



An
Bord
Pleanála

Inspector's Report ABP-320920-24

Development	Construction of an agricultural entrance gate and all associated site works.
Location	Gransha Lower, Castlemaine, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	24/308
Applicant(s)	Tony Dowling
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	John McGough
Observer(s)	None
Date of Site Inspection	18 th February 2025
Inspector	Phillippa Joyce

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1.0 Site Location and Description

- 1.1. The appeal site is located at Gransha Lower, Castlemaine, County Kerry. The site is greenfield in nature and at an infill location in the southeast of the town centre. The site is rectangular in configuration and indicated as measuring 0.27ha.
- 1.2. Adjacent to the north, northwest, and west of the site, are properties which front onto the Main Street (N70) through the town. These comprise buildings, rear gardens, and curtilage areas. The site is the part of the rear garden/ curtilage area associated with the northern property. Access to the site is presently achieved via an existing entrance serving that property, from the Main Street (N70).
- 1.3. To the south of the site are agricultural fields, which in turn abut the River Maine, and the southern site boundary comprises mature treeline/ hedgerow. The eastern boundary of the site is made up of a stonewall, earthen bank, hedgerow and treeline. Adjacent to the site's eastern boundary are a road, turning head, and area of public open space.
- 1.4. The road is a cul-de-sac serving a small number of detached residential properties, addresses as Gransha Lower. The cul-de-sac is a single carriageway public road, with a footpath along the western side, adjacent to the site. The stonewall in the site's eastern boundary aligns with the extent of the road and turning head, while the bank/ hedgerow aligns with the area of open space.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of an agricultural entrance gate and all associated site works. The proposed entrance is located approximately mid-way along the site's the eastern boundary, opposite the turning head of the cul-de-sac.
- 2.2. The Site Layout Plan Dwg No. MH1 indicates the proposed entrance as 4.4m in width and set back from the road's edge by 2.4m. The entrance will involve the demolition of part of the existing stonewall. No elevational drawings are submitted of the agricultural entrance gate.

3.0 Planning Authority Decision

3.1. Summary of Decision

- 3.1.1. The application for the proposed development was lodged with the planning authority on 17th July 2024. Unsolicited Further Information (UFI) was submitted by the applicant to the planning authority on 19th August 2024. The planning authority granted permission for the proposed development on 12th September 2024 subject to eight conditions.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planner's report includes an assessment of the proposed development in respect of the following considerations:

- Principle of Development
- Visual Impact
- Road Safety/ Traffic
- Residential Amenity
- EIA Screening and AA Screening.

The planning authority found the proposal to be generally acceptable under all headings, concluding the proposed development would not be visually obtrusive, would not seriously injure the amenities of the area or be otherwise contrary to the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Area Engineer: No report received (planner's report refers to a telephone call, no issues raised).

3.3. Planning Conditions

- 3.3.1. The conditions attached to the grant of permission are design, technical, and construction related in nature. Conditions of note or specific to the appeal include the following:

Condition 2:

(a) A standard five-bar metal agricultural gate shall be used in accordance with the design drawings received on 19/07/2024.

(b) Gateposts shall be erected to form part of the entrance and shall be constructed to match the existing block wall.

Reason: To integrate the structure into the surrounding area.

Condition 3: prohibits works to the public road to connect to services without a road opening licence.

Condition 4:

The existing roadside boundary shall be retained except for where part removal is necessary for the construction of an entrance with adequate sight lines.

Reason: In the interest of visual amenity and traffic safety.

Conditions 5, 6, 7 and 8: relate to construction activities (prohibit surface water run-off to the public road, manage construction material from site and maintenance of the public road/ footpath, employ good site management practices, and hours for building works).

3.4. Prescribed Bodies

None received.

3.5. Third Party Observations

3.5.1. Two third party submissions were received by the planning during the assessment of the application. These are in objection to the proposal and summarised in the planner's report.

