



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321184-24

<b>Development</b>	Retention of agricultural entrance and access roadway to farmland and all associated works		
<b>Location</b>	Crumlin, Ballyglunin, Tuam, Co. Galway		
<b>Planning Authority Ref.</b>	24607073		
<b>Applicant(s)</b>	Adrian Forde		
<b>Type of Application</b>	Retention	<b>PA Decision</b>	Refuse Retention Permission
<b>Type of Appeal</b>	First	<b>Appellant</b>	Adrian Forde
<b>Observer(s)</b>	Colette Caulfield Isidore Forde		
<b>Date of Site Inspection</b>	11/02/2024	<b>Inspector</b>	Andrew Hersey

#### Context

**1. Site Location/ and Description.** The site is located in a rural area to the south of Tuam. The site comprises of an access road off a local road the purpose of which, as stated in submissions, is to access farmland which is otherwise landlocked.

This roadway follows the boundary of a the national school to the west, Crumlin National School. There is farmland to the east which is in the ownership of the applicants brother and a concrete post and wire fence has been erected to

delineate the access road. There is a car park along the front of school building with cars parked perpendicular to the road and school.

**2. Description of development.** The proposed development comprises of:

- Retention of agricultural entrance and access roadway to farmland

**3. PA Decision.** Permission was refused on the 10<sup>th</sup> October 2024 for one reason as follows:

*Having regard to the location of the proposed agricultural entrance directly adjacent to the Crumlin National School on a narrow local road network where visibility is restricted due to the existing boundary walls, horizontal and vertical road alignments, and existing context of the site entrance, the Planning Authority considers that the required visibility splay/sight line of 70 m in both directions cannot be achieved appropriately. The required alterations to roadside boundaries of adjoining lands immediately to the west and east are outside of the planning unit of the proposed development in order to provide for adequate sightlines. This also raises concerns in relation to altering the existing character of the place in close proximity to the national school.*

*In addition, to grant the proposed development where there is limited visibility at the proposed site entrance, would interfere with the safety for pupils and staff at the national school, and free flow of traffic on the public road. The Planning Authority considers that the development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise, and therefore, would be contrary to the proper planning and sustainable development of the area.*

*If permitted as proposed, the development would materially contravene DM Standards 28 and 47 of the Galway County Development Plan 2022-2028 and, therefore, would be contrary to the proper planning and sustainable development of the area.*

### **3.1 Internal Reports**

- **Planners Report** (dated 9<sup>th</sup> October 2024) states that the proposed development does not comply with DM28 of the statutory development plan

<p>which requires 70 metres of sight visibility splays at either side of the proposed entrance.</p>
<p><b>3.2 Submissions</b> There is one submission on file as follows:</p> <ul style="list-style-type: none"> <li>• Isodore Forde (received 23<sup>rd</sup> August 2024) states that planning permission should have been sought in the first instance</li> <li>• Mrs Colette Caufield (3<sup>rd</sup> September 2024) raises concerns with respect to the impact of noise and security of the adjacent school. She also has concerns that the road would be used to serve other something other than an access to farmland</li> </ul>
<p><b>4.1 National/Regional/Local Planning Policy</b></p> <ul style="list-style-type: none"> <li>• Galway County Development Plan 2022-2028 is the statutory development plan in the area where the proposed development site is located and was adopted on 20<sup>th</sup> June 2022.</li> <li>• Chapter 15 sets out standards with respect to Development Management Standards</li> <li>• DM Standard 28: Sight Distances Required for Access onto National, Regional, Local and Private Roads</li> </ul> <p><i>‘Vehicular entrances and exit points must be designed by the developer as part of a planning application with adequate provision for visibility so that drivers emerging from the access can enjoy good visibility of oncoming vehicles, cyclists and pedestrians. Where a new entrance is proposed, the Planning Authority must consider traffic conditions and available sight lines. Road junction visibility requirements shall comply with Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions) (DN-GEO-03060) for rural roads and Design Manual for Urban Roads and Streets for urban roads (including any updated/ superseding document). Where substantial works are required in order to facilitate the provision of adequate sight distances lands within the sight distance triangles shall be within the control of the applicant and shall be subject of a formal agreement with the adjacent landowner which ensures</i></p>

*certainty that the applicant is in a position to comply with the relevant condition and or standard.*

#### *Exit Visibility Check*

*Visibility splays shall be measured a minimum distance of 2.4m from the edge of the carriageway ('x' distance) or as determined by Galway County Council. In limited instances this may be reduced to 2.4m and to 2.0m in difficult circumstances on urban roads. Site visibility requirements shall be provided within the development boundary of the site or on lands in the control of the applicant or lands in public ownership. Letter of consent from adjoining property owners will be required in order to achieve sightlines, and these works to be carried out in advance of commencement of construction.*

