



An
Bord
Pleanála

Inspector's Report

ABP-317260-23

Development	Installation of 31 no. Safety Bollards
Location	Callan, Drumkeen, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2251941
Applicant(s)	John Guthrie
Type of Application	Retention Permission
Planning Authority Decision	Grant
Type of Appeal	Third Parties vs. Grant
Appellant(s)	1. Transport Infrastructure Ireland 2. Brendan Boyle
Observer(s)	None
Date of Site Inspection	9 th of September 2023
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located along the N13 National Primary route between Ballybofey and Letterkenny. It is distanced c. 5km north of Ballybofey/Stranorlar and c. 11km south of Letterkenny. The rural village of Drumkeen is also located along the N13, approximately 2km north of the site. The site is within an unserviced rural area which primarily consists of agricultural land/buildings interspersed with one-off rural housing.
- 1.2. The site is located along the western side of the N13. At the southern end of the site there are junctions on both sides of the N13. The junction on the western side of the N13 appears to be a short private cul-de-sac which serves an adjoining dwelling and other outbuildings/agricultural land to the rear (west). The junction on the eastern side of the N13 is a longer cul-de-sac (c. 1km) which serves 4 no. residential properties and a range of agricultural purposes. The majority of this road would appear to be publicly accessible. This section of the N13 is relatively straight and flat, although it rises further to the north. The maximum speed limit (100km/hr) applies.
- 1.3. The site itself contains two residential properties. The southern property has a continuous roadside boundary (plastered wall) along the N13 and is accessed from its southern side at the junction with the adjoining cul-de-sac. The northern property (a guesthouse) has a stone wall roadside boundary with wing-walls and access directly onto the N13 at the northern end of the property. Between the roadside boundary walls and the edge of the N13 is a tarmacked roadside setback area containing 31 no. bollards and 3 no. utility poles.

2.0 Proposed Development

- 2.1. Permission is sought to retain the installation of the 31 no. safety bollards to the front of the property. The bollards have been placed in spacings of c. 2-3 metres to form an almost continuous line around the roadside setback area. An opening (c.10 metres wide) has been left to maintain access to the northern property. The bollards have a height of c. 775mm and a diameter of 100mm. They consist of steel and have been fixed to the tarmac with steel bolts. The bollards have been finished with a reflective stripe coating and a reflective light has been fixed to the top of each.

3.0 Planning Authority Decision

3.1. Decision

By order dated 11th of May 2023, Donegal County Council (DCC) issued notification of the decision to grant retention permission, subject to conditions. The notable conditions can be summarised as follows:

Condition no. 1 – Development to be retained in accordance with the plans and particulars submitted, including the Road Safety Audit received 21st April 2023.

Condition no. 2 – Within one month, the applicant shall provide a solid continuous yellow road marking line to the rear of the hard shoulder and in front of the bollards.

Condition no. 3 - Within one month, the applicant shall replace the steel bolts on the bollards with sheer bolt fixings.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The assessment outlined in the initial DCC Planner's report noted that the application was not accompanied by a Road Safety Audit to determine any potential detrimental impacts on the safe flow of traffic. It recommended a request for further information on this basis.

A Further Information request was subsequently issued. Following the applicant's submission of a Road Safety Audit, the final DCC planner's report notes that no reports were received by the planning authority from any of the relevant consultees. It concludes that no significant concerns have been raised for the planning authority to consider and that the recommendations and measures raised in the Road Safety Audit should be conditioned accordingly. It recommends that retention permission should be granted subject to conditions, and this forms the basis of the DCC decision.

3.2.2. Other Technical Reports

National Roads Design Office (NRDO): Despite what is indicated in the initial DCC Planner's Report, an NRDO response dated 20th of January 2023 outlined that the

application has a direct impact on the N13 TEN-T Road Project as it is within the proposed site extents and land-take requirements. It states that it impacts on the N13 National Primary Road and any such application must demonstrate that it is compliant with TII Standards and approval documented.

