



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317843-23

<b>Development</b>	Construction of Bell Mouth entrance with access road so as to facilitate access into forestry plantation for the removal of timber and all ancillary works.
<b>Location</b>	Corranun, Ballyhaunis, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	22882
<b>Applicant(s)</b>	Slm Silva GP Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Transport Infrastructure Ireland
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17/01/2024
<b>Inspector</b>	Darragh Ryan

## **1.0 Site Location and Description**

- 1.1. The site is located south of Ballyhaunis on the N83. There is an existing opening at this location with an overgrown gravel track. The existing track on site is higher than surrounding lands, with open drains either side of this track. The site area is 10.06 ha.
- 1.2. There is an existing dwelling across the road from the proposed access to the west, the remainder of the lands surrounding the site is characterised as low lying agricultural. The speed limit at this location 80kph.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the provision of a Bell Mouth Entrance with access road to facilitate access into existing forestry plantation for the removal of timber and all ancillary site works. The new gate shall be set back approx. 19m from the public road.

## **3.0 Planning Authority Decision**

- 3.1. There are two planning reports on file. The Planning Authority issued a decision to grant permission following receipt of further information in relation to sightlines, roadside drainage, clarification of right of way, details of permanent or temporary nature of development and other general access design considerations. The following conditions are of note:

Condition 2: The entrance shall be in accordance with the Mayo County Development Plan Volume 2 Section 7 of the Technical Standards for the Design of Forest Entrances from Public Roads.

Condition 3: The access road shall be surfaced in double surface dressing.

Condition 6: Site traffic interface with N83 shall be managed during construction and operations phases to ensure appropriate safety control measures are in place.

Condition 8: A contribution of €5000 shall be paid for new forestry entrance in line with Mayo County Development Contribution Scheme

Condition 9: A cash deposit of 13,405 shall be paid to Mayo County Council to ensure no damage to the public road and services occurs.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

##### **First Planning Authority Report**

- Policy Objective MTO 22 and Policy Objective EDO 54 of the Mayo County Development Plan 2022 – 2028 are outlined.
- The applicant has not clarified whether the access will be temporary or permanent.
- No drainage report submitted.
- Details of land ownership and rights of way need to be clarified.
- Revised design detail is required in line with Technical Standards for the design of Forest Entrance from Public Roads and TII Publication DN- GEO- 03060. Revised sightline detail and details of access road surface shall be provided. (This was raised over a number of points within the further information request)

##### **Second Planning Report**

- Issues of legal ownership and traffic safety/nature of access have been demonstrated.
- Traffic safety/nature of access have been addressed in the applicant's response received. The applicant confirmed the access is permanent but will be used sporadically and has given information regarding timeline for felling.
- It is considered the proposed development is in line with policies and objectives of the Mayo County Development Plan 2022 – 2028.

### 3.2.2. Other Technical Reports

- Two reports have been submitted by the Road Design Office, which constitute the primary response to the additional information requested by the planning authority. Notably, it is specified that the access to the Road Design Office would only be temporary. Additionally, the second report from the Road Design Office provides recommendations concerning conditions pertaining to the proposed new entrance.
- Executive Engineer Roads Dept. seeks to ensure the applicant lodge a cash deposit bond to cover damage/repairs to the N83 resulting from increased HGV movements on/off the N83.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland

The Authority has examined the above application and considers it is at variance with official policy in relation to control of development on/affecting national roads, as outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities 2012. The proposal, if approved would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.

### 3.4. Third Party Observations

One third party observation on file as follows:

- Legal Interest/Ownership
- Discrepancy on application form
- Surface Water Drainage
- Maintenance of Public Drains
- Measurements not indicated on site layout plan.
- Existing Fences along right of way not indicated.

## 4.0 Planning History

None

## 5.0 Policy Context

### National Policy

#### **Section 28 DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities**

##### Section 2.5:

Lands adjoining National Roads to which speed limits greater than 60 kmh apply:

The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply.

