



An
Bord
Pleanála

Inspector's Report

ABP-319968-24

Development	Construction of a new agricultural entrance and all associated site works.		
Location	Dunnstown, Brannockstown Road, Naas, Co. Kildare.		
Planning Authority Ref.	2460171.		
Applicant(s)	Thomas Connors.		
Type of Application	Permission	PA Decision	Refuse.
Type of Appeal	First Party	Appellant	Thomas Connors
Observer(s)	None		
Date of Site Inspection	21.10.2024	Inspector	Des Johnson

Context

1. Site Location/ and Description.

1.1 The site is located c. 9km south southwest of the town of Naas, on the eastern side of the R412. The R412 is a straight road at this point, with a carriageway of approximately 5.5m and a broken white line along its centre line. There is no public lighting or public footpaths along this stretch of the R412.

1.2 The site frontage with the public road is marked by high hedging. The public notice is attached to a utility pole. There is a deep ditch on the frontage running parallel to the road. The site is flat and appears as unmanaged grassland.

1.3 The wider area is predominantly in agricultural use and the settlement pattern in the area is dispersed and sparse. Dunnstown 44/220kV Station is adjacent to the south east.

2. Description of development.

2.1 The proposal is for the construction of a new agricultural entrance and all associated site works. The entrance is to have treated timber rails and gates. The site area is stated to be 2.106 hectares.

3. Planning History

3.1 None on file.

4. Local Planning Policy

4.1 The Kildare County Development Plan 2023-2029 came into effect on 28th January 2023.

Policy TM P6 - Maintain and improve the capacity, safety and function of the regional road network (as finance becomes available) and to ensure that it is planned for and managed to enable the sustainable economic development of the county and wider area while encouraging a shift towards more sustainable travel and transport in accordance with the Core Strategy, the Spatial Planning and National Roads Guidelines (2012) and the Draft Transport Strategy for the Greater Dublin Area 2022-2042.

Objective TM 095 - Restrict new access onto regional roads where the 80km per hour speed limit currently applies, except in the following exceptional circumstances:

- Developments of strategic, local, regional or national importance, where there is a significant gain to the county through employment creation or other economic benefit.
- Where applicants comply with Schedule of Local Need Criteria (see Chapter 3), are proposing to build a home on their family landholding and cannot provide access onto a nearby county road. In this instance, applicants will only be permitted to maximise the potential of existing entrances. The onus will be on the applicant(s) to demonstrate that there are no other accesses or suitable sites within the family landholding.
- Where it is proposed to demolish an existing dwelling and replace with a new dwelling, where there is an existing entrance onto the regional road.

5. Natural Heritage Designations

Pollardstown Fen SAC & pNHA – approximately 10 km to the north west.

Poulaphouca Reservoir SPA – approximately 8.5km to the south east.

Development, Decision and Grounds of Appeal

6. PA Decision.

6.1 The planning authority refused permission for one reason. The reason for refusal is as follows:

Policy TM P6 of the Kildare CDP 2023-2029 seeks to maintain and improve the capacity, safety and function of the regional road network and Objective TM 095 of the Plan seeks to restrict new access on to regional roads where the 80km per hour speed limit currently applies, except in exceptional circumstances. The proposed development seeks to construct an agricultural entrance from the Regional Road R412 at a point where the 80kph speed limit applies. To permit the proposed development would conflict with the provisions of Policy TM P6 and Objective TM 095 of the Kildare CDP, would set an undesirable precedent for similar developments of this nature, would reduce the capacity of the road and would interfere with the safety and free flowing nature of traffic on the road. The foregoing would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of extra traffic generated and would therefore be contrary to the proper planning and sustainable development of the area.

6.2 The Planner's report states that approximately 15m of hedgerow would be removed. The request for FI has been adequately addressed.

The Roads Department has no objections subject to conditions.

The Transport, Mobility and Open Spaces Department has no objection subject to conditions, including no unauthorised parking of vehicles or storage of constructed related items on the public road network, and no surface water runoff discharge on to the R412.

6.3 The Planning Authority decision was made following the submission of FI. This included the submission of a Site Layout Plan 1:250 showing sightlines in excess of 150m' in both directions from a setback of 2.4m from the road edge, statement that there would be minimal removal of hedgerows and those which would be removed would be replaced, and surface water would be piped to a soakaway.

7. First Party Appeal.

7.1 The grounds of appeal may be summarised as follows:

- The development is proposed on the applicant's property, which was purchased for use as agricultural land
- Additional traffic would be minimal and ample sightlines are available in both directions
- There are exceptional circumstances as this is agricultural land without any entrance for the applicant to use
- The stretch of road where the application relates is 2.48km in distance without any bends, humps or hollows which would obscure line of sight for traffic with a speed limit of 80kph.
- Other permissions have been granted for domestic, commercial, and agricultural uses, which have included new entrances (references given).
- The applicant was asked, by way of a request for FI, to show 150m sightlines in both directions, from appoint 2.4m from the road edge. This information was submitted but permission was refused.
- The appeal submission includes maps and photographs in support of the grounds of appeal.

