



An
Bord
Pleanála

Inspector's Report ABP-320641-24

Development	Permission for indefinite retention of roadside boundary fence as constructed (deletion of Condition 3(a) of 18/777) and permission for construction of additional gated vehicle entrance together with all associated works.		
Location	Tearmann House, 6 Annville, Dunmore Road, Waterford, X91 X83X		
Planning Authority Ref.	2460081		
Applicant	Wise Properties Ltd		
Type of Application	Permission.	PA Decision	Split decision grant/refuse
Type of Appeal	Third Party	Appellant	Michael & Geraldine Curran & others
Observer(s)	None		
Date of Site Inspection	04/11/24	Inspector	Ann Bogan

Context

1. Site Location/ and Description. The site is located to the south of the Dunmore Road in Waterford and is accessed off Annville, a Cul de sac road. The site was previously part of the grounds of Annville House (a protected structure), and is occupied by a detached single storey dwelling. The dwelling runs parallel to

the road and the boundary with the road is formed by a low stone wall, backed by timber fence.

The existing vehicular entrance is located at the northern end of the site and there is a pedestrian entrance towards the southern end of the site. There are three other existing dwellings with entrances off the Cul de sac in the vicinity of the proposed development.

The road slopes up from the junction with Dunmore Road and goes around two sharp bends before straightening out in the vicinity of the subject site. It is designated a 'Slow Zone' and a 30kmh speed limit applies.

2. Description of development.

For clarification, the application is made on behalf of the property owners, Wise Properties Ltd, who also own the adjoining Annaville House, while the existing house is the permanent residence of John and Noeleen Murphy, who are stated to be Directors of Wise Properties Ltd but not shareholders.

The development consists of:

- Indefinite retention of the wooden roadside boundary fence (this involves deletion of condition 3(a) of Ref 18/777, under which permission was granted for the construction of the dwelling and associated works)
- Construction of a new gated vehicular entrance to the southern end of the site, close to the end of the Cul de sac, together with associated site works.

Note that a further information request led to a revised site layout plan showing removal of roadside vegetation to improve sight lines at the entrance and further revised layout drawing and change to entrance design detail were submitted by way of clarification of further information.

3. Planning History.

Ref 23/60585: Wise Properties Limited, incomplete application, for indefinite retention of a roadside boundary fence as constructed and the construction of an additional gated vehicle entrance together with all associated site works, for the deletion of Condition 3(a) of 18/777.

Ref 21/817: John and Noeleen Murphy, refused permission for additional gated vehicle entrance to private residence (Tearmann House) together with all associated site works (within the curtilage of a protected structure, Annaville)

Reason for refusal: The development proposed would endanger public safety by reason of traffic hazard due to the inadequate space for turning movements within the site which may result in vehicles reversing onto the Annaville road and the required minimum sight distances are not achieved thus the proposed development would constitute a traffic hazard and be contrary to the proper planning and sustainable development of the area.

Ref 21/287: John Murphy, application withdrawn, for an additional gated vehicle entrance to private residence together with all associated site works at Tearmann House

Ref 18/777: Wise Properties Ltd., conditional permission, for subdivision of site, new entrance, part demolition of outbuilding/store, single storey extension and change of use from store to dwelling (A Protected Structure) at Annaville House

4. National/Regional/Local Planning Policy (see attached)

Design Manual for Urban Roads and Streets, Government of Ireland, 2013 (DMURS)

- Section 4.4.5 Visibility Splays and Table 2.4 SSD Standards

Waterford City and County Development Plan 2022-2028

- Site zoned existing residential: Provide for residential development and protect and improve residential amenity
- Protected Structure adjoining site: Annaville House RPS WA730098
- Section 8.6 and 8.7 Volume 2 Development Management Standards, relating to sightlines

5. Natural Heritage Designations

- 8.73km North of the Tramore Back Strand SPA Special Protection Area (Site Code: 004027)
- 0.19km South of the Lower River Suir SAC Special Area of Conservation (Site Code: 002137)

Development, Decision and Grounds of Appeal

6. Planning Authority Decision.

Split decision: Permission refused for indefinite retention of roadside boundary fence as constructed (deletion of Condition 3(a) of 18/777) and permission granted for construction of additional gated vehicle entrance together with all associated works.