This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

##### Section 2.6:

Exceptional Circumstances Notwithstanding the provisions of Section 2.5 above, planning authorities may identify stretches of national roads where a less restrictive approach may be applied, but only as part of the process of reviewing or varying the relevant development plan and having consulted and taken on board the advice of the NRA and having followed the approach outlined below

### 5.1. Development Plan

#### **Mayo County Development Plan 2022 - 2028**

National Road Objective MTO 22 - A less restrictive approach to non-residential access to National Roads may apply to development considered to be of National or Strategic Importance. Exceptions are required to be identified for incorporation into the Development Plan and the Council will undertake a survey to identify such sites and agree cases in consultation with the TII where 'exceptional circumstances' will apply in accordance with the provisions of Section 2.6 of the DoECLG Guidelines. Such exceptions may also include extensions to existing permitted developments

along National Roads. In such cases the existing access may require mitigation measures and upgrading where it is found to be substandard.

National Road Policy MTP 24 - To avoid the creation of additional direct access points from new development adjoining national roads or the generation of additional traffic from existing direct accesses to national roads to which speed limits greater than 60 km/h apply.

## **Section 7.2 of the County Development Plan – Development Management Standards**

### Access onto National Roads

When considering development on or adjacent to a national road, the Planning Authority will have regard to national policy as set out in:

- Spatial Planning and National Roads Guidelines (2012)
- Traffic and Transport Assessment Guidelines (2014)

The Spatial Planning and National Roads Guidelines avoid the creation of new access points or the generation of increased traffic from existing accesses to national roads to which a speed limit of greater than 60 km/h applies. The guidelines also provide for a limited level of access between the 50km/h zone and 60 km/h zone (transitional zones) to facilitate orderly development. Access to national roads with 50km/h speed limits will be considered subject to normal road safety, traffic management and urban design criteria

## **5.2. Natural Heritage Designations**

The site is not within a designated area. The nearest such sites include:

River Moy SAC within 2km to the northwest.

Bellanagare Bog SPA 4km to the northwest

## **5.3. EIA Screening**

See completed form 2 on file. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site as well as the criteria set out in Schedule 7 of the Planning &

Development Regulations 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**

#### **6.1.1. At variance with National Policy**

The development as granted conflicts with National Policy as outlined under Section 2.5 of Section 28 DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities. The guidelines state that the creation of new accesses and the intensification of existing accesses to national roads give rise to the generation of additional turning movements that introduce additional safety risks to road users. As the proposal is an area where the speed limit is in excess of 60kph, the proposal if approved would lead to an intensification of an existing direct access to a national road contrary to official policy.

#### **6.1.2. County Development Plan Policy 2022 - 2028**

The construction of an entrance at this location is considered inconsistent with the provisions of the Mayo County Development Plan 2022-2028. The Planning Authority relied on Policy Objective MTO 22 of the County Development Plan which states, non-residential access to National Roads can be less restrictive for developments of National or Strategic Importance, with exceptions identified in Development Plans and approved in consultation with the TII under Section 2.6 of DoECLG Guidelines. Upon review, it is evident that the development lacks an evidence-based and plan-led approach, as stipulated by National Road Objective MTO 22 of the Development Plan and Section 2.6 of the DoECLG Spatial Planning and National Roads Guidelines. Consequently, the proposal fails to comply with the Development Plan and does not align with the DoECLG Guidelines. A plan-led methodology has not been applied in the assessment of this application.

#### **6.1.3. Incorrect Standards applied by the Planning Authority/ Road Safety**

The standards applied by the Planning Authority and Mayo Road Design Report refer to a technical standard of Design of Forest Entrances onto Public Roads issued by the Department of Agriculture, Food and the Marine and the Department of Transport, Tourism and Sport. These standards are to be used as a design manual for all new and upgraded forest entrances from regional and local roads. These standards do not apply to National Roads. The Technical Standard Design of Forest Entrances onto public roads, has therefore been applied to an access of an acknowledged heavily trafficked national road where an 80kph speed limit applies. As there has been no referral at further information stage to TII, it is necessary to exercise caution in the assessment of any development proposals that may impact the safe operation of national roads.