3.3. Prescribed Bodies

TII: A submission was received during the initial 5-week period. It outlines concerns that the development is at variance with official policy and would adversely affect the operation and safety of the national road network for reasons which can be summarised as follows:

- Insufficient data has been submitted in relation to impacts on capacity, safety, and operational efficiency.
- The application indicates inappropriate standards which are not in accordance with the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012).
- It would be at variance with national policy in relation to control of frontage development on national roads.
- A Road Safety Audit should be carried out and any recommendations arising should be incorporated into any grant of permission.
- Any changes to a national road must be documented through a Design Report and approved by TII. Therefore, this proposal is premature.

Despite what is indicated in the DCC Planner's report, a response to the further information referral was also received from TII on the 8th of May 2023. The submission reiterates its objection to the development for the following reasons:

- The proposal would create an adverse impact on a national road and would be at variance with national policy.
- The proposal does not conform to TII Standards and has the potential to impact on road user safety on this high speed (100km/hr) national road.
- The proposal would be premature pending the completion of a Design Report.
- The proposal would endanger public safety by reason of a traffic hazard.

Irish Water: Confirms that the applicant has an existing water connection.

3.4. **Third Party Observations**

The planning authority received one third-party submission from one of the appellants in this case (Brendan Boyle). The submission outlines that the bollards are beside his house and objects on the basis that they interfere with the safety of vehicle movements to and from his property.

4.0 **Planning History**

There would not appear to be any recent relevant planning history pertaining to the subject site.

5.0 **Policy Context**

5.1. **National Policy**

The guidelines for planning authorities on **Spatial Planning and National Roads** (2012) set out planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60 kmh speed limit zones for cities, towns and villages. The guidelines aim to facilitate a well-informed, integrated and consistent approach that affords maximum support for the goal of achieving and maintaining a safe and efficient network of national roads in the broader context of sustainable development strategies, thereby facilitating continued economic growth and development throughout the country.

Transport Infrastructure Ireland has also published a range of documents outlining technical design standards for development relating to national roads.

5.2. **Development Plan**

The operative plan for the area is the **County Donegal Development Plan 2018 – 2024**. Section 5.1 'Transportation' acknowledges that a high quality and sustainable transport network is a crucial element in driving growth and development across all areas of social, environmental, and economic development. It identifies the N13 as

part of the strategic road network and the critical TEN-T network. Relevant objectives can be summarised as follows:

T-O-1: To deliver the Trans European Transport Network (TEN-T) as part of the core and comprehensive transport network of Ireland.

T-O-6: To safeguard the carrying capacity and safety of National Roads and other specified Regional Roads.

T-O-7: To protect the corridors and routes and acquire the lands necessary for transportation improvement projects as identified in Table 5.1 (includes the N15/N13 Ballybofey/Stranorlar Bypass).

Section 5.1.3 'Policies' acknowledges the need for planning authorities to have regard to 'Spatial Planning and National Roads: Guidelines for Planning Authorities' (2012). Relevant policies can be summarised as follows:

T-P-1: To support and facilitate the appropriate development, extension and improvement of the TEN-T network.

T-P-2: To support and facilitate the appropriate development, extension and improvement of Donegal's transport network, including the Strategic Road Network.

T-P-7: Require that any new access to strategic roads is designed in compliance with the road design standards required by Transport Infrastructure Ireland, avoiding the use of right turn lanes unless a clear warrant has been established.

T-P-8: Require a Traffic and Transport Assessment and Road Safety Audit for any development proposing access to the Strategic Road Network.

T-P-10: It is a policy of the Council not to permit development that would prejudice the implementation of a transport scheme identified in the Development Plan.

T-P-15: Require that all development proposals comply with the Development and Technical Standards set out in Appendix 3 to promote road safety.

5.3. Natural Heritage Designations

There are no Natura 2000 sites within 5km of the appeal site.