Reason for refusal of permission for retention of fence: *Having regard to the site location, planning history on site and the relationship of the timber boundary fence to be retained to the public road it is considered that the boundary treatment to be retained detracts from the character of the area, negatively impacts on Annaville House, a protected structure, would set an undesirable precedent for similar type developments, be contrary to the proper planning and sustainable development of the area and contravene materially a condition attached to an existing permission for development namely, condition number 3(a) attached to the permission granted under planning register reference number 18/777.*

Planning Officer's Report: In relation to the proposed entrance, following consideration of further information and clarification of further information, in relation to sightlines, the Planning Officer concluded '*on balance it is considered that, subject to compliance with the conditions set out in the Second Schedule, the retention of the additional gated vehicle entrance together with associated site works would be in accordance with the proper planning and sustainable development of the area*'.

Permission was granted subject to two conditions. Condition No 1 clarifies that development is to be in accordance with documents submitted with application and further information. Condition No 2 regulates detail of the entrance and required sightlines.

Roads Section: (verbal report referenced in Planning Officer's report): due to location on Cul de sac road, no objection in principle subject to improved sightlines to north of entrance

Conservation Officer: (verbal report referenced in Planning Officer's report) not favourably disposed to retention of roadside boundary fences

Third party submission on application

M. & G. Curran, I. Fitzgerald, L. & M. Walsh

- Invalid application. Site layout plan does not adequately identify the existing and proposed works. Elevation drawing of main features not provided.
- Application should not have been validated as site layout plan doesn't clearly show existing and proposed development; drawings don't show contiguous buildings
- Previous refusal of planning permission – traffic safety. Previous refusal reason has not been overcome
- Not in keeping with DMURS Standards and the Development Management Standards (Volume 2) of the Waterford City & County Development Plan 2022-2028
- Sightlines at the entrance not adequate
- Location of site within the curtilage of a Protected Structure
- Surface water drainage
- Traffic safety concerns
- TIA not submitted with application

7. Third Party Appeal. Grounds in summary:

- Appeal submitted by residents of Nos 3, 4 and 5 Annville
- All points in objection submitted to planning authority remain applicable
- The gated entrance already exists, application should have been for retention and upgrade works
- No evidence that details required under Condition No 3 of permission 18/777 were submitted and agreed, and it would therefore be inappropriate to remove a condition that has been breached
- Sightline drawings do not reflect requirements of DMURS/ Development Plan Table 8.1, that sightlines should be to nearside kerbs, not opposite side of road
- Entrance represents very serious traffic hazard to users of Annville, including pedestrians

- Site plan shows hedge to be removed north of entrance which is outside the site and does not show gate piers and wall behind the hedge [Note this may be intended to refer to existing pier and wall south of proposed entrance]
- Applicant has no consent to remove these, therefore sightline to north cannot be achieved and Condition No 2 cannot be complied with
- Communal parking in Annville would be severely hampered by granting this entrance, as per Section 4.7 of Development Management Standards Vol 2 Waterford City and County Development Plan)
- Removal of shrubbery along roadside, which has been maintained by residents would have detrimental visual impact on the area. This roadside area is not in ownership of applicants and they have no right to remove shrubs
- Tearmann House already has an entrance and applicant also owns adjoining lands and car park, where there would be adequate space for a turning area and /or ramp. This should have been explored as an alternative to new entrance
- Applicant has not explained how house/disabled access will be achieved from new car parking area
- In addition to the two entrances, there is a third entrance from Annville House to Dunmore Road
- Proposed entrance has potential to provide access to land at rear of Tearmann House, upon which groundwork has already been undertaken for possible further development.

8. PA Response

None

8A Applicants Response

Response to appeal submission by Halley Murphy architects on behalf of applicants:

- Second entrance required as applicant's daughter has physical disability and has difficulty using existing steep driveway at house entrance and compliant disabled ramp not achievable at this location
- Second entrance would be used only occasionally for one car, will not result in increased vehicular traffic nor will it impact on pedestrian traffic in area

- Original application for house showed pedestrian access at southern end of site and therefore there is no requirement for retention of same.
- DMURS sightlines not applicable as Cul de sac serves three dwellings and right-angled bend north of entrance serves as traffic calming device
- Letter enclosed from R. McDonald and Sons, who carried out overall development consenting to removal of hedgerow to facilitate required sightlines.
- Applicants planted most of existing planting and will replant with low level ground cover which will not interfere with sightlines
- Site for existing dwelling was arrived at to have least possible impact on protected structure Annaville House, so it would not be appropriate to further extend site into grounds of Annaville house, as suggested by appellants
- Access to house will be via existing back door on western side of house, which is within 3.0metres of proposed parking space
- Third entrance off Dunmore Road to Annaville House is a stepped entrance with no parking and no link to Tearmann House.
- Refute appellants claim that ground work has been undertaken for future development at Annaville House
- Believe that site is no longer within the curtilage of Annaville House as permission was granted for house with no connection to protected structure
- Concludes there is provision for turning the car within the site and clear sightlines will be available when exiting site
- Oncoming traffic will be significantly slowed due to step roadway and bends
Sightlines in northerly direction must be viewed in this context; sightlines in southerly direction are typical of any housing development where second last house in Cul de sac will have limited sightlines towards last house.