3.5.2. I have reviewed the submissions on file, and confirm the issues raised continue to form the basis of the third-party appeal grounds (use of the site, traffic generation, traffic hazard, adverse impact on residential amenity). These are outlined in detail in section 6.0 The Appeal of this report below.

4.0 Planning History

Appeal Site:

No planning history.

5.0 Policy Context

5.1. Kerry County Development Plan 2022-2028

5.1.1. The applicable development plan for the appeal is the Kerry County Development Plan 2022-2028 (CDP)

5.1.2. Key designations and policy objectives include the following:

- Castlemaine is designated as a district town in the county's settlement hierarchy.
- Zoning Objective for 'M2' Mixed Use Town Centre is to *'Provide for the development and enhancement of town core uses including retail, residential, commercial, civic and other uses'* (Vol 6, Chapter 2: Land-use Zoning).
- Policy in Section 14.4.1.1 Access onto National Roads, and Objective KCDP 14-29 (Vol 1, Chapter 14) seek to safeguard the carrying capacity and safety of national roads, and advise the creation of an access, or the intensification of usage of an existing access, onto a national road (within 50km/h speed limits) will be considered in accordance with normal road safety, traffic management and urban design criteria for built up areas (as per the applicable planning guidelines).

5.2. Corca Dhuibhne Electoral Area Local Area Plan 2021-2027

5.2.1. The appeal site is included within and also subject to the Corca Dhuibhne Electoral Area LAP 2021-2027.

5.2.2. Key designations and policy objectives include the following:

- The site is zoned as 'M2' Mixed Use Town Centre.
- Objective LS-ZON-01 seeks that all development permitted shall comply with the relevant zoning classification of the site as set out in the LAP.
- Objective CE-GO-1 seeks development to be carried out in a coherent and strategic manner and that piecemeal and uncoordinated development of sites will not be permitted.

- Objective CE-GO-2 seeks future development in the town to take place on infill, brownfield and greenfield sites contiguous with the built-up area to consolidate the town's urban form.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).
- 5.3.2. The European site designations in proximity to the appeal site include (as measured at closest proximity between boundaries):
 - Castlemaine Harbour SAC (000343) is c.1.99km to the west.
 - Slieve Mish Mountains SAC (002185) is c.3.28km to the north.
 - Castlemaine Harbour SPA (004029) is c.3.72km to the west.
- 5.3.3. The pNHA designations in proximity to the appeal site include:
 - Castlemaine Harbour pNHA (000343) is c.1.99km to the west.

5.4. Environmental Impact Assessment Pre-Screening

- 5.4.1. The proposal does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, and therefore is not subject to EIA requirements (see Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. One third party appeal has been received on the application. The appellant's address is given at 3 Gransha Lower, which is located in proximity to the east of the appeal site.
- 6.1.2. The main issues raised in the appeal can be summarised as follows:

Documentation on Case File

- Refers to the initial third-party submission made by the appellant on the application (included with the appeal).

- Refers to a response made by the applicant on the appellant's submission to the planning authority (included with the appeal).
- States that the applicant attempted to address the concerns raised in the initial submission post application.
- States that such information should have been provided/ addressed in the original application so as to afford the appellant a reasonable time to consider same.
- This has led to the making of the appeal and the appeal grounds outlined below.

Agricultural Entrance

- Appeal site is located to rear of the applicant's dwelling and comprises a rear garden area.
- Access to same is through the existing entrance to the side of the applicant's dwelling.
- The new entrance is indicated as necessary to allow large machinery to enter the site.
- Refuted as the existing access is more than sufficient for large vehicles.
- Misleading reference to 'agricultural gate' in the description of development, should have been 'back garden entrance' or similar.
- Applicant has failed to show the need for the new entrance, or alternatives to the proposal were considered (existing entrance, via adjoining boundary).

Type of Gate

- Farmer style galvanised gates are not appropriate for back garden entrances.
- Galvanised gates are not appropriate and are out of character with the adjoining residential setting.
- Images of the gates have not been included in the application.