5.4. EIA Screening

Having regard to the nature of the proposed development involving the installation of safety bollards, I do not consider that it falls within a class of development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended. Accordingly, no screening or preliminary examination is required for EIA.

6.0 The Appeal

6.1. Grounds of Appeal

Two appeals have been submitted against the decision of DCC to grant retention permission. An appeal has been submitted by Brendan Boyle of Callan, Ballybofey, Co. Donegal, while the other appeal was submitted by Transport Infrastructure Ireland (TII). The grounds of each appeal are summarised in the following sections.

6.2. Appeal by Brendan Boyle

The appeal objects to the development on the grounds of safety and states that it has made the appellant's entrance/exit very dangerous. The appeal expresses disappointment with Donegal County Council and states that the development would never have occurred if the applicant had obeyed the original permission. It concludes that the development to be retained has made the situation more dangerous for all road users.

6.3. Appeal by Transport Infrastructure Ireland

The appeal highlights the importance of the N13 as a nationally important strategic corridor which is part of the EU TEN-T Comprehensive Network. The grounds of appeal can be summarised under the following headings.

Road Safety

- Given the strategic function of national roads, it is reasonable to exercise caution in the assessment of impacts on the safe operation of such routes.

- Section 19(1)(e) of the Roads Act 1993 provides the authority to TII to specify standards in relation to such works. These are set out in the suite of technical design standards collectively referenced as TII Publications.
- TII Publications require that a Design Report is submitted for any works impacting on a national road, the purpose of which is to address issues relating to TII Publications and to safeguard road user safety.
- TII confirmed that a Design Report was not submitted but DCC does not appear to have considered their submission of 8th May 2023. This is a concern as TII considers that a Design Report could have resolved the significant road safety issues that arise.
- The Road Safety Audit (RSA) identifies that the bollards are within the N13 'clear zone', which is a design principle included in TII Publications which endeavours to provide a hazard free verge and roadside area which can allow errant drivers to regain control of their vehicles.
- The bollards represent a roadside hazard as a physical obstruction which may cause harm to occupants of a vehicle and (as correctly identified in the RSA) riders/motorcyclists.
- The RSA Feedback Form does not explain why a recommendation that steel bollards be replaced by flexible bollards was not accepted. The accepted alternative measure (replacement of steel bolts with sheer bolts) raises additional concerns in that the bollards and sheer bolt mechanisms would become secondary hazards in the event of collision.
- Section 2 of TII Publications DN-REQ-03034 advises that specified obstructions within the 'clear zone' shall be considered as hazards requiring mitigation unless they can be provided as easily deformable elements or have been tested and passed as passively safe. Such specified obstructions include 'tubular steel posts or supports greater than 89mm diameter and 3.2mm thick, or equivalent strength' and 'substantial fixed obstacles extending above the ground by more than 150mm'. The TII has no evidence that the bollards or the RSA recommendations comply with the requirements of TII Publications.

Official Policy

The appeal outlines concerns that the development does not safeguard road user safety and road capacity and would be at variance with relevant policy including:

- NSO 2 of the National Planning Framework
- Chapter 7 of the National Development Plan
- the National Investment Framework for Transport in Ireland (NIFTI)
- the Spatial Planning and National Roads Guidelines (2012)
- Objective RPO 6.5 of the NWRA Regional and Spatial Economic Strategy
- Objective T-O-6 of the County Donegal Development Plan 2018-2024.

Planning Precedence

- The development, by itself and the precedent that it would create, would endanger public safety by reason of a traffic hazard.
- No exceptional reasons have been outlined to justify such a significant departure from official policy and road safety considerations.
- It is a concern that DCC has granted permission in the absence of considering TII's valid submission on the further information.
- It would appear that the case officer had no technical engineering or road safety support to assist in reviewing the information submitted. This is hugely concerning given the high speeds and strategic function of the N13 and the road safety issues that arise relating to development in the clear zone.

6.4. Applicant Response

The applicant's response to the appeal presents reasons for the erection of the bollards. These can be summarised under the following headings.