Environmental Screening

9. EIA Screening

The proposed development to be constructed and the development to be retained are not a class of development designated in Part 1 and 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended. Therefore, the

requirement for submission of an EIAR and the carrying out of an environmental impact assessment may be set aside at a preliminary stage.

10. AA Screening Having regard to the modest nature and scale of development, location in an urban area, 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 examined the documentation on file, including the submissions received in relation to the appeal, the reports of the local authority, having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues to be considered in this appeal are as follows:

- Proposed additional vehicular entrance: traffic and public safety
- Retention of boundary fence: impact on protected structure and visual amenity

2.2. **Proposed additional entrance: traffic and public safety**

- 2.2.1. The existing vehicular entrance and parking area at the northern end of the site has a steep gradient and the house itself is accessed by a flight of steps from the parking area. It is stated in the documentation on file that a second vehicular entrance is required to facilitate access by the occupant's daughter, as she has a physical disability/uses a wheel chair and has difficulty accessing the house from the existing entrance, due to the gradient and steps. A drawing submitted on 15th July 2024 by way of clarification of further information, shows that due to gradient of 1:7 in the parking area and limited space to accommodate a suitable ramp, it is not feasible to create an acceptable disabled access to the house from this area.
- 2.2.2. A previous application (Ref 21/817) for retention of an additional entrance at the southern end of the site was refused permission due to concerns that it could result in a traffic hazard, as there was no space for a vehicle turning area on site, which could result in vehicles reversing onto the street; and in addition, adequate sightlines were not available.

- 2.2.3. I noted during the site inspection that the vehicular entrance for which retention was sought under Ref 21/817, has been closed off and replaced by a pedestrian gate and a circa 1.8m timber fence, matching the rest of the front boundary fence.
- 2.2.4. The current proposal involves a new entrance in a similar location as previously, but the site area has been increased to the south to incorporate a turning area, addressing the previous traffic safety concerns with regard to traffic reversing onto the road. The proposal provides for a single parking space and allows level access to the house via the back door on the western side of the house.
- 2.2.5. A 30kph speed limit applies in Annville, which is designated a 'slow zone'. With two sharp bends on the approach and a steep gradient, and the fact that it is a short Cul de sac, it is reasonable to assume that actual vehicle speeds are quite low in any case. Section 8.7 of Volume 2 of the Waterford County Development Plan sets out sightlines for varying speed limits but does not include roads with speed limits of 30kph, although it does make reference to Culs de sac with three or fewer entrances. However, the Design Manual for Urban Roads and Streets (DMURS), section 4.4.5 and table 4.2, recommends visibility splays of 23m in each direction for traffic exiting onto a road with a 30kmh speed limit.
- 2.2.6. In this case, the proposed entrance is close to the southern end of the Cul de sac, and adequate sightlines to the north are therefore most important in the context of oncoming traffic. At present sightlines to the north at the proposed entrance are impeded by vegetation along the roadside boundary strip. Revised site layout plans and details were submitted by way of further information and clarification of further information, which proposed removal of vegetation, modification of gate design and confirmed the existing low stone wall along the site boundary does not exceed 1m in height. A letter submitted with the appeal from the original developer of the Annville estate, who retains ownership of the roadside strip, confirms permission for removal of vegetation along the roadside strip, subject to replacement with suitable low growing replacement planting. On the basis of the revised proposals, sightlines of at least 23m can be achieved to the north, which I consider to be satisfactory and in line with DMURS standards.
- 2.2.7. There are two houses (Nos 4 and 5 Annville) to the south beyond the proposed entrance, at the end of the Cul de sac. Traffic leaving these houses or the turning

area is likely to be travelling very slowly due to the short distance involved and the existing blind corner which creates uncertainty and caution. The sightline to the south as shown on revised drawings of 7.9m is therefore considered acceptable, subject to cutting back of vegetation on the roadside strip so that it does not impede the sightline.