#### *Entry Visibility Check*

*A vehicle turning into the proposed development shall be visible to an approaching vehicle for a distance of Y in order to avoid a rear end collision. A vehicle turning right into the proposed development shall have a forward visibility to the centre of the opposite lane for a distance of Y to ensure they can safely cross the path of an on-coming vehicle. The Sight Distances required for Access onto National Regional and Local Roads are set out below:*

**The Sight Distances required for Access onto National Regional and Local Roads are set out below:**

<b>Design Speed and Sight Distances</b>	<b>Sight Distance required for the following Design Speed on the Major Road in kph</b>						
<b>Design Speed</b>	100	85	70	60	50	42	30
<b>Y Distance on Major Road</b>	215	160	120	90	70	50	35

**Table 15.3: Sight Distances required for Access onto National, Regional and**

### *Local Roads*

*On narrow Local Roads with poor horizontal and vertical alignment and where the 80 km/h speed limit applies, the design speed applied for access visibility requirements should be the speed (km/h) that one can drive the road in a safe manner. This can be assessed as the 85th percentile speed drivers travel on the road. The visibility will then be assessed on the 85th percentile speed for that road. In general, where the capacity, width, surface condition or alignment of the road is deemed inadequate, development will not be favoured.*

- **DM47 Field Patterns, Stone Walls, Trees and Hedgerows**

*Field patterns and associated stone walls, trees and hedgerows are an important part of the visual and environmental quality of rural areas and their removal and replacement with block walls and fencing leads to urban features in a rural environment. It can also have an effect on wildlife and lead to the removal of valuable hedgerows upon which wildlife depends. New developments will accordingly be subject to the following requirements in this regard:*

*a) Existing Features Retain and incorporate existing field patterns and associated stone walls, trees and hedgerows into new development layouts wherever feasible.*

*b) Intervention In general, only the minimum interference with existing field patterns, stone walls, trees and hedges shall be permitted.*

*c) Planting The Council will also encourage the planting of native trees and hedgerows along all boundaries.*

*d) Hedgerows Include consideration of native hedgerow with post and rail fencing along roadside frontages where existing hedgerow is being removed. Employ the appropriate management methods for the maintenance of roadside habitats to minimise damage (in particular to hedges) and observe the hedge cutting closed season.*

## 5.2 Natural Heritage Designations

The nearest designated site is

- Lough Corrib SAC (Site Code 000297) is located 4km to the north of the site
- Kilclogher Bog NHA (Site Code 0012800) is located 7km to the north east of the site

## 6. The Appeal.

6.1 A first party appeal was lodged by Adrian Forde on the 4<sup>th</sup> November 2024.

The appellant raises the following issues:

- That a gate has always existed at this location (photograph from Google Maps 2010)
- That he has legal right of way through this entrance and along the access road for which retention permission is being sought to access his lands.
- There is a letter from the school contained within the appeal documents stating that they have no issue with him lowering the wall if required.
- That a stump on the eastern side of the entrance can be cut back to facilitate visibility.

### 6.2 Planning Authority Response.

There is no response from the Planning Authority on file

### 6.3 Observations. There are two observations on file as follows

(i) *Mrs Collette Caufield* (26<sup>th</sup> November 2024) who raises the follows issues:

- Raises issues with respect to the safety of children
- That the appellant has other access to the land.
- That she does not dispute that there was always a gate at this location but it was rarely used.

(ii) *Isidore Forde* (26<sup>th</sup> November 2024) who raises the following issues;

- That the appellant carried out works without obtaining planning permission

## Environmental Screening

## **7. EIA Screening**

See completed Form 1 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required

## **8. AA Screening**

Having regard to the. modest nature and scale of development and the 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. Introduction**

2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.

2.1.2. I am satisfied the substantive issues arising from the grounds of this third party appeal relate to the following matters-

- Traffic Safety
- Retention of Field Boundaries/Development Plan Policy
- Material Contravention

### **2.2. Traffic Safety**

2.2.1. The proposed development comprises of retention permission for an agricultural entrance and hardcored access roadway to farmland and all associated works

2.2.2. In the first instance I note that it would appear that an agricultural entrance has been present for a considerable period at this location and documents submitted with the

appeal show for the same (photo of the entrance dated 2010). I also note that one of the observers on file also substantiates this.

