



An
Bord
Pleanála

Inspector's Report

ABP-318850-24

Development	New entrance onto the L-6194 and access driveway through field and all associated site works
Location	Lands at Killahurler Upper, Woodenbridge, Arklow, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2360363
Applicant(s)	Paul Kinsella
Type of Application	Retention
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	Paul Kinsella
Observer(s)	Niamh Byrne
Date of Site Inspection	7 th August 2024
Inspector	Matthew McRedmond

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History	6
5.0 Policy Context	6
5.1. Development Plan	6
5.5. Natural Heritage Designations	6
5.7. EIA Screening	6
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Planning Authority Response	7
6.3. Observations	7
7.0 Assessment	8
8.0 AA Screening	12
9.0 Recommendation	13
10.0 Reasons and Considerations	13
Appendix 1 – Form 1: EIA Pre-Screening	

1.0 Site Location and Description

The appeal site is in the townland of Killahurler Upper located near the Wexford border in south County Wicklow, some 5km west of Arklow town. The townland is generally around 200 to 240 metres AOD, with open grazing farmland bounded by ditches and intermittent hedgerows and woodland with conifer plantation on higher ground.

The appeal site, with a site area given as 0.856 hectares within a larger landholding, is a rectangular area of grazing land extending south from local road L-6907, with a significant height increase from the public road (approx. 1.5m). The land is typical upland pasture, bounded by ditches, fencing and furze hedge. Access to the field is currently via an existing granular path to the west.

2.0 Proposed Development

- 2.1. The proposed development consists of retention permission for the construction of an existing field access from local road L-6907, including an access path consisting of compacted granular material within the field.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 8th December 2023, Wicklow County Council refused retention permission for the development for the following reasons:

1. Having regard to: (a) The possibility of surface water not being allowed to flow freely on/off the public road and lack of evidence submitted which indicates otherwise. (b) The insufficient sightline to the west at the point of exit from the constructed entrance. It is considered that to permit this development would endanger public safety by reason of serious traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to policy objective CPO 12.54 of the Wicklow County Development Plan 2022- 2028 which states: Rural local roads shall be protected from inappropriate development and road capacity shall be reserved for necessary rural

development, it is considered that the applicant has provided insufficient justification for the constructed entrance which appears unnecessary and excessive given it is serving no purpose other than that which is already being adequately served by the existing laneway and access to the west. The development is therefore considered to be contrary to the proper planning and sustainable development of the area.

3. Having regard to Policy Objectives CPO17.20, CPO17.21 and CPO17.22 of the Wicklow County Development Plan 2022 – 2028 which strongly discourages the felling of trees to facilitate development, strongly encourages the preservation and enhancement of native and seminatural woodlands, groups of trees and individual trees, as part of the development management process and the retention, wherever possible, of hedgerows and other distinctive boundary treatment in the County, the constructed entrance, which has been facilitated by the removal of a large number of trees and a section of hedgerow, is considered to be at variance with these policy objectives and therefore contrary to the proper planning and sustainable development of the area.

4. Having regard to the works already carried out which have comprised of a large amount of excavation to create the new entrance and access way forming an incongruous and obtrusive feature on the landscape, it is considered that to permit this development would facilitate yet further interference with the character of the landscape which it is necessary to preserve. The development would therefore be contrary to the proper planning and sustainable development of the area and would contravene objective CPO 17.37 as set out in the Wicklow County Development Plan 2022-2028: To resist development that would significantly or unnecessarily alter the natural landscape and topography.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Local Authority Planner had regard to the locational context of the site and local planning policy and to the referral responses and submissions made. Their assessment included the following:

- They note the proposed development is related to agricultural use of the field.

- There is an existing entrance off an established laneway to the west.
- Concerns of Arklow MDE in relation to surface water and sightlines were noted.
- Felling of trees and removal of hedgerow is deemed inappropriate.
- Refusal of retention permission was recommended.

3.2.2. Other Technical Reports

- Arklow MDE provided that surface water should be allowed to flow freely off the public road and point to lack of evidence in this regard.
- Sightlines are identified as an issue due to existing hedgerow heights outside of the application site.

