



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319623-24

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<b>Development</b>	<i>For an agricultural entrance and all associated site works.</i>		
<b>Location</b>	<i>Ballycrony, Glenmore, Co. Kilkenny</i>		
<b>Planning Authority Ref.</b>	<i>23/91.</i>		
<b>Applicant(s)</b>	<i>Lynda Treacy &amp; Paul Coughlan.</i>		
<b>Type of Application</b>	<i>Retention Permission</i>	<b>PA Decision</b>	<i>Grant.</i>
<b>Type of Appeal</b>	<i>Third Party</i>	<b>Appellant</b>	<i>Daniel, Bridget and Linda Kavanagh</i>
<b>Observer(s)</b>	<i>None</i>		
<b>Date of Site Inspection</b>	<i>22-08-2024</i>	<b>Inspector</b>	<i>Adam Kearney</i>

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**Context****1. Site Location/ and Description.**

The field, for which retention permission is sought for an access, has a stated area of c 0.33 hectares and is located on the southern side of a local primary road (80 kph speed limit zone) situated to the north of Glenmore Village and 6km west of New Ross in South County Kilkenny. The site is located within an upland area (upper reaches of the valley of the River Barrow). The site is relatively exposed and falls away in a southerly direction from the public road towards Ballycrony. There is a detached dwelling beside the site and 2 no. detached properties on the opposite side of the road within 200m.

**2. Description of development.**

For an agricultural entrance and all associated site works

**3. Planning History**

20/380 & ABP-309243-21 for a Single Dwelling

Decision: Granted by PA & Refused by ABP

19/32 & ABP-304837-19 for Single Dwelling

Decision: Granted by PA & Refused by ABP

**4. National/Regional/Local Planning Policy**

Kilkenny City and County Development Plan 2021 -2027

**5. Natural Heritage Designations**

- The River Barrow & River Nore Special Area of Conservation (SAC) (Site Code 002162) is located c. 3km to the north of the appeal site at its nearest point.

## Development, Decision and Grounds of Appeal

### 6.0 PA Decision

PA decided to Grant permission with 4 conditions following receipt of further information.

1. The development shall be carried out and completed strictly in accordance with:

- i) the conditions of this permission.
- ii) the documents lodged with this application on the 14th of April 2023 and as amended by further information documentation received on the 14th of March 2024 except as otherwise required by the conditions of this permission.

**Reason:** To ensure that the development strictly accords with the permission and to ensure that effective control is maintained

2. a) The visibility requirement at this location is 120m in both directions measured along the nearside road edge from a setback distance of 2.4m. All points along the nearside road edge shall be visible within this required distance. Similarly, a vehicle turning right into the site off the public road shall be visible to the front and rear for a distance of 120m as measured along the centre line of the road. The boundary along the road frontage of the site shall be cut back or set back as necessary to achieve the required sightlines and the visibility splay shall be kept clear of all obstructions.

b) Where set back, the boundary shall be parallel to the road. If a hedge is to be planted along this boundary, then the boundary shall be a minimum of 1 m behind the minimum visibility requirement.

c) The entrance fence line post & rail shall be back not less than 10m from the roadside boundary within the splayed recess space, which shall be a minimum of 11 metres wide along the line of the new roadside boundary. The full area of the splayed recess shall be suitably constructed to cater for heavier agricultural vehicular traffic. This surface of the proposed access shall be of adequate material to prevent muck or debris being brought out onto the public road. The

access proposed for entry to the public road shall be set level with the road edge and have a gradient of not greater than 2.5% over 10m distance.

d) Roadside drainage shall be reinstated in full to its original condition; 9m of 300mm diameter twin wall surface water pipe shall be reinstated at the proposed entrance crossing once again and set at a level and fall to properly convey roadside drainage. Roadside drainage shall not be negatively impacted by the works.

e) The open drain should be protected and piped over the distance required to provide the access only. The pipe should have a capacity not less than the capacity of the open drain. The applicant shall notify the Ferrybank Area Office (05 183 1370) on completion of the pipe reinstatement no later than 6 months following the granting of the proposed development.

f) All surface water inlets off the public road shall be maintained and adequately protected. Surface water run-off from the site shall be discharged to adjacent/nearby watercourses or soakaways within the site boundary of the site.

g) no surface water from the site shall be allowed to discharge onto the public road.

h) All works associated with the access and achieving visibility requirements shall be carried out prior to other works on site to ensure a safe access during construction works.

**Reason:** In the interests of road safety

3. Improvement works to the entrance as outlined in condition 2 above shall be completed within 6 months of the date of grant on this permission.