Enhanced safety and road infrastructure

- The bollards were installed to create a wider hard shoulder and improve safety for all users.

- It is a temporary measure to limit or eliminate certain behaviours until the completion of the new TEN-T bypass compulsory purchase order process and subsequent rezoning and construction activities.
- The bollards were erected on private property which should not bear the responsibility for a clear zone. They serve as protection for the property owners from accidents.

Mitigation of undesirable activities

- The primary objective was to mitigate undesirable activities that had a negative impact on the local community and personal well-being. This included car-selling, trucks stopping for livestock-related activities, unloading of agricultural machinery, motorists entering the area at high speed, and the disposal of litter.
- Despite concerted actions to find other solutions to the problems, the bollards are necessary as a temporary solution pending completion of the TEN-T bypass.

Boundary Demarcation

- The bollards demarcate the appellant's property which provides a visual clue to prevent encroachment and protect privacy.

Mental Health

- The bollards have prevented the noise and disturbance associated with undesirable activities, which has provided much-needed relief.

6.5. Planning Authority Response

The planning authority requests that the Board upholds its decision on the application. The main points raised in its response can be summarised under the following headings.

Context

- There is an ongoing Enforcement case relating to the development (Ref No. UD 21/368). An Enforcement Notice was issued to the applicant on the 20th of December 2022.

- The application outlines that the bollards were suggested as a result of a neighbour parking a bus and obstructing visibility to the south of the entrance.
- Regarding the NRDO report, the planning authority considered that there was minimal possibility of impacting on the TEN-T route as set out in Variation No. 1 of the CDP. That said, any future works on the lands by the TII will be the subject of CPO.

Appeal by Brendan Boyle

- The Acting Senior Executive Planner has personally inspected the development when Mr Boyle's bus is parked outside his property. He considers that the bollards have been erected as a result of the bus being parked much closer to the applicant's entrance, which resulted in a deterioration of visibility.

Appeal by TII

- The appeal makes little or no reference to its original submission (dated 22nd December 2022) which recommended that an RSA should be carried out and the recommendations incorporated. This is at odds with the TII's subsequent report and did not question the principle of erecting bollards. The initial TII submission informed the planning authority in its position to request further information.
- The planning authority acknowledges the need to protect national roads and the specific functions of the TII under the Roads Act 1993, one of which would be to seek cessation the parking of the bus outside the applicant's property. The planning authority considers that this poses a greater safety risk than the bollards.
- The applicant already has access onto the N13, and the bollards will not affect the safety and carrying capacity within the physical boundaries of the national road (including the hard shoulder).
- The planning authority did have regard to the TII submissions, particularly the initial submission as previously discussed.
- The planning authority did not agree with the RSA statement that the bollards are within the clear zone given that they are located on private property (c. 1m

back from the edge of the hard shoulder). It accepted the RSA recommendation regarding the use of sheer bolts; acknowledged that there was a lack of collision data at this location; and that there was available spacing for cyclists to cycle through the bollards.

- The planning authority does not consider that such bollards are specifically precluded by any of the TII Publications.
- The planning authority does not agree with the TII sentiments regarding official policy and advises that it implements such policy and has regard to all TII Guidelines. It was not considered that the proposal materially contravened any specific policies/objectives at national, regional, or local level and considered the development acceptable within these frameworks.
- A grant of permission would not set a precedent as there are specific considerations to the subject case such as the parking of a bus which obstructs vision lines.
- Given the specific circumstances, the erection of bollards would be acceptable at this location on private property at a safe setback from the inner edge of the N13 hard shoulder.

6.6. Observations

None.