#### **6.1.4. Planning Precedence**

It is considered the permitting of this development by itself would set a precedent that would endanger public safety by reason of a traffic hazard due to slow turning movements that would be generated onto a national route N83 with a speed limit of 80km/h. Furthermore the proposal would establish an undesirable precedent for the application of inappropriate standards for similar development which is a serious concern. No exceptional reasons have been demonstrated to justify such a significant departure from official policy and road safety considerations which a grant of permission would represent in this instance.

#### **6.1.5. Protecting Public Investment**

There is a priority at National and Regional level under the NPF and RSES to ensure that national road objectives are not undermined and that the benefits of the investment made in the national road network are not jeopardised.

### **6.2. Applicant Response**

Response received by An Bord Pleanála 1/09/23 from Silva General Partner Ltd

- At all times in the process the forest owner has followed correct procedures and protocols in applying for full planning permission and required forest road licences.



- The proposed access will be very low intensity with activity at this forest entrance only every four years. Approx 23 lorries will enter and leave the site over a period of approx. a fortnight every four years.
- There are other uses on the same stretch of road that are a significantly more hazardous.
- The avoidance of an entrance onto a National Secondary Road for forestry purposes is not possible as there is no alternative access available in this instance. This is an “exceptional circumstance” as allowed for within the legislation.
- Timber transport vehicles are entitled to use the national road network like all other road users. The forest was grant aided and supported with government grants in order to promote regional and rural development. Contrary to the argument in the appeal the entrance is required to protect public investment.
- The sustainable management of the forest is time sensitive, a protracted debate between the local authority and TII in relation to the appropriateness or otherwise of local authorities in dealing with consultations with TII should not be at the expense of forest owner.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

None

## 7.0 **Assessment**

Having examined the application details and all other documentation on file, including the appeal, and having inspected the site and having regard to the relevant national and local policy guidance, I consider the main issues in relation to this appeal are as follows:

- Policy and Road Safety

- Appropriate Assessment

## **7.1. Policy and Road Safety**

- 7.1.1. The appellant expresses serious concerns regarding the proposed development's potential to increase activity at the entrance to the N83, which is deemed to be conflicting with national policy outlined in the Spatial Planning and National Road Guidelines for Planning Authorities (DoECLG 2012). Furthermore, it is contended that the proposal contradicts the Mayo County Development Plan 2022-2028, specifically Objective MTO 22 and National Road Policies MTP 20, MTP 23 and MTP 24. These sections aim to limit new accesses and the intensification of existing accesses along national and certain protected regional routes to preserve their capacity, lifespan, and traffic safety.
- 7.1.2. Objective MTO 22 within the current Development Plan 2022 - 2028 stipulates restrictions on new non-residential accesses or developments leading to increased traffic on National Roads beyond the 60km/hr speed limits, as outlined in Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines. Exceptions to this policy may be considered for developments deemed of national or regional strategic importance, following the guidelines outlined in Section 2.6 of Spatial Planning and National Roads 2012 (DoECLG). The identification of such exceptions will be integrated into the Development Plan through a survey conducted by the Council in consultation with the NRA (TII), with a focus on circumstances warranting consideration of "exceptional circumstances" per Section 2.6 of the DoECLG Guidelines. Section 2.6 of the guidelines permits planning authorities to designate stretches of national roads for a less restrictive approach, subject to review or variation of the relevant development plan and in consultation with the NRA (TII), ensuring due consideration of their advice.
- 7.1.3. There is no evidence of consultation between TII and Mayo County Council regarding the application of exceptional circumstances to this case, which is essential for a plan-led approach as mandated by the Development Plan and in alignment with the Spatial Planning and National Roads Guidelines 2012. There is a lack of evidence demonstrating that the proposed development adheres to the exceptional circumstances delineated in Section 2.6 of the Spatial Planning and

National Roads (2012), as well as the requirements stipulated in MTO 22 of the Development Plan.

