



An
Bord
Pleanála

Board Order
ABP-320795-24

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 2445

APPEAL by Jan Yard care of Andrew Hersey Planning of 3 Atlantic View, West End, Kilkee. County Clare against the decision made on the 19th day of August 2024 by Tipperary County Council to refuse permission.

Proposed Development: Permission to renovate existing dilapidated house including reroofing, alterations, energy efficiency, rear extension, improvements to existing road entrance, decommissioning and replacement of existing wastewater treatment system, together with all ancillary works Landsdown, Portroe, Nenagh, 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 application site is located in a rural area designated as "Under Urban Influence" and a "Primary Amenity Area" as set out in the Tipperary County Development Plan 2022-2028. Section 5.5.2, Table 5.2 and Policy 5-11 of the Tipperary County Development Plan 2022-2028 sets out requirements for new rural dwellings within such areas where an applicant must satisfy an Economic or Social Need.

The Board is not satisfied, on the basis of the information submitted with the application and appeal, that the applicant meets the requirements of Section 5.5.2, Table 5.2 and Policy 5-11 of Tipperary County Development Plan 2022-2028 for a new rural dwelling at this location, by reference to an established economic or social need. In this regard it is considered that the proposed development would contravene the stated policies and objectives of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development seeks permission for a dwelling in a rural area identified as an Area "Under Urban Influence and "Primary Amenity Area" under the Tipperary County Development Plan 2022-2028. Having regard to the pattern of established residential development in the immediate vicinity of the subject site, outside of an established settlement, it is considered that the proposed dwelling would contribute to ribbon development at this location and would access regional roadway R-494 which is identified as a strategic regional roadway under the Tipperary County Development Plan 2022-2028.

Policy 5-12 and Policy 5-13 of the Tipperary County Development Plan 2022-2028 sets out criteria to be satisfied for new dwellings onto strategic regional roadways and for proposals that constitute ribbon development to be considered:

- The applicant must demonstrate an Economic or a Social Need.



- Existing or shared accesses are used, and
- It must be demonstrated that no alternative exists away from the Strategic Regional Roadway and outside of Ribbon Development.

The Board is not satisfied, on the basis of the information submitted with the application and appeal, that the applicant meets the requirements of Section 5.5.2, Table 5.2 and Policy 5-11 of Tipperary County Development Plan 2022-2028 of the Tipperary County Development Plan 2022-2028 for a new rural dwelling at this location, by reference to an established economic or social need. The proposed development, therefore, constitutes ribbon development, would materially contravene Policy 5-12 and Policy 5-13 of the Tipperary County Development Plan 2022-2028 and would 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, including the submissions of the applicant. Specifically, the Board noted the opinion of the Inspector that the proposed development would comply with Policy 13-3 of the development plan which seeks the sympathetic restoration, appropriate re-use and maintenance of buildings/features which are considered to be of local and vernacular architectural importance. However, the Board determined on the facts of the case, including the photographic evidence on file, that the part remains of the previous dwelling structure on site could not by any reasonable interpretation satisfy the policy test of being related to a building/feature of local and vernacular importance. Furthermore, the Board on consideration of the facts of the case, determined that any previous residential use on the site was removed in effect, by reference to the physical state of the part structure remains of what was originally a dwelling, and by the confirmed removal of residential use in the form of a cabin structure. On this basis, the Board did not share the opinion of the inspector at paragraph 7.9 of her report that 'the proposal does not relate to a new dwelling' and therefore the policy requirements regarding rural housing need would not arise. In this regard the

Board noted and shared the opinion of the Tipperary County Council planning officer, that the existing dwelling is not substantially intact, is not habitable and therefore, cannot be considered for refurbishment or replacement in the absence of demonstrated compliance with listed policies of the development plan relating to rural housing need. On the basis of the information submitted on file, the Board shared the opinion of the planning authority and concluded that the applicant had not satisfied a social need for rural housing at this location.

In addition, the Board noted the commentary of the inspector that in relation to ribbon development, that the Development Plan does not distinguish between one side of the road or both sides within the continuous 250 metres and that if the proposal related to a new dwelling, it would constitute ribbon development. Noting the determination of the Board above, to the effect that the proposed development would relate to a new dwelling, it concluded that the provision of a new dwelling at this location would contribute to ribbon development at this locality, which is close to but outside the zoned settlement area of Portroe. In this regard, the Board agreed with the opinion of the planning authority as to ribbon development by reference to the proposed development.



Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 2nd day of January 2025.