



An
Bord
Pleanála

Inspector's Report ABP-316564-23

Development	To retain a relocated entrance to private dwelling off a service road
Location	Ballaghanea, Virginia, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	2356
Applicant(s)	Ronan O Reilly
Type of Application	Retention of Planning Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Ronan O Reilly.
Observer(s)	None.
Date of Site Inspection	24 th June 2023
Inspector	Paul Caprani

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1.0 Introduction

- 1.1. ABP-316564-23 relates to a first party appeal against the decision of Cavan Co. Council to refuse to grant retention of planning permission for an existing unauthorised entrance serving an existing dwelling.

2.0 Site Location and Description

- 2.1. The appeal site is located in the eastern periphery of the settlement of Virginia, in the townland of Ballaghanea approximately 1.5 km east of Virginia. The dwelling for which the existing access is to be retained is located to the rear of a row of dwellings fronting onto the Virginia – Mullagh Road (R194) which branches off the N3 to the south west of Virginia.
- 2.2. The access serving the dwelling for which retention of planning permission is sought is located at the western corner of Ard Aoibhinn; a residential estate comprising of 9 houses set around a central area of open space. The existing entrance is located adjacent to the footpath to the front of house No. 1 within the estate. The entrance, the subject of the application accesses on to the internal road serving the Ard Aoibhinn Estate.

3.0 Proposed Development

- 3.1. Retention of planning permission is sought for the proposed entrance as constructed.

4.0 Planning Authority Decision

4.1. Decision

- 4.2. Cavan Co Council issued a notification to refuse planning permission on the basis that, the entrance for which retention of planning permission is sought would traverse and area of designated open space and as such would adversely impact on the residential amenities of the area and would materially contravene the land use zoning for the site.

4.3. Planning Authority Reports

Planning Reports

- 4.4. The Planner's Report outlines the planning history associated with the site and notes that the entrance as constructed is not in accordance with the permission granted Cavan Co Council under Reg. Ref. 19/196. It is argued that the existing entrance in removing hedgerow and traversing an area of open space has detracted from the visual coherence and quality of the adjoining residential development and would therefore adversely impact on the residential amenities of the area due to its proximity to an existing residential dwelling. On this basis, it is argued that it materially contravenes the zoning objective of the development plan which seeks to protect and enhance the amenity of developed residential communities.

4.4.1. Other Technical Reports

The planners reports states that there was no objection from either the Municipal District Engineer or the Road Design Office.

4.5. Prescribed Bodies

None

4.6. Third Party Observations

None

5.0 Planning History

- 5.1. One relevant History file is attached – File 19/196. Under this application permission was granted for a dwelling, new entrance and driveway connected to the existing service roadway at Ard Aoibhinn. During the course of assessing the application the planning authority requested further information which included inter alia concerns that the access to the site (coinciding with the location of the access for which retention of planning permission is sought under the current application), will result in the loss of hedgerow.

- 5.2. To address this issue, the applicant submitted revised drawings relocating the access to a point c.50 m further to the southwest from the existing entrance. This was accepted by the planning authority and planning permission was subsequently granted. It is apparent however that the revised drawing submitted to the planning authority by way of additional information was not complied with, resulting in the current application for retention of planning permission.

6.0 Policy Context

6.1. Development Plan

- 6.2. The site is governed by the policies and provisions of the Cavan Co County Development Plan 2022-2028. The dwelling house and part of the access road is located on lands zoned for 'General Enterprise and Employment'. The reminder of the access road, where both the access entrance granted under Reg. Ref. 19/196, and the current access for which retention of planning permission is sought, are both situated on lands zoned 'Existing Residential'.
- 6.3. The objective for lands zoned 'Existing Residential' seeks to 'Protect and enhance the amenity of developed residential communities'. The objective also seeks to *'ensure that any new development does not adversely impact upon the amenity of existing residential properties. New housing and infill development should be in keeping with the character of the area, seek to enhance associated open space and community uses and improve the quality of existing residential areas'*.

6.4. Natural Heritage Designations

- 6.5. The site is not located within or adjacent to a designated Natura 2000 site. The nearest natura 2000 site is the river Boyne and river Blackwater SPA (Site Code 004232) and the River Boyne and River Blackwater SAC (Site Code: 002299), both of which are located approximately 4 km to the south of the site.

6.6. EIA Screening

- 6.7. The proposal is not a class of development for which EIAR is required.

7.0 The Appeal

7.1. Grounds of Appeal

The decision of Cavan Co Council was appeal by the applicant. The grounds of appeal are outlined below.