3.2.3. The Planning Authority recommended a refusal of retention permission as set out above.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.5. 2no. observations were received by the Planning Authority. The issues raised can be summarised as follows:

- sightlines of 90m cannot be achieved,
- removal of trees unacceptable,
- the proposed use of the field could lead to traffic impacts on the existing road (L6194),
- actual sightlines estimated at 10m instead of 90m at dangerous bend – particularly with summer hedgerow growth,
- the elevation of the field in relation to the roadway is not reflected in the submitted plans, and
- the future use of the field is not provided by the applicant.

4.0 Planning History

4.1. None.

5.0 Policy Context

5.1. Development Plan

5.2. The relevant plan is the Wicklow County Development Plan 2022-2028. The subject site is located within Hierarchy 3: Area of High Amenity – Southern Hills.

5.3. Policies CPO 12.54 – protection of local rural roads, CPO 17.20 – the felling of trees, CPO 17.22 -preservation of native and semi-natural woodlands, CPO 17.23 – preservation of hedgerows, and CPO 17.37 – Resist development that would significantly or unnecessarily alter the natural landscape, are considered to apply, in addition to Appendix 1, relating to development standards for local roads.

5.4. Section 2.1.4 of Appendix 1 states the following:

“The design of new rural local roads or improvements to existing rural local roads and new means of access onto rural local roads shall be tailored to the conditions of the locality with regard to width, design speed, horizontal and vertical alignment and sightlines which shall comply with the requirements of the TII ‘Design Manual for Roads & Bridges’. Specific regard shall be paid to the protection of the natural environment, in particular mature trees and hedgerows.”

5.5. Natural Heritage Designations

5.6. The closest EU designated habitat is the Slaney River Valley SAC site code 000781, approximately 7.5km to the south-west. The site is not within the river catchment. The Wicklow Mountains SAC site code 002122 is about 19km to the north-west. The site is located 4km southwest of the Avoca River pNHA.

5.7. EIA Screening

5.8. Having regard to the nature of the proposed development, its relatively small scale within an agricultural field, and the absence of any sensitive receptors in the

immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. 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

- In the First Party Appeal, the applicant states the purpose of the new access is to provide independent access to the field without having to use a right-of-way across a neighbouring property.
- A repositioned and reduced entrance (7.4m width to 4.2m) is proposed to address the Planning Authority reasons for refusal by mitigating surface water run-off and visual impact. The revised position will also achieve necessary sightlines of 90m.
- The repositioned access will eliminate the need for tree removal, which the applicant has submitted has not been done, nor had they intended to do so as part of the subject development.

6.2. Planning Authority Response

- The planning authority noted that the revised proposal submitted as part of the first party appeal, is materially different from what was initially proposed. In particular it is noted that the original proposal was for retention whereas the revised proposal is for permission for a new entrance at a different location.
- The Planning Authority ask the Board whether the revised proposal can be considered as part of an appeal relating to a materially different development proposal.

6.3. Observations

- 6.4. One observation was received from a neighbouring landowner. The issues raised can be summarised as follows:

- Inadequate road capacity, which should be preserved,
- No reason provided for the impacts on the natural environment caused by the development,
- Insufficient sightlines are not addressed in the appeal,
- Replacement of trees and hedgerows and environmental impacts such as flooding are not sufficiently addressed in the appeal.

7.0 Assessment

7.1. Having reviewed the details and appeal documentation on the file, the submissions made, having visited the site, and having regard to relevant local and national policy and guidance, I consider the main issues to be the following:

- Principle of proposed development
- Traffic Safety
- Felling of trees/removal of hedgerow
- Landscape Character
- Alternative Design Option
- AA Screening

7.2. Principle of Proposed Development

- 7.2.1. The proposed development relates to the retention of an entrance and access driveway through an agricultural field. The subject site is in agricultural use and has an existing entrance off an established laneway to the west, which serves the rear of the field.
- 7.2.2. The applicant/appellant has confirmed that the purpose of the new entrance is to avoid utilising an existing right of way via a neighbouring property. This access point was open and accessible at the time of my site inspection.
- 7.2.3. Also, at the time of my site inspection, the access point to be retained which is the subject of the application, had been closed off with an earthen embankment. The access path within the field remained in place.