- 7.1.4. Considering road safety concerns, it is noted that a significant aspect of the appeal revolves around the criteria employed by the planning authority in assessing the application, particularly referencing the Technical Standard Design of Forest Entrances onto Public Roads. These standards serve as a design manual for new and improved forest entrances on regional and local roads but are not applicable to National Roads. For designing forest entrances onto National Routes, direct consultation with TII Publication (standards) DN – GEO03060 is specified. I concur with the appellant's contention that the assessment criteria used to evaluate the suitability of the upgraded entrance are inappropriate and not aligned with national policy. Consequently, it is concluded that the safe operation of the aforementioned entrance cannot be assured, as the assessment tools employed were not suitable for a forestry entrance on a national road.

## **7.2. Appropriate Assessment**

The site doesn't fall within any designated area. Having regard to the nature and limited scale of the proposed development, and the lack of a hydrological or other pathway between the site and European sites, it is considered 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 European site.

## **8.0 Recommendation**

- 8.1. Having considered the contents of the application, the decision of the planning authority, the provisions of the Development Plan, the grounds of the appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that the appeal be upheld and permission be refused for the reasons set out hereunder

## 9.0 Reasons and Considerations

Access to the subject site is proposed via an existing entrance off the National Secondary Road N83 where the posted speed limit is 80kmph. It is considered that the proposed development would:

- Involve the intensification of use of an existing entrance directly onto the National Secondary, N83 Route by reason of the additional traffic likely to be generated by the new development proposed,
- would conflict with the Council's Policy, as expressed in the specific policy MTP 24 of the Mayo County Development Plan 2022 - 2028 and conflict with the Department of the Environment Guidelines with respect to Spatial Planning and National Roads (January, 2012) which seek to curtail development along National Roads, to safeguard the strategic role of the National Road Network and to avoid intensification of existing accesses to national roads, therefore, the traffic movements likely to be generated by the proposed intensified use of an existing entrance onto the N83 would interfere with the safety and free flow of traffic on the national road, and would contravene the County Development Plan, be contrary to Section 28 Guidelines, would set an undesirable precedent for similar such development 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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Darragh Ryan  
Planning Inspector

15<sup>th</sup> of February 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317843-23			
<b>Proposed Development Summary</b>	Construction of Bell Mouth entrance with access road so as to facilitate access into forestry planation for the removal of timber and all ancillary works.			
<b>Development Address</b>	Corranun, Ballyhaunis, Co. Mayo.			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>		
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>			EIA Mandatory EIAR required	
<b>No</b>	X		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>	X	N/A		No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_**Date:** \_\_\_\_\_

## EIA Preliminary Examination

An Bord Pleanála Case Reference	317843 -23	
Proposed Development Summary	Construction of Bell Mouth entrance with access road so as to facilitate access into forestry planation for the removal of timber and all ancillary works.	
Development Address	Corranun, Ballyhaunis, Co. Mayo.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development  Is the nature of the proposed development exceptional in the context of the existing environment?  Will the development result in the production of any significant waste, emissions or pollutants?	The site is located in a predominately rural location on a National Road. The proposed development is not exceptional in the context of existing environment.  No there is an existing opening on site, the development consists of upgrading of existing entrance/opening	No
Size of the Development  Is the size of the proposed development exceptional in the context of the existing environment?  Are there significant cumulative considerations having regard to other existing and/or permitted projects?	No the red line boundary of the site remains the same. There is no extension to boundary as a result of proposed development.  There are no other developments under construction in proximity to the site. All other development are established uses.	No
Location of the Development	No the nearest SAC is 2km from the proposed site.	No

<p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	
<p style="text-align: center;"><b>Conclusion</b></p>		
<p>Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development.</p> <p>EIA not required.</p>		

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)