7.0 Assessment

- 7.1. Having regard to the documentation submitted in connection with the application and the appeal, and having inspected the site, I consider that the main issues for assessment unsurprisingly relate to the safety and capacity of the N13 National Road.
- 7.2. It would appear that all parties in this case acknowledge the need to protect the safety and capacity of this national road. I would accept that this issue usually arises in the context of new accesses and that prevailing policy is largely framed in this context. However, I do not consider that policy should be limited solely to the creation of new (i.e. additional) access points. The fundamental elements of any

access include its setback distance from the roadside edge, the alignment of the entrance 'wing-walls', and the specification of the roadside boundary. The proposed development involves significant alterations to the previous access arrangements, most particularly the advanced position of the roadside boundary (i.e. the bollards) in relation to the carriageway edge. In that context, I consider the revised arrangements to constitute a new form of access, and certainly one which requires consideration of the implications for the N13 national primary road.

- 7.3. In this regard, Development Plan Policy T-P-7 requires that any new access to strategic roads is designed in compliance with the standards required by TII. The TII appeal points to a wide range of applicable standards but most relevantly in my opinion to 'The Design of Road Restraint System (Vehicle and Pedestrian) for Roads and Bridges' (DN-REQ-03034, May 2019) and 'Cross Sections and Headroom' (DN-GEO-03036, May 2023).
- 7.4. Section 3.4.1 of TII Publication DN-GEO-03036 outlines the 'clear zone concept' as a vital component of a 'Forgiving Roadside'. The Clear Zone is the total width of traversable land on the nearside or offside which is to be kept clear of unprotected hazards. This width is available for use by errant vehicles. The zone is measured from the nearest edge of the trafficked lane: i.e. the hard shoulder or hard strip forms part of the Clear Zone. In some circumstances, the Clear Zone extends beyond the extents of the road works boundary or fence line. Furthermore, section 3.4.2 indicates that the 'clear zone' can include various classes of terrain such as sloped embankments etc. Having regard to the above, I consider that the 'clear zone' can extend beyond the 'hard shoulder' or the boundary of the road works, and that it does not exclude a roadside setback area such as that which is the subject of this appeal. Therefore, consistent with the applicant's Road Safety Audit, I consider that the bollards are located within the 'clear zone'.
- 7.5. Section 2 of TII Publication DN-REQ-03034 considers roadside hazards including single fixed obstacles/point hazards. It outlines a list of obstructions within the 'clear zone' which shall be considered as hazards requiring mitigation unless they can be provided as easily deformable elements or have been tested and passed as passively safe for the appropriate speed class in accordance with I.S. EN 12767, Passive Safety of Support Structures for Road Equipment – Requirements, Classification and Test Methods. Of relevance to this case, the list includes:

- Tubular steel posts or supports greater than 89mm diameter and 3.2mm thick, or equivalent strength.
- Substantial fixed obstacles extending above the ground by more than 150mm.

7.6. Having regard to the fixed nature and composition of these steel bollards, with a height of 775mm and a diameter of 100mm, I consider that they constitute a hazard within the clear zone as outlined in TII Publication DN-REQ-03034. Such hazards require mitigation unless they can be provided as easily deformable elements or have been tested in accordance with the stated standards. The steel bollards would certainly not be easily deformable but the application attempts to address this matter by making the bollards collapsible through the replacement of the steel bolts with shear bolts. Consistent with the TII appeal, I consider this to be a substandard solution which would create the potential for secondary hazards in the event of collision. Furthermore, there is no evidence that a Design Report has been completed or that the bollards have been tested and passed as passively safe in accordance with the standards stated in TII Publication DN-REQ-03034. Having regard to the above TII guidance, I consider that the bollards remain as a hazard which has not been adequately mitigated.

7.7. Aside from the technical design standards in the TII publications, it appears clear to me that these bollards are a traffic hazard as a result of the potential for collision with errant vehicles. It is a fundamental requirement of new roadside development that a clear setback must be created and maintained free of obstruction as part of the 'clear zone'. This would have been a requirement of the original permissions for the houses on this site. The bollards clearly conflict with this principle and, in my opinion, create a disorderly and haphazard arrangement. In addition to previously discussed concerns about the bollard design, I consider that the extensive use of black as a finish colour minimises visibility, particularly during daylight hours. I would also highlight my concerns for other road users, particularly cyclists. And while the planning authority contends that there is space to cycle through the bollards, I consider this to be a hazardous arrangement, particularly given that cyclists often operate in groups with limited visibility.