2.2.8. I am satisfied in conclusion that the proposed entrance would not result in traffic or pedestrian safety or create a traffic hazard, or detract from the amenity of the area, or impact on communal parking for the area, subject to a condition requiring clear and unobstructed sightlines as proposed, from a point 2m back from the roadside edge, as proposed by the planning authority. I would also recommend including of a requirement that the existing low stone wall on either side of the proposed entrance be made good.

2.2.9. I believe it is reasonable to allow the proposed vehicular access gate and short length of fence to the south, where it adjoins an old high pier, to be 1.80m high as proposed, as it provides screening to the private area to the south of the house. I address the proposed retention of the existing 1.8m boundary fence below.

2.2.10. I note that the planning authority in the first schedule of the decision refers to '*retention of the gated vehicle entrance and associated site works*'. However, the application was for '*construction of an additional gated vehicle entrance*' and associated site works. During the inspection, although a pedestrian gate was in place (note a pedestrian gate was indicated in the drawings accompanying the parent permission for the dwelling), and the additional vehicle entrance had not been installed, and I conclude therefore, that reference to 'permission' rather than 'retention' is appropriate.

2.3. **Retention of roadside boundary fence – impact on protected structure and visual amenity**

2.3.1. Condition No 3(a) of the governing planning permission for the site (18/777) stated: *Prior to commencement of development the following details shall be submitted and agreed in writing with the Planning Authority*

(a) *The 1800mm high roadside treated timber fencing (eastern elevation) shall be a maximum of 1.2m in height. A landscape plan for the area between the roads edge and the timber fencing shall be provided. The planting shall be*

carried out in the first planting season following the Grant of Permission and any failures within 5 years shall be replaced and the hedging allowed to grow to maturity.

- 2.3.2. The fence as constructed is a 1.8m timber fence, and therefore not in compliance with Condition No 3. The existing pattern of roadside boundaries in Annville are low walls (1.0 to 1.2m in height). The subject site is elevated above the road which makes the fence appear higher and more dominant than its 1.8m in height.
- 2.3.3. I note that the Planning Authority Conservation Officer was reported in the Planning Officer's report as not being favourably disposed to its retention as constructed, 'owing to the site location and planning history'. The site was originally part of the grounds of Annville House, a protected structure and can still be considered part of its curtilage. Annville House is not visible from Annville Road along most the length of the front fence line of Tearmann House, due to level changes and the presence of Tearmann House itself, however its side (eastern) elevation is visible towards the northern end of the boundary fence. The fence can be considered to have some impact, albeit limited, on side views of the protected structure.
- 2.3.4. Overall, on balance, I believe the 1.8m high timber fence, in an elevated position above the road level, negatively impacts the amenity of the area and I concur with the planning authority that it detracts from the character of the area and would set an undesirable precedent for similar developments. It will also be more exposed to view when roadside vegetation is removed to provide adequate sight distances. I therefore do not consider that there is a justification for permitting the retention of the fence as constructed, in contravention of the condition attached to the parent permission.

3.0 Recommendation

- 3.1. I therefore recommend a 'split' decision: that permission be refused for the indefinite retention of the roadside boundary fence and that permission be granted for the construction of the additional gated vehicular entrance.

4.0 Reasons & Considerations

1. Reason for Refusal (Retention of roadside boundary fence)

Having regard to the site location, planning history on the site, the general pattern of development in the area and the relationship of the timber boundary fence to be retained to the public road, it is considered that the roadside boundary fence to be retained detracts from the character of the area, and would set an undesirable precedent for similar type development, be contrary to the proper planning and sustainable development of the area and contravene materially a condition attached to an existing permission for development namely, condition number 3(a) attached to the permission granted under Planning Authority register reference number 18/777.

2. Grant of permission (Construction of additional vehicle entrance)

Having regard to the planning history of the site, the nature of the proposed development, the documentation provide with the application, the policies of Waterford City and County Development Plan 2022-2028, and guidance provided by the Design Manual for Urban Roads and Streets, it is considered that subject to compliance with the conditions set out below, the proposed development of an additional vehicle entrance and associated siteworks would not seriously injure the amenities of the area, or endanger public safety by creating a traffic hazard and would, therefore, be in accordance with the proper planning and sustainable development of the area.