**Reason:** In the interests of orderly development.

4. The entrance shall be used to serve an agricultural practice only and shall not be used for any other purposes.

**Reason:** In the interests of road safety and to ensure effective control is maintained.

## **6.1 Local Area Engineer Response to FI**

*The applicant has demonstrated that the above sightline criteria have been met in the site layout (Drawing no: PI-004-LT-20) dated 5th March, 2024. Also noted, approx. 9m of 300mm diameter twin wall surface water pipe was removed during the construction of this unauthorised entrance at the new proposed location. This pipe was used to convey surface water to an open drain and requires reinstatement in order to maintain operation of the surface water drainage system in the area. Accordingly, I have no objections to the following development from a road 's viewpoint subject to conditions"*

## **7. Third Party Appeal. Grounds:**

- The development of an entrance was started June 2022 and has been continuing with no permission from the council. It has continued to be developed, extended and widened since then
- The landowners have ignored planning laws and cannot be expected to adhere to conditions if this retention is permitted
- The site was always part of a larger agricultural field for which there is access and therefore access to their site. The site was purchased by the owners at their own risk, knowing that there was no direct road access and planning could have been and could be refused.
- Disputes the contention that access would be used 2-3 times a month, land is currently used to graze horses over the past 18 months and in that time vehicles have been parked partly on the entrance and partly on the road a number of times each week
- Road safety would be a lot better served if the entrance was closed and the hedgerow was replanted and allowed to return to its natural and original state
- Applicants removed drainage pipes and blocked part of a drain.
- Applicants have not demonstrated clearly their need nor their plans for an agricultural entrance at this site as requested by the council

- It is an objective of the Development Plan to protect the quality and character of rural areas and allowing this unauthorised establishment of an entrance would clearly contradict that objective.
- Any relaxation" of visibility requirements would be unacceptable and considered a road safety issue for us. A concern the council have used in their conditions schedule many times

#### **8. PA Response**

- *None*

### **Environmental Screening**

#### **9. EIA Screening**

*Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.*

#### **10. AA Screening - Use standard wording with site specific focus**

*Having regard to the modest nature and scale of development and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.*

## **2.0 Assessment**

2.1. *Having visited the site and reviewed the application and appeal documents and drawings inclusive of submissions and observations, I conclude that the salient issues are as follows*

- *Principle of Development*
- *Surface water*
- *Traffic Safety*

## 2.2. ***Principle of Development***

Proposals for residential development on the subject lands have failed over the previous 5 years as detailed in the 'Site History'. Subsequently, the fact remains the property under the ownership of the applicant without the benefit of residential development permission remains an agricultural holding located in a rural area. The size and subdivided nature is largely an irrelevance. From the appeal documentation it is stated that the field is used for grazing of horses, and this is supported by 'Google Street View' imagery dating back to 2022. Irrespective of what specific agricultural use is applied to this holding, it is necessary and practical to have a functioning access and as there are no minimum area stipulated for the size of a given field as such the principle for the agricultural access is established

## 2.3. ***Surface Water***

The appellant has highlighted that drainage pipes along the verge have been removed during works to create the entrance. I note the topography of this upland area and acknowledge the importance of such drainage infrastructure to prevent localised flooding that would in turn present a traffic hazard. The Local Authority have detailed remedial works for the reinstatement of necessary drainage infrastructure at the entrance and I am satisfied that these remedial works as conditioned will be adequate.

## 2.4. ***Traffic Safety***

Agricultural entrances by their nature are only used occasionally and as such do not present the same number of turning movements normally associated with permanent residential holdings. I observed that the local road was lightly trafficked and that the required sightlines are achievable at the entrance once hedgerows either side were cut back. The Local Area engineer who sought further information from the applicant was satisfied with the response and a comprehensive and detailed condition was applied to the permission.

## 3.0 **Recommendation**

- 3.1. I recommend that Retention Permission for the development be Granted for the reasons and considerations hereunder and subject to the conditions set out below.

## 4.0 Reasons & Considerations

Having regard to the policies and objectives of the Kilkenny City and County Development Plan 2021- 2027, to the limited scale of the development proposed to be retained, to the overall extent of the development in a rural location and to the established nature of the agricultural land use, it is considered that the proposed development subject to the conditions set out would not impact upon road safety or seriously injure the amenities of properties in the area and would therefore be in accordance with the proper planning and sustainable development of the area.

1.	<p>The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application and as amended by documents received on the 14<sup>th</sup> of March 2024, 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 applicant shall agree such details in writing with the planning authority and the development shall be retained, carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>The remedial works with regard to sightlines, setback and surface water drainage as set out by the Planning Authority under Condition No. 2 of Notification of Decision to Grant shall be agreed in writing with the Authority and carried out by the applicant within a period of 6 months of this decision.</p> <p><b>Reason:</b> In the interest of traffic safety and orderly development</p>
3.	<p>The entrance shall be used to serve as an agricultural entrance only and shall not be used for any other purpose.</p> <p><b>Reason:</b> In the interests of road safety and to ensure effective control is maintained.</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.

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*Name: Adam Kearney*

*Planning Inspector*

*Date: 09-09-2024*