- 7.8. Having regard to the foregoing, I consider that the development constitutes a traffic hazard which would conflict with official policy, including Objective T-O-6 of the Development Plan which aims to safeguard the safety of National Roads.
- 7.9. I would also have concerns on the question of precedent. This case is essentially about the treatment and protection of the roadside setback area between the roadside edge and the property boundary. This matter regularly arises throughout the country, as is evidenced by the common placing of objects within or around such roadside setbacks. And while suitable solutions may be achievable, I would have concerns that this substandard solution would, if permitted, set an undesirable precedent for similar development.
- 7.10. The applicant and the planning authority have argued that a precedent would not arise given the specific circumstances of the case. I have acknowledged the various justifications put forward to support the development, the primary one being the prevention of vehicles parking/stopping within the space. The full extent of this practice is obviously difficult to verify within the scope of this appeal. However, I can only confirm that there was no evidence of any such obstructions during my site inspection. And as previously outlined, I consider this to be a relatively common issue which would not be justified by exceptional circumstances.
- 7.11. Even if the parking/stopping of vehicles was causing a hazard at this location, I am not satisfied that the development is an acceptable solution for the reasons as previously outlined in this report. The applicant and the planning authority highlight that the subject area is within the ownership of the applicant. In such a case, the use of the area by another party would be an issue to be resolved as a civil matter. And in the absence of any such resolution, I consider that any necessary physical alterations to the interface with the N13 would have to be designed in accordance with TII Standards, which this development is not.
- 7.12. In addition to the question of road safety, the issue of impacts on the TEN-T road project has also been raised. I note that the alignment route as contained within the Development Plan ends significantly south of the application site. However, the DCC NRDO report states that the development has a direct impact on the project and the applicant appears to accept that the site will also be affected by the project.

Notwithstanding this, I consider that the works are minor in the context of the TEN-T project, and I am satisfied that the primary issue in this case is road safety.

- 7.13. Apart from the road safety and other transportation issues, I note that section 3.5 (Part B: Appendix 4) of the Development Plan outlines that boundary walls are to respect traditional road boundaries. I acknowledge that the site is located along a busy national primary road, but it is nonetheless located within a rural area, and I consider that the haphazard and disorderly appearance of the bollards is inappropriate and would set an undesirable precedent for further such boundary treatment. However, I again accept that road safety is primary concern in this case.

8.0 Appropriate Assessment

Having regard to the nature and limited scale of the works, and to the absence of connectivity with the Natura 2000 network, it is considered that the development to be retained, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

9.0 Recommendation

Having regard to the foregoing, I recommend that retention permission should be refused for the reasons and considerations set out hereunder.

10.0 Reasons and Considerations

1. It is a policy of the County Donegal Development Plan 2018-2024 (Policy T-P-7) to require that access to strategic roads such as the N13 National Primary Road is designed in compliance with the road design standards required by Transport Infrastructure Ireland (TII). It is considered that the development to be retained would not be in compliance with TII standards, particularly 'The Design of Road Restraint System (Vehicle and Pedestrian) for Roads and Bridges' (DN-REQ-03034, May 2019) and 'Cross Sections and Headroom' (DN-GEO-03036, May 2023).

The development to be retained would constitute a roadside hazard and it is not considered that the application contains appropriate proposals to justify or mitigate this hazard. The development would therefore endanger public safety by reason of a traffic hazard which is located alongside the heavily-trafficked National Primary Road N13 at a point where a speed limit of 100 km/h applies and would interfere with the safety and free flow of traffic.

The development to be retained would also contravene the objective of the Development Plan (Objective T-O-6) to safeguard the carrying capacity and safety of National Roads and would, therefore, 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.

Stephen Ward
Senior Planning Inspector

11th September 2023