



An  
Bord  
Pleanála

## Inspector's Report ABP-300649-18

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<b>Development</b>	Construction of a dwelling house.
<b>Location</b>	Figlash, Carrick-on-Suir, Co. Tipperary.
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	17600847
<b>Applicant(s)</b>	Elaine Killeen & Peter Kennedy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Elaine Killeen & Peter Kennedy.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	16/04/2018.
<b>Inspector</b>	Auriol Considine

## **1.0 Site Location and Description**

- 1.1. The proposed development site is located in a rural area approximately 4km to the north of the town of Carrick on Suir in County Tipperary. Access to the site is via the Regional Road, the R696-2. This road is identified as a Strategic Regional Route.
- 1.2. To the south of the site, there is a ribbon of one off houses while to the north, there is little development and extensive open fields. The site comprises part of a larger farm holding and the applicant advises that he is in full time farming at this location. To the east of the site lies the original farm house and the large farm yard. Access to the house and yard are via an existing access, from which the proposed house is to be accessed.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for the construction of a dwelling, domestic garage, car port, install septic tank, access to proposed dwelling by shared existing entrance including associated site works, all at Figlash, Carrick-on-Suir, Co. Tipperary.
- 2.2. The proposed house will have a stated floor area of 285.1m<sup>2</sup> and will rise to a height of 7.5m. The house will have accommodation over two floors with the ground floor providing for a larger entrance foyer, sitting room, kitchen / dining / living room, utility, shower room, bedroom and small study. The first floor will provide for three double bedrooms, one ensuite, a hot press and family bathroom. To the rear of the dwelling, the development proposes to construct a garage with a floor area of 24m<sup>2</sup>. This garage will be connected to the house via a pitched car port.
- 2.3. The house is to be primarily finished in smooth plaster with stone proposed to the front two projecting bays, over two storeys. The proposed roof will be finished with slate and the water goods, soffit and fascia being black.
- 2.4. The house is to be serviced by a septic tank and percolation area while water supply will be via a new connection to the public supply.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission for the proposed development for the following reason:

Policy SS5 (Housing on Strategic Regional Roads) of the South Tipperary County Development Plan, 2009, as varied, states that it is the policy of the Council to protect the carrying capacity and traffic safety on Strategic Transport Routes. The Council will only facilitate individual dwellings on regional roads designated as strategic, for person(s) who have demonstrated housing need and who are seeking to provide a home for their own occupation. A housing need should be demonstrated in accordance with the following categories:

- (a) The applicant is a farming landowner or their son or daughter and existing or shared accesses are used where practicable.

And

- (b) The applicant has demonstrated, to the satisfaction of the Council, that there is no alternative site available to her/him away from the strategic transport route.

Having regard to the information submitted with the application the Planning Authority is not satisfied that it has been demonstrated that no alternative sites are available on the family landholding at a remove from the strategic transport route.

Having regard to the foregoing the proposed development is considered contrary to Policy SS5 (Housing on Strategic Regional Roads) of the South Tipperary County Development Plan, 2009, as varied. The proposed development would contravene the stated policy of the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The Planning Report notes the planning history and the pre-planning consultation which was held in 2016. The report presents a screening for AA and ultimately requires that further information be sought in order to relocate the house on the landholding away from the strategic route and requesting details of sight lines.
- Following receipt of the response to the further information request, the Planning Report considered that the information provided was insufficient to demonstrate that the alternative site location cannot accommodate the proposed development for reasons of poor drainage. It is therefore concluded that an alternative site on the landholding, which does not require access onto the strategic road has not been adequately considered. The report concludes recommending that permission be refused and the recommendation forms the basis for the Planning Authority decision.

### 3.2.2. Other Technical Reports

- Municipal District Office: Requires that sight lines at the existing entrance are improved in accordance with the development plan requirements.
- Executive Scientist: Notes that the field to the east appears uniform and further investigation is unlikely to reveal improved ground conditions. It would be unreasonable to request the applicant to further assess this area.
- SEE Environment: Following the submission of the response to the further information request, the report concludes that the development as proposed meets the minimum standards and complies with the requirements of the EPA Code of Practice for Wastewater Treatment for Single Houses. It is further stated that there is insufficient evidence to confirm that the alternative location is not suitable for on-site wastewater treatment.

## 3.3. Prescribed Bodies

None

### **3.4. Third Party Observations**

None

## **4.0 Planning History**

PA Ref 16/600409: Permission sought by the current applicants for the construction of a dwelling on the site. The application was withdrawn prior to a decision issuing. This proposed development sought independent access onto the Regional Road.