Tree Felling

- Applicant indicates that access is required to fell trees.

- The current access to the site is sufficient for same.
- This would be a once-off event, not requiring a new entrance.

Traffic

- Refers to traffic concerns as raised in the initial third-party submission on the application to the planning authority.
- Directs the Board to the initial third-party submission (included with the appeal).
- Reiterates that the site is not used for agricultural purposes and therefore an agricultural entrance is the wrong type of application, and that no details have been received that show why a new entrance is required.

6.2. Applicant Response

6.2.1. No response has been received from the applicant on the appeal.

6.3. Planning Authority Response

6.3.1. No response has been received from the planning authority on the appeal.

6.4. Observations

6.4.1. None received.

7.0 Planning Assessment

7.1. Introduction

7.1.1. Having reviewed the appeal, examined the documentation on the case file, inspected the site, and had regard to the relevant policy context and planning guidance, I consider that the main issues in the appeal to be as follows:

- Documentation on the Case File
- Principle of Development
- Design and Layout
- Residential Amenity
- Traffic and Transportation

I propose to address each item in turn below.

7.2. Documentation on the Case File

- 7.2.1. For the Board's clarity, I highlight that unsolicited Further Information (UFI) is on the case file. The UFI was submitted to the planning authority by the applicant in response to the initial submission made by the appellant on the application. The planning authority acknowledged receipt of the UFI. While the planning officer's report does not expressly refer to same, I identify the basis of Condition 2 as arising from details provided in the UFI (i.e., the design of the gate).
- 7.2.2. In the appeal, the appellant has included copies of their initial submission and the UFI. The appellant expresses dissatisfaction with the applicant's attempt to address concerns raised in the initial submission post-application, and states that the information should have been provided in the original application.
- 7.2.3. In considering this item, I have had regard to guidance on the matter in the Development Management Guidelines for Planning Authorities, 2007 (Section 5.10). The guidelines state that UFI should only be considered when relating to clarification of details already submitted and once it does not depart substantially from the application as originally lodged.
- 7.2.4. In conclusion, having reviewed the contents of the application, the appellant's initial submission, and the UFI, I am satisfied that the information provided comes within the scope of the guidance outlined above (i.e., additional details are provided/ existing information is clarified, and no material changes are made to the proposal). In my opinion, the information in the UFI can be considered in this appeal assessment.

7.3. Principle of Development

- 7.3.1. The appellant raises issues regarding the description of development (i.e., misleading use of word 'agricultural'), states the site is in fact the rear garden associated with the applicant's dwelling, that the lands are accessed by an existing entrance on Main Street, and that the applicant has failed to demonstrate or justify the need for the new entrance.
- 7.3.2. In the UFI, the applicant outlines the entrance is required to allow larger vehicles to access the lands for maintenance purposes (tree felling), and that the proposed

entrance would be a safer alternative for such purposes. The appellant submits that this reason is insufficient, that the existing entrance should suffice for same, and that tree felling is an infrequent event which is insufficient to justify the entrance.

7.3.3. While I acknowledge the appellant's position, I do not agree with same. With regard to the description of development, on review of the UFI, I find that the term 'agricultural' has been used in the context of describing the nature and scale of the actual gate. The proposed development does not seek any change of use of lands (at my site inspection, the site had the appearance of a field) or structures thereon.

7.3.4. With regard to the justification for the entrance, I find that the reason given by the applicant to allow ease of access for larger vehicles to be reasonable. In having visited the site and Main Street, I concur with the applicant that the proposed entrance onto a local low trafficked road would be a more appropriate and safer alternative than onto Main Street/ N70.

7.3.5. I note that in the LAP, the site is zoned for 'M2' Mixed Use Town Centre purposes. The proposed development is not a use class listed in the zoning matrices of the CDP or LAP. Therefore, the proposal is assessed on its own merits having regard to the zoning objective which seeks to *'Provide for the development and enhancement of town core uses including retail, residential, commercial, civic and other uses'*.