- The entrance was constructed at a location that would have no greater negative impact on the visual and residential amenities of adjoining properties than that approved previously by the planning authority.
- The entrance at the current location required the removal of a small portion of hedgerow. A length of hedgerow and a mature tree would also have to be removed under the access approved by the planning authority. This, it is argued would have a greater visual impact, than that associated with the existing entrance.
- The existing entrance is approximately 25m from an existing dwelling, this it is argued, is a sufficient distance to ensure that it does not impact on residential amenity.
- The existing residential estate is very well served with public open space. The space lost as a result of the existing entrance amounts to c. 10 sq.m that is ancillary and unusable.
- For the above reasons it is requested that the Board overturn the decision of the planning authority and grant retention of planning permission for the existing entrance.

7.2. Planning Authority Response

- While Cavan Co Council responded to the grounds of appeal, it appears to merely consist of a covering letter with no substantive arguments addressing the issues raised in the appeal.

7.3. Observations

- None

8.0 Assessment

- 8.1. Cavan Co Council in its decision to refuse planning considered that the proposed development resulted in an unnecessary removal of hedgerow which would have an adverse impact on the visual amenities of the area and would therefore materially contravene the land use zoning for the site which seeks to protect and enhance the visual amenities of the area.
- 8.2. It is acknowledged that the entrance as constructed has resulted in a removal of a small section of hedgerow and has also resulted in the access traversing a small area of open space¹. This impact however in my view is relatively small in visual amenity and biodiversity terms. The area of hedgerow to be removed is modest and area of open space to be traversed is also modest and comprises of a strip of land which provides aesthetic rather than usable open space for purposes of recreational amenity. There is an existing, established entrance at the location where Cavan County Council required the proposed entrance to be located as per the grant of planning permission under Reg Ref 19/196. However, the strip land that runs parallel to the estate road is currently overgrown and provides a natural environment in biodiversity terms. This would be removed to make way for c50m a metalled carriageway to serve the dwelling in question. To my mind, there is little or no advantage in requiring the applicant to construct a parallel road adjacent to the existing internal access road to cater for a single dwelling house. The existing road serves 9 houses and can adequately accommodate the traffic generated by an additional dwelling. Furthermore, having inspected the site, I consider that it might be necessary to remove a mature/ semi mature tree in order to provide a sufficient sweep path to allow vehicles to manoeuvre in and out of the entrance. This would also have adverse implications for the visual amenities of the estate.

¹ Although it should be noted that the lands in question are not zoned open space, but form part of the residential zoning associated with the residential estate. No material contravention of the zoning objective therefore has taken place.

- 8.3. Having inspected the site, it do not consider that the existing entrance for which retention of permission is sought, will have any material adverse impacts on the amenity of the existing residents within the estate. The traffic generated by a single dwelling will not give rise to any significant or material noise or traffic safety issues on the existing residential community within the estate. The entrance is located c.15 meters from the entrance of house no 1 and will not have any material impact on the residential amenities of this house or any other house in the area. I note that no concerns or objections were raised by residents in the vicinity of the application. I therefore would not agree that the retention of the access at this location would constitute a material contravention of the development plan as stated on the planning authority's reason for refusal.
- 8.4. Based on the above, it is my considered opinion that requiring the appellant to extend the internal access road a further 50 meters to meet up with an existing entrance point on the internal access road serving the residential estate would have little or no material benefits in planning and environmental terms over and above retaining the existing access. Furthermore, it would result in the duplication of road infrastructure providing two roads running side by side where an established access point (albeit unauthorised) onto an existing road would suffice to serve the dwelling in question. If the Board agree with this conclusion, I recommend that the decision of the planning authority be overturned, and retention planning permission be granted for the existing entrance.

Appropriate Assessment

- 8.5. Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that retention of planning permission be granted for the proposed development.

10.0 Reasons and Considerations

Having regard to the location of the existing entrance for which retention of planning permission is sought, it is considered that the retention of the access as constructed would not seriously impact on the visual or residential amenities of the area and would be generally acceptable in terms of traffic safety and convenience. The retention of the proposed access would therefore be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The entrance shall be retained in accordance with the plans and particulars lodged 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 one month of this order. In default of such an agreement the matter shall be referred to An Bord Pleanála for agreement.</p> <p>Reason: In the interest of clarity</p>
2.	<p>Details of the proposed kerbing and surface finishes of the access/entrance traversing the area of open space shall be agreed in writing with the planning authority within one month of this order. In default of such an agreement the matter shall be referred to An Bord Pleanála for agreement.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Details of proposed gates / pillars / boundary treatment at the existing entrance shall be agreed in writing with the planning authority within one</p>

	<p>month of the date of this order. In default of such an agreement the matter shall be referred to An Bord Pleanála for agreement.</p> <p>Reason: In the interest of visual amenity and traffic safety.</p>
4.	<p>Details of all surface water drainage at the entrance shall be agreed with the planning within one month of this order. In default of such an agreement the matter shall be referred to An Bord Pleanála for agreement.</p> <p>Reason: In the interests of public health.</p>

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.

Paul Caprani

Planning Inspector

25th June 2023