PA Ref 17/600154: Permission sought by the current applicants for the construction of a dwelling on the site. The application was withdrawn prior to a decision issuing.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1. The South Tipperary County Development Plan, 2009, as varied and extended, is the relevant policy document pertaining to the subject site. The proposed development seeks the construction of a house in the open countryside and section 3.4 of the Plan deals with Rural Housing in this regard. The plan seeks to facilitate people who are from a rural community and who have lived for long periods within a rural community, and are in need of a dwelling, to construct that dwelling within their rural community. Section 9.3.2 of the Plan deals with Safeguarding the Strategic Road Network

5.1.2. The following policies are considered relevant:

Policy SS4, which deals with Housing in the Rural Countryside

Policy SS5, which deals with Housing on Strategic Regional Roads

Policy T13, which deals with Strategic Road Network

### **5.2. Natural Heritage Designations**

The subject site is not located within or immediately adjacent to any designated site. The Lower River Suir SAC is located within 10km of the site while the Comeragh Mountains SAC is within 15km.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first party appeal against the decision of the PA to refuse permission for the proposed development. The submission provides details of the planning history of the site and the grounds of appeal are summarised as follows:

- The proposed site is the most appropriate in terms of proximity and access to the farm yard, and for the future planned extension of the farmyard.
- The applicant is a professional farmer and is the best positioned to determine the most logical, safe, practical and effective position of his home on the landholding.
- The other sites proposed by the County Council on the landholding are not practical and are unsuitable for the applicants needs for his home on his farm holding.
- If an 'alternative' site was sought, this would result in an increase in the number of traffic movements on the strategic road.
- The Council increased the usual 2m set back to 4.5 and advised the applicant that the existing farm entrance was inadequate. Trees were felled and piers reduced to accommodate this requirement.
- The 'alternative' site proposed by the council is wet and often waterlogged.
- Historically, this farm holding supported three families and their homes, two of which have been demolished or incorporated into the farmyard buildings.
- Following Brexit, it will be necessary to increase the dairy herd from the present 130 to 265 over the next five years.
- Significant investment has already been made in the farm including the construction of a road underpass, with future plans for the farm requiring significant financial investment.
- The nature of the farm business requires that farmers live very close to their yard and animal houses. The applicant should not be required to cross roads to access the yard, particularly during the night when animals are giving birth.

- The proposed site will result in easy access to the farm records which are required to be consulted daily.
- The proposed development will use the existing farm access and will improve security for the farm as there will be fewer access points.

It is requested that the Board grant permission for the proposed development.

## 6.2. **Planning Authority Response**

The Planning Authority submitted a response to this first party appeal but it was outside the four week appropriate period and was subsequently returned.

## 6.3. **Observations**

None

## 7.0 **Assessment**

7.1. Having regard to the information available in respect of this proposed development, together with the relevant reports from the Planning Authority and departments within Tipperary County Council, I consider it appropriate to consider the proposed development under the following headings:

1. Compliance with the South Tipperary County Development Plan
2. Other Issues

### 7.2. **Compliance with the South Tipperary County Development Plan.**

7.2.1. The South Tipperary County Development Plan, 2009, as varied and extended, is the relevant policy document pertaining to the subject site. The proposed development seeks the construction of a house in the open countryside and section 3.4 of the Plan deals with Rural Housing in this regard. The plan seeks to facilitate people who are from a rural community and who have lived for long periods within a rural community, and are in need of a dwelling, to construct that dwelling within their rural community.

7.2.2. Policy SS4 deals with Housing in the Rural Countryside. Having regard to the information submitted in support of the proposed development, I am satisfied that the

applicant can be appropriately considered as a local rural person and also a person who has a functional need to live in a rural area. The applicant is a full time farmer who is seeking permission to build his first home on the farm and in proximity to the farm yard. I am satisfied that this is acceptable in principle.

7.2.3. In addition to the above, the Board will note that the subject site is located adjacent to a Strategic Regional Road. In this regard, Policy SS5: Housing on Strategic Regional Roads, is considered relevant. This policy states as follows:

‘It is the policy of the Council to protect the carrying capacity and traffic safety on Strategic Transport Routes (see Figure 3.4). The Council will only facilitate individual dwellings on regional roads designated as strategic, for person(s) who have a demonstrated housing need and who are seeking to provide a home for their own occupation. A housing need should be demonstrated in accordance with the following categories:

(a) The applicant is a farming landowner or their son or daughter and existing or shared accesses are used where practicable.