7.3.6. In conclusion, I do not consider the provision of the proposed gate (which would serve as an alternative access to the site from/ to a public road) would prejudice the future achievement of the zoning objective, nor LAP objectives which seek the coordinated development of infill lands (such as the site) and the town (Objectives LS-ZON-01, CE-GO-1, and CE-GO-2). I find the proposal acceptable in principle, subject to conditions as discussed in the following subsections.

7.4. Design and Layout

7.4.1. The appeal grounds include objection to the design of the gate, and dissatisfaction with the lack of plans and particulars for same. Reference is made to the information provided by the applicant in the UFI. It is submitted that the proposed 'farmer style galvanised gates' are not appropriate for back garden entrances and are out of character with the adjoining residential setting.

- 7.4.2. The application includes Site Layout Plan Dwg No. MH1, which indicates the location of the entrance in the site's eastern boundary. The proposed entrance is 4.4m in width (involving the partial demolition of the existing stonewall) and set back from the road's edge by 2.4m.
- 7.4.3. While I acknowledge the appellant's position that no elevation drawings have been submitted of the entrance, I find the description of the gate as provided by the applicant in the UFI to be adequate (i.e., standard five-bar metal gate). This description forms the basis of Condition 2(a) of the planning authority decision (see section 3.0 of this report above). I am satisfied that the details in the UFI and a condition requiring same (in the event of a grant of permission) sufficiently address any potential ambiguity.
- 7.4.4. In respect of the appeal grounds that such a gate is inappropriate and out of character with the area, I do not concur. Such gates are a feature in the town, and I do not consider that the gate is of such a nature and scale to adversely affect the visual amenities of the area. I note and concur with the requirement of Condition 2(b) in respect of gateposts being provided which match the remaining stonewall.
- 7.4.5. In conclusion, while the proposal involves the partial demolition of an existing stonewall, subject to conditions, the design and layout of the entrance gate are acceptable, being inconspicuous in nature and modest in scale.

7.5. Residential Amenity

- 7.5.1. Further to the appeal grounds discussed above relating to the impact of the entrance on the visual amenities of the area, the appellant includes and directs the Board to their initial submission. I have reviewed same and note that issues relating to the adverse impact of the proposal on the residential amenity of the adjacent properties along the cul-de-sac are raised. Impacts include noise, disruption, disturbance and traffic generation.
- 7.5.2. While I acknowledge the concerns of the appellant given the existing closed nature of the site's eastern boundary, however, the proposal (as applied for and described in the plans and particulars) is for a modestly designed entrance to the greenfield site for purposes of landscaping and maintenance. No change of use of the lands or structures are proposed.

- 7.5.3. In conclusion, the provision of the entrance gate will involve minor, short-term construction phase impacts, with similarly minor operational phase impacts in the receiving area. Any such impact can be appropriately managed through conditions, largely similar to those attached in the planning authority decision. As such, no undue adverse impacts are anticipated on the residential amenity of adjacent properties.

7.6. Traffic and Transportation

- 7.6.1. The appeal grounds include opposition to the proposed entrance on traffic safety grounds. In terms of siting, the proposed entrance is a standard single-vehicle width and set back from the road edge to allow sufficient sightlines to be achieved. The cul-de-sac is a public road which is under the control of the planning authority.
- 7.6.2. The entrance is sited to align with an existing turning head and right-angle in the road layout. The configuration of the cul-de-sac is such that traffic will only be approaching the proposed entrance from one side (i.e., a northern direction). Traffic associated with the residences to the east, will approach the entrance directly and be visually unobstructed.
- 7.6.3. Further, given the low speed, low trafficked nature of the cul-de-sac (serving a small number of residences, and apparent at the time of my site inspection), the purpose of the entrance, and the minimal number of vehicular trips so generated, I do not consider there to be any traffic safety issues arising.
- 7.6.4. I note that the planning authority raised no issue with or objection to the entrance on traffic safety grounds. Several transportation related conditions are attached to the planning authority decision, which I concur with and recommend the continued attachment of same in the event of a grant of permission.
- 7.6.5. As discussed above, I consider the proposed entrance onto a local residential cul-de-sac to be favourable to the provision of a new entrance or the intensified use of the existing entrance at Main Street/ N70 (as access would appear to be slightly indirect, staggered, and via commercial/ public realm areas).
- 7.6.6. In conclusion, I do not consider that the proposed entrance creates a traffic hazard or poses a public safety risk. I find that the proposal complies with applicable CDP policy and objective relating to accesses onto national roads so as to safeguard

