-03060.

7.4.4. Given the geometry of the existing road, which includes straight sections and a significant bend within c.60m of the proposed entrance, I consider that the applicant has not demonstrated that adequate visibility can be achieved for an agricultural entrance on a road of this nature. I am not satisfied that adequate visibility is available to ensure the safe ingress and egress of agricultural vehicles. I, therefore, consider that as presented, the proposed entrance would endanger public safety by reason of traffic hazard.

## 7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. I recommend that permission for the proposed development be refused for the following reason.

## 9.0 Reasons and Considerations

Based on the information provided with the application and the appeal, it has not been demonstrated that the agricultural vehicular entrance can deliver safe access and egress on this local road with existing entrances in close proximity. Therefore, the proposed development would endanger public safety by reason of traffic hazard and would be contrary to 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.

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Peter Nelson  
Planning Inspector

7th July 2023