- 7.2.4. The Planning Authority refused permission for the retention application for 4no. reasons including surface water, sightlines, lack of justification for the proposal, development plan policies and impact on landscape.
- 7.2.5. The Wicklow County Development Plan 2022-2028 includes policies related to the protection of local rural roads and landscape.
- 7.2.6. I have concerns with an additional access point at this location given Policy objective CPO 12.54 of the Wicklow County Development Plan that states:

“Rural local roads shall be protected from inappropriate development and road capacity shall be reserved for necessary rural development.”

- 7.2.7. Having reviewed the documentation on file and visited the site, there is no identifiable need for the development for retention, given the existing access located to the west of the subject site. The existing access to the west is located within 100 metres of the development to be retained and to permit this additional access point would result in an unnecessary duplication of development. I therefore recommend refusal on the basis of Objective CPO 12.54 and the need to protect rural local roads from inappropriate and unnecessary development.

7.3. Traffic Safety

- 7.3.1. The concerns raised by the Planning Authority, Arklow MDE and the observers on the application and appeal, state that inadequate sightlines are available or cannot be achieved at this location and would result in traffic safety issues.
- 7.3.2. Appendix 1 of the Wicklow County Development Plan refers to TII Standard Document: ‘*Design Manual for Roads and Bridges*’, for reference to appropriate road design and sightlines. This document has now been superseded by TII publication ‘*Rural Road Link Design*’, which requires a minimum sightline of 90 metres for safe stopping distances at a design speed of 60km/h. I note the desired minimum safe stopping distance as set out in the TII publication increases to 120m at 70km/h. I also note the TII Publication allows up to a 2-step relaxation in applicable safe stopping distances if certain road design parameters are provided. The minimum safe stopping distance permissible at 60km/h is 50m.

- 7.3.3. The speed limit on the L-6194 is 80km/h, but I accept the actual speed at this location is likely to be less than this given the road widths and curvature of the road at this section.
- 7.3.4. However, given the location of the development for retention in proximity to a turn in the road to the west, the width of the road at approximately 4m and the natural growth of existing hedgerows, I consider that even with significant tree and hedge removal, adequate sightlines of even a minimum of 50m as specified in '*Rural Road Link Design*', cannot be achieved at this location.
- 7.3.5. Even with additional cutting back of hedgerows and trees on adjoining lands I do not consider that adequate sightlines can be achieved due to a turn in the road 10m to the west of the proposed entrance to be retained. This is evident from drawing 23020-PL-1.02 submitted with the application and from visiting the site. Given the existing access point already in place to the west, the provision of an additional access point onto this local road would therefore lead to an unnecessary over provision of entrances onto this local rural road.
- 7.3.6. The comments of Arklow MDE in relation to surface water not being allowed to run off freely from the public road are noted. However, given the granular nature of the proposed access path and the existing drainage ditches either side of the public road, I do not consider this to be a significant issue nor to provide a reason for refusal in this instance.
- 7.3.7. In conclusion, as adequate sightlines cannot be achieved to the west of the entrance, primarily due to road geometry but also due to the necessity for extensive tree and hedgerow removal, some of which is located within the neighbouring property, I therefore recommend refusal of retention permission on the grounds of traffic safety.

7.4. Felling of Trees/Hedgerow Removal

- 7.4.1. Policy objectives in the Wicklow County Development Plan that discourage the felling of trees to facilitate development and the retention, where possible, of hedgerows and other distinctive boundary treatment in the county are noted. Policy Objectives CPO17.20, CPO 17.21, CPO17.22 and CPO17.23 are particularly relevant in this regard.

- 7.4.2. The applicant's comments that it was never their intention to remove trees are noted, however it is clear some hedgerow removal has taken place to facilitate the development for retention.
- 7.4.3. While some hedgerow removal can be considered acceptable to provide access in appropriate circumstances, the applicant has not provided an identifiable need for a new, additional access point at this location that would justify any tree or hedgerow removal. However, I do not consider this to be a reason for refusal in this instance given the other concerns I have with the application for retention including inadequate sightlines and the fundamental need for the access to be retained.

