

An
Coimisiún
Pleanála

Commission Order
ABP-322086-25

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 2460720

Appeal by Mariola Casey care of Andrew Hersey Planning of 3 Atlantic View, West End, Kilkee, County Clare against the decision made on the 19th day of February, 2025 by Tipperary County Council to refuse permission for the proposed development.

Proposed Development: Construction of a new dwellinghouse, attached carport/store, septic tank and percolation area, vehicular entrance and all associated site works at Knockanacree Townland, Cloughjordan, County Tipperary.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the policy and objectives as set out in the Tipperary County Development Plan 2022-2028, the nature, scale and design of the proposed development, and the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the Commission was satisfied that the applicant comes within the scope of the housing need criteria set out in the development plan under Policy 5-11 in respect of dwellinghouses in the open countryside. The Commission was also satisfied that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience and was capable of safe disposal of treated effluent that would be generated. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Commission considered that, having regard to the particular circumstances of the applicant outlined and the supporting documentation, it was reasonable to consider that the applicant adequately demonstrated compliance with Policy 5-11 of the development plan. Specifically, the Commission was satisfied that the applicant has adequately demonstrated that in the particular circumstances outlined with the application and appeal, the applicant can be categorised as having not currently or previously owned a house in the open countryside.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars received by the planning authority on the 27th day of January 2025, 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 proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under Section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need, in the interest of the proper planning and sustainable development of the area.

3. Sight distance triangles shall be adequately maintained and kept free from vegetation or other obstructions that would reduce visibility below the minimum required. Prior to the occupation of the dwellinghouse hereby permitted, works relating to the improvements of existing access arrangements and roadside boundaries shall be carried out to the satisfaction of the planning authority.

Reason: In the interest of traffic safety.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) Specifications for mounding, levelling, cultivation, and other operations associated with plant and grass establishment.
 - (b) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established.

- (c) A timescale for implementation, including details of phasing, which shall provide for the planting to be completed before the dwelling is first made available for occupation.

Reason: In order to screen the development and assimilate it into the surrounding urban landscape, in the interest of visual amenity.

5. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

6. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

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8. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. (a) The wastewater treatment and disposal system comprising the septic tank and percolation area and connecting pipework, shall be located, constructed, and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the effluent treatment system comprising the septic tank and percolation area and connecting pipework has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

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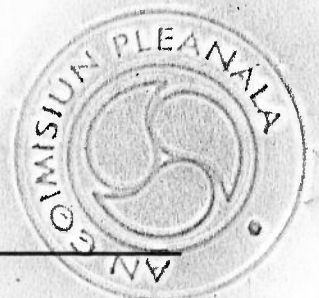
10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

Patricia Calleary

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**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this 04 day of July 2025.