carrying capacity and safety (Section 14.4.1.1) and on controlling the intensity of use of existing accesses within the 50km/h speed limits (Objective KCDP 14-29).

8.0 Appropriate Assessment

8.1. Stage 1 – Screening Determination for Appropriate Assessment

- 8.1.1. I have considered the proposed development in light of the requirements section 177U of the Planning and Development Act 2000, as amended.
- 8.1.2. The subject site is located inland of the two European Site designations associated with Castlemaine Harbour (Castlemaine Harbour SAC (000343) is c.1.99km and Castlemaine Harbour SPA (004029) is c.3.72km to the west). Slieve Mish Mountains SAC (002185) is located c.3.28km to the north of the site.
- 8.1.3. The proposed development comprises the construction of an agricultural entrance gate and all associated site works. There are no watercourses at or adjacent to the site, and no connections to or with any European Sites. No nature conservation concerns have been raised in the planning appeal.
- 8.1.4. Having considered the nature, scale and location of the proposal, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 8.1.5. The reason for this conclusion is as follows:
 - Nature and scale of the proposed development.
 - Qualifying interests and conservation objectives of the European Sites.
 - Absence of any meaningful pathways to any European Site.
 - Distances from the European Sites.
 - Standard pollution controls (e.g. construction phase surface water measures) that would be employed regardless of proximity to a European Site and the effectiveness of same.
- 8.1.6. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

- 8.1.7. Likely significant effects are excluded and therefore Appropriate Assessment, under section 177V of the Planning and Development Act 2000, as amended, is not required.

9.0 Recommendation

I recommend that permission be GRANTED for the following reasons and considerations, and subject to the conditions set out below.

10.0 Reasons and Considerations

Having regard to relevant policies and objectives in the Kerry County Development Plan 2022-2028 and the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027, including the 'M2' Mixed Use Town Centre zoning objective applicable to the site, the Board considers that, subject to compliance with the conditions set out below, the proposed development would not prejudice the future development of the site for purposes for which it is so zoned, would not seriously injure the residential or visual amenities of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. a) The entrance hereby permitted shall be of a standard five-bar metal agricultural gate design and positioned in accordance with Site Layout Plan Dwg No. MH1.

- b) Gateposts shall be erected to form part of the entrance and shall be constructed to match the existing stonewall.
- c) The existing roadside boundary shall be retained except to the extent that its removal is necessary to provide for the entrance and gateposts to the site.

Reason: To protect the amenities of the area.

- 3. a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water shall discharge onto the public road or adjoining properties.
- b) As necessary, the entrance hereby permitted shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

- 4. The construction of the development shall be implemented and managed subject to ensuring the following requirements:
 - a) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - b) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
 - c) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
 - d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

Reason: In the interest of amenities, public health and safety and environmental protection.

5. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 and 1300 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the residential amenity of property in the vicinity.

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.

Phillippa Joyce

Senior Planning Inspector

15th April 2025

Appendix 1: Environmental Impact Assessment – Pre-Screening

1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	✓		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		N/A	
No			
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		N/A	
No			
5. Has Schedule 7A information been submitted?			
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes			

Inspector: _____

Date: _____