- 2.2.3. There is documentation submitted with the appeal which shows that the applicant has a right of way over the access roadway which he has surfaced with stone and which he has fenced off with concrete post and wire fencing.
- 2.2.4. On the basis of the above, I consider that regard must be had to the existence of an entrance at this location previously for a considerable time and can be accessed by the landowner at any time if he so wishes.
- 2.2.5. The access road has been fenced off and hardcore spread over the surface which the applicant states came from site works when levelling the ground. I note that the access is to serve just 1.21ha of land.
- 2.2.6. With respect to sight distances, the case planner refers to the necessity of 70 metres of visibility at this location. There is no speed limit road signs in the vicinity of the site. The said road is a local road and therefore the speed limit is 60kph (as of the 7<sup>th</sup> February 2025) notwithstanding its location adjacent to a school. The required sight visibility splays which are required are therefore 90 metres as per Table 15.3 of Chapter 15 of the Galway County Development Plan 2022-2028.
- 2.2.7. I note that the adjacent school has consented to the lowering off the wall to increase visibility which will allow for acceptable visibility to the west. There is a stump of a tree to the east side which the applicant states can be cut back though it is not clear if there is consent for the same. In any rate I do not consider that this stump hinders visibility to any significant degree and I would consider in this respect that visibility is acceptable to the east.
- 2.2.8. The letters of support contained within the appeal are noted including one from the adjacent school whom have agreed that the appellant can lower the wall in order to achieve sight visibility. In the case where the Board decides to grant permission for the proposed development is recommended that a condition be imposed stipulating that the wall is lowered subject to details being agreed.
- 2.2.9. Concerns have been raised in third party submissions that the said entrance could serve a future larger development which could intensify the use of the entrance. The

landowner could develop an agricultural building on the land which may or may not be exempt from planning permission depending on the nature and scale of the agricultural building. However, I would consider that he can do this anyway under the exempted development provisions whether there is an entrance present or not.

2.2.10. Having regard to the above, and

- having regard to the fact that an entrance has been located here for a considerable time and
- having regard to the availability of sight visibility splays and
- taking into consideration the relatively low traffic volumes along the said road,
- and taking into consideration its location next to a primary school and a parking area associated with the same,

I consider that the proposed development for retention would not result in any traffic safety implications subject to its use for agricultural purposes.

**2.3. Retention of Field Boundaries**

2.3.1. It is noted that part of the reason for refusal refers to contravention of DM47 of the Galway County Development Plan 2022-2028. DM47 is set out in Chapter 15 of the Plan (Development Management) and refers to the retention of field boundaries and stone walls and encourages the planting of native trees along boundaries.

2.3.2. It is not clear from the case planners report as to why this policy formed part of the reason for refusal. In any rate I would consider it appropriate in this context that a hedgerow comprising of native trees be planted along the line of the concrete post and wire fence along the margin of the access road. Such a measure would result in the compliance with the said policy

**2.4. Material Contravention**

I note that the planning authority's reason for refusal states that the proposed development materially contravenes development standard DM28 and DM47 of the development plan. These policies refers to traffic safety at the proposed vehicular entrances and measures to retain and enhance field boundaries where are not, in my view, sufficiently specific so

as to justify the use of the term “materially contravene” in terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

### 3.0 Recommendation

3.1. I recommend that permission for the development be granted permission.

### 4.0 Reasons & Considerations

4.1. Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not result in any traffic safety implications and would generally comply with development management guidelines with respect to traffic safety as set out in the Galway County Development Plan 2022 – 2028, would not be injurious to the visual or residential amenities of the area 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 retained 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>A hedgerow comprising of local native broadleaf trees shall be planted along the line of the concrete post and wire fence to the east and north of the site. Details with respect to the same shall be agreed with the planning authority within 3 months of the date of this order and planting will take place within the first planting season after agreement with the planning authority.</p> <p>Any trees that die or become diseased within the first 3 years shall be replaced by the applicant/developer.</p> <p><b>Reason:</b> To comply with the Galway County Development Plan 2022-2028</p>
3.	<p>The agricultural entrance and access roadway shall be for agricultural use only.</p> <p><b>Reason:</b> To define the scope of the permission</p>
4.	<p>The wall and pier on the western side of the access shall be lowered to 1.2 metres above the existing level of the road level and details with respect to the same shall be agreed with the planning authority within 3 months of the date of this order and works shall be completed within 6 months of the date of this order.</p> <p><b>Reason:</b> In the interests of 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.

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Andrew Hersey  
Planning Inspector  
6<sup>th</sup> March 2024

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>		ABP- 321184-24					
<b>Proposed Development Summary</b>		Retention of Entrance & Agricultural access road					
<b>Development Address</b>		Crumlin, Ballyglunin, Tuam, Co. Galway					
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)			<table border="1"> <tr> <td>Yes</td> <td>√</td> </tr> <tr> <td>No</td> <td></td> </tr> </table>	Yes	√	No	
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	Tick/or leave blank		Proceed to Q3.				
No	Tick or leave blank	√	Tick if relevant. No further action required				
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?							
Yes	Tick/or leave blank		EIA Mandatory EIAR required				
No	Tick/or leave blank		Proceed to Q4				
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?							
Yes	Tick/or leave blank		Preliminary examination required (Form 2)				
5. Has Schedule 7A information been submitted?							
No		Screening conclusion remains as above (Q1 to Q4)					
Yes		Screening Determination required					

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_