And

(b) The applicant has demonstrated, to the satisfaction of the Council, that there is no alternative site available to her/him away from the strategic transport route.

It is on this policy that the Planning Authority refused permission for the proposed development.

7.2.4. I have considered all of the information presented on the file, together with the reports and commentary from the Planning Authority and relevant departments. The applicant is not seeking to create a new access onto the R696-2 and has proposed using the existing and long-established farm access. I have no objection to this proposal and consider that adequate sight distances are available at this entrance. I would also note that as the applicant currently resides in his parents’ home, the current farm house on the land, the development, if permitted, is unlikely to result in any significant increase in traffic movements to and from this existing entrance onto the strategic transport route.



7.2.5. The second element of this policy seeks that the applicant demonstrates that there is no alternative site available, away from the strategic transport route. The Planning Authority has considered that the submissions in this regard are inadequate, and has determined that as an alternative site is available, the proposed development does not accord with policy SS5.

7.2.6. The Board will note the comments of the applicant and I am of the opinion, having regard to the information and arguments presented, that the applicant has submitted clear and logical reasons for the selection of the site for the construction of his home. I would consider that adequate evidence has been submitted to suggest that the proposed site is the one which the applicant considers to be the most appropriate to continue the effective management and will enhance the security of his farm and yard. I also note the references to future expansion plans for the farm yard and as such, I am satisfied that the proposed development is in accordance with the requirements of Policy SS5. I also note the submission in relation to the 'alternative' sites proposed by the Council, and accept the submissions to the contrary from the applicant.

### 7.3. **Other Issues:**

In terms of other issues, I consider it appropriate to deal with site suitability issues as follows:

#### 7.3.1. Layout & Design

The proposed site layout will set the house back on the site 62m from the existing roadside boundary. The proposed house design is considered acceptable and subject to appropriate landscaping of the site and access, I am satisfied that the development will not represent a significant visual impact in this rural landscape.

#### 7.3.2. Roads & Access

The proposed development seeks to use the existing farm access, which currently provides access to the applicants' parents' home and the farm yard, where he works daily. I am satisfied that this entrance is acceptable and provides for adequate sight distances in both directions. I am satisfied that the development as proposed, will not result in any significant additional traffic movements either to or from this entrance.

### 7.3.3. Water and Waste Water issues

The proposed development is to connect to the public water mains in the vicinity. I note no objection from Tipperary County Council in this regard. I also note that Irish Water has not commented on the proposed development. In this instance, I am satisfied that the proposed development is acceptable in this regard.

In terms of dealing with waste water arising from the development, the Board will note that the development proposes the installation of a septic tank and percolation area. In support of the proposed development, the applicant submitted a Site Suitability Assessment. The assessment recorded a T value of 17.83 and notes that the site is located within a Regionally Important aquifer which has a high vulnerability. The Groundwater Protection Scheme for the area indicates a Protection Response of R2<sup>1</sup>. This response advises that the proposed development is acceptable, subject to normal good practice.

The development seeks to install a septic tank, with discharge via a percolation area to ground water. The proposed trench invert level will be 0.8m below ground level, with 108m of linear percolation trench required. I have no objections to the proposed development in this regard.

## 8.0 Recommendation

- 8.1. It is recommended that permission be granted for the proposed development for the stated reasons and considerations and subject to compliance with the following conditions.

## 9.0 Reasons and Considerations

Having regard to the provisions of the current South Tipperary County Development Plan, 2009 as varied, and to the information submitted as part of the planning application together with the information submitted in the appeal, the Board is satisfied that the proposed development, generally accords with the policy requirements of the Development Plan, in particular as it relates to the provision of rural housing for local rural persons and access onto the strategic transportation route. It is further considered that the design, scale and finish of the proposed works,

would not seriously injure the general, visual or residential amenities of the area, would not represent a traffic hazard and would therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The 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 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. The existing front roadside boundary shall be retained in full and access to the site shall be in accordance with the details submitted.

**Reason:** In the interest of visual amenity.

4. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

**Reason:** In the interest of visual amenity.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

6. Water supply and 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.

7. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

**Reason:** In the interest of public health.

8. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details 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) the establishment of a hedgerow along all side and front boundaries of the site, and along the western boundary of the proposed access road from the existing farm access road.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the 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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

9. 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 Bord 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.

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A. Considine  
Planning Inspector  
18<sup>th</sup> April, 2018