



An
Coimisiún
Pleanála

**Commission Order
PL-501344-TY**

Planning and Development Act 2000, as amended

Planning Authority: Tipperary County Council

Planning Register Reference Number: 26/60163

Appeal by Tony Creane against the decision made on the 17th day of April, 2026 by Tipperary County Council to refuse permission.

Proposed Development: Construction of a single storey sustainable dwelling, install a septic tank and percolation area, develop a garage and stables, construction of a roofed horse walker, and develop the existing site entrance and all associated site works, all at Kilmore Upper, Knockavilla, County Tipperary.

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

The site is located in a rural area within the 'Open Countryside' by reference to Section 4.6.4 and Figure 5.3 of the Tipperary County Development Plan 2022-2028. Planning policy (4-7 and 4-2 within Policy 4-7) requires that, in providing for the development of rural housing, a distinction is made between 'Areas under Urban Influence', i.e. within the commuter catchment of cities and large towns and centres of employment, and other areas in the 'Open Countryside'. Section 5.11 states that within areas of 'Open Countryside' the planning authority will consider single houses for persons where the proposed development meets other relevant policies set out in the development plan, and where the proposed development is in accordance with the four criteria contained therein. The Commission was satisfied that the applicant has demonstrated that he meets the criteria set out for the proposed development; specifically, that the proposed development meets the normal planning and environmental criteria and development management standards. The applicant has demonstrated that he does not or has never owned a house in the open countryside, the planning application is made in the name of the person for whom it is intended, and evidence has been presented that an alternative site is not available within a settlement within five kilometres of the site of the proposed development.

The Commission was satisfied that the house would not give rise to ribbon development by reference to Appendix 4 of the Sustainable Rural Housing Guidelines for Planning Authorities (2005). Furthermore, the Commission was satisfied that, having regard to the nature and alignment of the local road,

which terminates in a cul-de-sac, the low traffic volumes using the road, and the limited number of houses currently served, and that would be served with an additional house, adequate sightlines can be achieved and the proposed development would not give rise to a traffic hazard. The Commission was satisfied that the proposed garage and stables and roofed horse walker are appropriate in the rural area and would not give rise to any residential or visual amenity issues. 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 on the basis of the Inspector's finding that the proposed development does not meet the requirements of the housing policy, the Commission noted the Inspector's reliance on Table 5.3 and Policy 5-11 of the development plan which provide definitions and categories for housing need in rural areas; however, those referenced by the Inspector relate to proposed housing in rural areas that are either in 'Areas Under Urban Influence' or 'Primary Amenity Areas' and the Commission did not agree with the Inspector that they are applicable to the proposed development, as by reference to Section 4.6.4 and Figure 5.3 of the Tipperary County Development Plan 2022-2028, and also by the applicable part of Policy 5-11, the applicable area categorisation for the site is 'Open Countryside' where different policy provisions apply. In 'Open Countryside' areas, the policy provides that the planning authority will consider single houses for persons where the proposed development meets other relevant policies set out in the development plan, and where the proposed development is in accordance with the four criteria set out therein. In making its decision on the proposed development, the Commission was satisfied that, and with specific relevance to the Inspector's recommended

reason for refusal, the applicant has demonstrated meeting the four criteria set out in respect of the proposed development.

Conditions

1. The proposed 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The proposed dwellinghouse 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 otherwise agreed in writing with 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, as amended, 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 dwellinghouse is used to meet the applicant's stated housing need 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. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority details of the materials, colour and texture of all the external finishes to the proposed dwellinghouse.

Reason: In the interest of visual amenity and to ensure an appropriate standard of development.

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. The landscaping scheme shall be carried out within the first planting season following substantial completion of external construction works. The existing hedgerow and trees at the site's boundaries shall be retained and maintained. All planting shall be

adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the proposed development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity, and in order to integrate the proposed development into the landscape.

5. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground.

Reason: In the interest of visual and residential amenity.

6. Water supply and drainage arrangements for the proposed development, including the attenuation and disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

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

7. The proposed stable and horse walker elements of the proposed development shall be designed, sited, constructed and operated in accordance with the requirements as outlined in the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2025, as amended. The developer shall provide for the relevant (location dependent) storage requirements as outlined in Schedule 3 of the aforementioned regulations. The landspreading of soiled waters and slurry, if proposed, shall be carried out in strict accordance with the requirements as outlined in the aforementioned regulations.

Reason: In order to avoid pollution and to protect residential amenity.

8. (a) The effluent treatment system hereby permitted to serve the proposed dwellinghouse shall be installed in accordance with the recommendations included in the site characterisation report submitted with the application, and shall be in accordance with the standards, as set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (b) Treated effluent from the effluent treatment system shall be discharged to a percolation area/polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

- (c) Within three months of the first occupation of the dwellinghouse, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/wastewater treatment system and associated works is constructed and operating in accordance with the standards, as set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

9. Site development and building works shall be carried out only between the hours of 0700 and 1900 Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or 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 amenity of property in the vicinity.

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

Planning Commissioner of An Coimisiún

**Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this 10th day of September 2026.