8. PA Response

8.1 The planning authority refers to Planning Reports, internal departmental reports, and prescribed bodies reports, and confirms its decision to refuse permission.

Environmental Screening

9. EIA Screening

9.1 Having regard to the nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site likely to be impacted, 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

10.1 Having regard to the 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.

11. Assessment

11.1 I have read the file, inspected the site, and considered the planning authority's decision, the grounds of appeal, and all other information contained on the file.

11.2 The proposal is for the construction of a new agricultural entrance and all associated site works. The entrance is to have treated timber rails and gates. The site area is stated to be 2.106 hectares. The site is to the eastern side of the R412, which has a carriageway of approximately 5.5m, is within the 80kph speed limit, and is straight along this section. There is tall, attractive hedging along the site frontage. The proposed development would entail the removal of hedging, crossing a deep ditch, the relocation of a public utility pole, and the removal of a couple of mature trees.

11.3 The planning authority refused permission, following the submission of Further Information, for a single reason relating to conflict with a policy and objective of the Kildare County Development Plan, the setting of an undesirable precedent, reduction in the capacity of the road and interference with the safety and free flowing nature of traffic on the road, and endangerment of public safety by reason of traffic hazard and obstruction of road users. The Planning Authority's Roads department raised no objection subject to recommended conditions.

11.4 I consider that the key issues to be addressed in this appeal are as follows:

- Policy issues
- Safety issues
- Environmental assessments

Policy issues

11.5 The Kildare County Development Plan 2023-2029 came into effect on 28th January 2023. It includes Policy TM P6 to maintain and improve the capacity, safety and function of the regional road network. It is an Objective TM 095 to restrict new access on to regional roads where the 80kph speed limit applies, except in exceptional circumstances. Broadly, I consider that this Policy and Objective are reasonable, but they do allow for exceptional circumstances. In this case, the 1st Party states that there are exceptional circumstances as the parcel of land was purchased as agricultural land but has no other access. The Board will note that, based on the submissions made, the land appears to have been purchased without any means of access. In these circumstances, I consider that exceptional circumstances do now exist, and that the principle of an agricultural access to service the lands for agricultural use is acceptable. In the event of the Board deciding to grant permission, I consider that a condition should be attached restricting the access to agricultural use.

Safety issues

11.6 The Planning Authority requested Further Information and, in response, the 1st Party submitted a Site Layout Plan 1:250 showing sightlines in excess of 150m' in both directions from a setback of 2.4m from the road edge, statement that there would be minimal removal of hedgerows and those which would be removed would be replaced,

and surface water would be piped to a soakaway. The Planning Authority's Roads Department raised no objection subject to conditions including ones relating to the maintenance of lines of sight from the entrance along the R412, and a requirement that no surface water runoff discharge on to the R412. I submit that the R412 is straight along this stretch and that satisfactory sightlines in both directions for an agricultural entrance can be achieved, albeit at the loss of a length of attractive mature hedging. In these circumstances, I do not accept the Planning Authority's conclusion that the proposed development would result in traffic hazard and obstruction of road users. I consider that the proposed development is acceptable on safety grounds.

Environmental assessments

11.7 Having regard to the nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site likely to be impacted, 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.

11.8 Having regard to the 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.

Recommendation

I recommend that permission for the development be granted.

Reasons & Considerations

Having regard to the nature of the proposal to provide an agricultural entrance from the R412 to service agricultural lands, which lands have no other vehicular access, to the vertical and horizontal alignment of the public road and the provision of satisfactory sightlines in both directions, it is considered that exceptional circumstances exist and, as such, the proposed development does not conflict with Policy TM P6 or Objective TM 095 of the Kildare County Development Plan 2023-2029, would not endanger public safety by reason of traffic hazard or obstruction of road users, and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out in accordance with the plans, particulars and specifications submitted to the planning authority on 28/02/2024, as amended by way of Further Information submitted to the Planning Authority on 03/05/2024.

Reason: In the interest of clarity.

2. The use of the entrance shall be restricted to agricultural purposes only.

Reason: In order to comply with the Policy and Objective provisions of Kildare County Development Plan 2023-2029, which provisions are considered reasonable, and in the interest of the proper planning and sustainable development of the area.

3. Surface water disposal from the entrance shall be in accordance with the requirements of the Planning Authority. No surface water runoff shall discharge on to the R412.

Reason: In the interests of traffic safety and proper planning and sustainable development.

Des Johnson

Planning Inspector

24th October 2024.

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.