7.5. Landscape Character

- 7.5.1. Objective CPO 17.37 as set out in the Wicklow County Development Plan 2022-2028 is: *"To resist development that would significantly or unnecessarily alter the natural landscape and topography, including land infilling / reclamation projects or projects involving significant landscape remodelling, unless it can be demonstrated that the development would enhance the landscape and / or not give rise to adverse impacts."*
- 7.5.2. Based on the presence of an existing available access point to the west and no discernible operational justification for the development to be retained, the subject entrance appears unnecessary. To allow additional, unnecessary new access points on to a low-capacity local road would set an undesirable precedent for this area without a clear and identifiable requirement for the entrance.
- 7.5.3. Having regard to the works already carried out which comprise a large amount of excavation and hedgerow removal to create the new entrance and access way, it is considered that to permit this development would facilitate further interference with the character of the landscape which it is necessary to preserve. As the necessity for the subject entrance has not been adequately established by the applicant it is considered to form an incongruous and obtrusive feature on the landscape, that has no identifiable independent purpose.
- 7.5.4. The development to be retained would therefore be contrary to the proper planning and sustainable development of the area and would contravene Objective CPO 17.37 of the Development Plan. I therefore recommend refusal of retention permission for this reason as the proposal is unnecessary given the existing access

available and would result in an unacceptable alteration to the landscape at this location.

7.6. Alternative Design Option

- 7.6.1. The Grounds of Appeal includes an additional option to relocate the proposed entrance to a more central location along the boundary of the site with the public road, approx. 35m east of the development to be retained. While this relocated access point is considered a material alteration to the proposal initially put forward at application stage, I will review the merits of the proposal here.
- 7.6.2. The relocation of the access point to a central location would not achieve 90m sightlines in each direction due to the bend in the road to the west and without relying on tree or hedgerow removal as evidenced from drawing 23020-PL(ABP)-1.04 submitted with the first party appeal. I accept that a reduced sightline is possible at this location in line with TII Guidelines and the operational speed of the road, however, I consider the basic requirement for the access point is still in question given the existing access point in place to the west.
- 7.6.3. Policy objective 12.54 of the Wicklow County Development plan requires that rural roads are protected and reserved for necessary development. The need for an additional, new access point is not apparent and to permit a new access onto this low-capacity rural road would be contrary to the proper planning and sustainable development of the area and does not overcome the Planning Authority's second reason for refusal in relation to preserving new development on rural roads for necessary rural development. I therefore recommend that the Board do not consider the alternative option provided and refuse retention permission for the development as recommended in my assessment above.

8.0 AA Screening

- 8.1. Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, I am satisfied that 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

I recommend that retention permission is refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to policy objective CPO 12.54 of the Wicklow County Development Plan 2022-2028, it is considered that the applicant has provided insufficient justification for the constructed entrance which appears unnecessary given it is serving no purpose other than that which is already being adequately served by the existing laneway and access to the west. The development provides an overconcentration of unnecessary access points on to a low capacity local rural road, would contravene policy objective CPO 12.54 of the Wicklow County Development Plan and is contrary to the proper planning and sustainable development of the area.
- 10.2. Having regard to the insufficient sightline to the west at the point of exit from the constructed entrance, it is considered that to permit this development would endanger public safety by reason of serious traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.
- 10.3. Having regard to the large amount of excavation to create the new entrance and access way forming an incongruous and obtrusive feature on the landscape, it is considered that to permit this development would result in an inappropriate precedent for unnecessary development in the area and negatively impact on the character of the landscape which it is necessary to preserve. The development would therefore be contrary to the proper planning and sustainable development of the area and would contravene objective CPO 17.37 of the Wicklow County Development Plan 2022-2028.

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.

Matthew McRedmond
Senior Planning Inspector

15th August 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318850-24		
Proposed Development Summary	New entrance onto the L-6194 and access driveway through field and all associated site works		
Development Address	Lands at Killahurler Upper, Woodenbridge, Arklow, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	No further action required
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?			
Yes		Class.....	EIA Mandatory EIAR required
No	√		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
			Conclusion
No	√	N/A	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____