

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 23135

APPEAL by Andrei Ungurean care of Rogers Brassil Associates of 72 Albert Road Lower, Sandycove, Dún Laoghaire, County Dublin against the decision made on the 7th day of July, 2023 by Tipperary County Council to refuse permission.

Proposed Development (a) Permission for the change of use of the site/structure on site from commercial to residential; (b) retention for the alterations carried out to the pre-existing structure on site to convert to a detached dwelling; (c) permission for further alterations to the structure-on-site to provide for two front-facing, flat roofed dormer windows, two front-facing roof lights, three rear-facing roof lights, raised site boundaries with adjoining detached bungalow and the omission of the existing (recently installed) NE-facing first-floor gable window; (d) permission to decommission the existing septic tank on site and to provide a replacement EPA compliant wastewater treatment system on site, all at Kilcommonmore North, Cahir, County Tipperary.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Reasons and Considerations

1. The proposed development for the retention of a change of use and alterations/renovations to a disused commercial unit in a rural location, to residential use is located in an "Area Under Urban Influence", as set out in the Tipperary County Development Plan, 2022 – 2028 where Policy 5-11 applies.

Policy 5-11 states, in summary, that in "Areas Under Urban Influence", the planning authority will consider single houses for persons where an Economic or Social Need is demonstrated in accordance with the criteria set out in Category 1 A or B, or Category 2 of the aforementioned Policy.

Having regard to the documentation submitted with the application and the appeal, the Board is not satisfied that the applicant has demonstrated an economic or social housing need to live in this rural area, as required under Policy 5-11 of the current Development Plan for the area. It is considered that the proposed development would not, therefore, be in accordance with the objective of Policy 5-11 and would be contrary to the proper planning and sustainable development of the area.

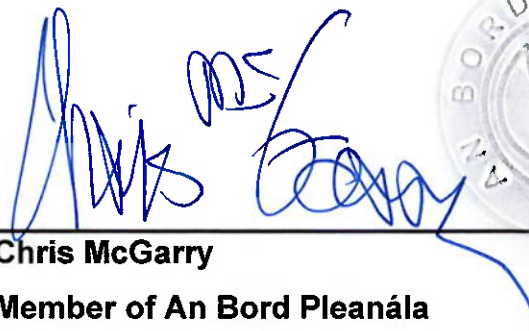


2. Section 5.5.2 (Rural Housing Policy), as set out in the Tipperary County Development Plan 2022 – 2028 states that “The Council will seek to protect the carrying capacity of and traffic safety of roads. Therefore, a new dwelling will only be permitted where the applicant has demonstrated, to the satisfaction of the Council, that the site selected offers a safe option in terms of safe entry and exit, and meets the road traffic safety requirements, as set out in the Development Management Standards, Volume 3”. The applicant has failed to demonstrate that the required sightline standards, as set out under Section 6.1 (Road Design and Visibility at a Direct Access) of Volume 3 (Development Management Standards) of the current Development Plan for the area, would be achievable from the existing entrance. The Board is not satisfied that the proposed development would not endanger public safety by reason of traffic hazard and/or obstruction of road users and would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered the totality of the documentation on file. With regard to refusal reason number one relating to a failure of the applicant to demonstrate an economic or social need to live in this rural location under urban influence, the Board noted that the Inspector did not address this issue directly, but rather focused on the adaptation of the existing building stock by reference to Policy 5-16 of the Tipperary County Development Plan 2022 - 2028. However, the Board considered that the assessment of the non-applicability of Policy 5-16 was properly articulated by the planning authority and, as a result, determined on the balance of assessment, that the views of the planning authority were more authoritative in this instance. Thus, the issue of rural need is material to any decision in this case. In this context, the Board noted and agreed with the planning authority's conclusion on this matter. The application documentation confirms that the applicant has resided in the urban



area of Cahir and that on the basis of the information submitted with the application and the appeal, no decisive argument has been presented that the applicant has demonstrated an economic or social reason to reside at this specific rural location. With regard to refusal reason number two relating to inadequate sightlines, the Board noted the commentary of the Inspector that sightlines to the south-west are partly restricted. In this regard and notwithstanding any previous use of the subject site, the Board determined, based on the facts of the current case before it, that the proposed development would endanger public safety by reason of traffic hazard or obstruction to road users in the absence of any implementable proposal within the application documentation to resolve this inadequate sightline.



Chris McGarry

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 13th day of March 2024.