5.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended with the by the further information and particulars received by the Planning Authority on the 19th day of June 2024, and on the 15th day of July 2024, except as may otherwise be required in order to comply with the following condition.</p> <p>The permission granted relates to the gated vehicle entrance, the short section of fence south of it and all associated works only. The retention of</p>
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	<p>the remainder of the roadside boundary fence does not form part of the permission granted herein.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The entrance shall be in accordance with the details received by the Planning Authority on the 15th day of July 2024. It shall be located such that clear and unobstructed sightlines are available from a point 2 metres back from the nearside edge of the roadway at the centre of the entrance to a point to the north of the entrances for a distance of 23metres and to a point to the south of the entrance for a distance of 7.9metres.</p> <p>(b) The location of the entrance gate shall be revised in accordance with the details submitted to the Planning Authority on the 15th July 2024 to ensure 23 metre sight line to the north of the entrance and the area within the sightline triangle shall be maintained free from obstruction to ensure sightlines are maintained.</p> <p>(c) Regardless of the gradient of the driveway, the area between the edge of the roadway and the gate piers shall be reasonably flat and level with the public road, with a gradient not exceeding 2½% or as otherwise agreed in writing with the Planning Authority.</p> <p>(d) The gated vehicular entrance to the public road shall have inward opening gates only.</p> <p>(e) The existing finished road levels shall not be raised or lowered to facilitate the proposed development without the prior consultation of the Planning Authority Roads Department and the subsequent written agreement of the Planning Authority.</p> <p>(f) The existing stone wall on either side of the proposed entrance shall be made good.</p> <p>(f) Surface water from the entrance shall not be allowed to flow onto the public roadway and shall be disposed of to the satisfaction of the Planning Authority.</p> <p>Reason: In the interest of public and traffic safety.</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.

Ann Bogan

Planning Inspector

7th November 2024

Appendix 1 Relevant national and local policies and guidance

Design Manual for Urban Roads and Streets, Government of Ireland, 2013 (DMURS)

Extract from Section 4.4.5 Visibility Splays

The Y distance along the visibility splay should correspond to the SSD for the design speed of the major arm, taken from Table 4.2 while also making adjustments for those streets which are frequented by larger vehicles. For example, within Industrial Estates and/or on Arterial and Link streets with higher frequency bus routes.

SSD STANDARDS			
Design Speed (km/h)	SSD Standard (metres)	Design Speed (km/h)	SSD Standard (metres)
10	7	10	8
20	14	20	15
30	23	30	24
40	33	40	36
50	45	50	49
60	59	60	65
Forward Visibility		Forward Visibility on Bus Routes	

Table 4.2: Reduced SSD standards for application within cities towns and villages. Reduced forward visibility increases driver caution and reduces vehicle speeds.

Waterford City and County Development Plan 2022-2028

Volume 2 Development Management Standards

8.6 Sightline Requirements

Waterford City & County Council will require that all new developments proposing a new entrance or a significantly intensified existing access point onto the public road network shall comply with the relevant TII Publications/DMURS Guidelines. Listed in the Table 8.1 below are the general minimum sightline requirements the Council will require to be provided:

Category	A	B	C	D	E
Speed Limit Km per Hr	100km/h	80km/h	60km/h	50km/h Built Up Areas	80km/h Local Roads
Minimum Sight (Y) Distance	215m	160m	90m	70m	55m

Sightlines of 30 metres shall be required for dwellings accessing onto a cul-de-sac (serving not more than 3 dwellings). Where the cul-de-sac meets the major road, sightlines pertaining to that road must also be achieved.

8.7 Sightline Provisions

Clear and unobstructed sightlines (as denoted by Y in the diagram) shall be provided, in each direction, from a point:

4.5m (housing estates/commercial or industrial developments); or
2.4m (single dwellings)

back from the nearside edge of the roadway at the centre of the entrance to a point to the left and right on the nearer edge of the major road running carriageway (which includes the hard shoulder), at a distance given in Table 8.1. For the distance outlined in this table, the road boundary fence shall be set back behind the sightlines so as to accommodate this requirement.

Sightlines should allow for similar inter-visibility between vehicles entering or approaching the site or other vehicles on the road. Should it be necessary to modify roadside boundaries outside of the designated site area, a letter of agreement in this regard will be required from the relevant landowner. The appropriate eye (1.05m and 2.0m) and object heights of 0.26m and 2.0m respectively, above road surface shall be used.

Architectural Heritage Protection: Guidelines for Planning Authorities

DAHG 2011

13.1 Determining the Curtilage of a Protected Structure

13.1.1 By definition, a protected structure includes the land lying within the curtilage of the protected structure and other structures within that curtilage and their interiors. The notion of curtilage is not defined by legislation, but for the purposes of these guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure. It should be noted that the meaning of 'curtilage' is influenced by other legal considerations besides protection of the architectural heritage and may be revised in accordance with emerging case law.