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Bord  
Pleanála

## Inspector's Report ABP-308528-20

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<b>Development</b>	Construction of a dwelling house, domestic garage, installation of septic tank and all associated site works
<b>Location</b>	Newtown, Fethard, Co Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	20/883
<b>Applicant(s)</b>	Catherine & Robert Webster
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Catherine & Robert Webster
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22nd of January 2021.
<b>Inspector</b>	Fergal Ó Bric.

## **1.0 Site Location and Description**

- 1.1 The appeal site has a stated area of 0.66 hectares, is located approximately two kilometres south of the village of Fethard. The site is located between a cul-de-sac, the L-72012, to the west of the site and a regional route, the R689, a route that links Fethard with Clonmel to the east of the site. The site comprises agricultural lands in pasture. To the north of the site and west of the cul-de-sac are agricultural lands, to the east is the regional road and to the south is a dormer dwelling. The 80km/h speed control zone applies in this area.
- 1.2 The site would be accessed via a new domestic entrance off the cul-de-sac road, to the west. The western and eastern roadside boundaries comprise a 1.8-metre-tall mature hedgerow, to the north and south is a post and wire and wooden railed fence. Low voltage electricity wires traverse part of the northern section of the site. The site is rectangular in shape and has no features of note.

## **2.0 Proposed Development**

- 2.1 Planning permission is sought for the construction of a storey and a half dwelling, domestic garage, installation of a septic tank and associated site works.
- 2.2 The proposed dwelling would have a gross floor area of 209 square metres (sq. m.), and a maximum ridge height of 7.8 metres.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

Tipperary County Council refused planning permission for the proposed development for one reason as follows:

Policy SS4 (Housing in the Rural Countryside) of the South Tipperary County Development Plan 2009, as varied, states that it is the policy of the Council to facilitate individual dwellings in the open countryside for person(s) who, inter alia, are intrinsic to the area and have a demonstrated housing need. Under policy SS4, persons who have not lived within 10km of the proposed site will generally be considered to have no housing need.

Having regard to the information submitted under the application to the Planning Authority is not satisfied that the applicant has demonstrated a housing need or a need to reside at the proposed site for work purposes. Having regard to the foregoing the proposed development is considered contrary to policy SS4 (Housing in the Rural Countryside) of the South Tipperary County Development Plan 2009, as varied. The proposed development would contravene the stated policies of the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

### **3.1.1 Planning Authority Reports**

Planning Report:

Local Needs Policy SS4 applies to the proposal. The Planning Authority deemed that the applicants had not demonstrated compliance with the requirements of policy SS4, as required under the Rural Housing Policy. A refusal of planning permission was recommended for one reason, as set out within Section 3.1 above.

### **3.2 Other Technical Reports**

District Engineer: No objection, subject to conditions.

### **3.3 Prescribed Bodies**

No comments received.

### **3.4 Third Party Observations**

One received. The submission was received from the adjoining residents immediately south of the appeal site, Brian and Laura Richards, who raised the following issues:

- The appellants were previously refused planning permission on the same site due to non-compliance with policy SS4, Housing in the Rural Countryside.

- The appellants have failed to demonstrate compliance with the Rural Housing Policy of the County Development Plan.
- Inadequate sightlines as per the Development Plan requirements have been demonstrated from the proposed entrance point.
- The adjoining cul-de-sac is often busy with traffic travelling at speed, and therefore the requisite sightlines ought to be achieved.

## **4.0 Planning History**

On site:

Planning Authority reference number 20/93. In 2020, the appellants were refused planning permission for the construction of a dwelling, garage, entrance, septic tank, and associated site works on the appeal site. The single reason for refusal was based on non-compliance with Policy SS4, Rural Housing in the Countryside.

## **5.0 Policy and Context**

### **5.1 National Policy**

#### **5.1.1 Sustainable Rural Housing Guidelines DOEHLG 2005.**

The Guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those in proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

#### **5.1.2 National Planning Framework**

Policy Objective 19 is to: 'Ensure, in providing for the development of rural housing, that 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 elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

## 5.2 Development Plan

### 5.2.1 South Tipperary County Development Plan 2009, (as varied).

### 5.2.2 Rural Housing Policy-Local Need

SS4 It is the policy of the Council that within areas of the open countryside to facilitate individual dwellings to persons who are intrinsic to the area, have demonstrated a housing need, and seeking to provide a home for their own occupation. A housing need should be demonstrated in accordance with one of the categories set out below:

Category A: Local Rural Persons (i) & (ii)

- (i) The applicant must come within the definition of a 'Local Rural Person' who has lived in the local rural area, within 10 kilometres of the site for a minimum and continuous period of ten years.
- (ii) a 'Local Rural Person' in a primary amenity area is a person who has lived in the primary amenity area, within 5km of the proposed site for a minimum and continuous period of ten years.

Category B: Functional Need to live in a Rural Area.

Category C: Exceptional Medical Circumstances.

### **5.3 Natural Heritage Designations**

None relevant.

### **5.4 Environmental Impact Assessment - Preliminary Examination**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

A first-party appeal has been submitted to the Board. The main issues raised within the appeal submission can be summarised as follows:

- There are no social or affordable homes under construction in Fethard, and no dwellings likely to be constructed in the short to medium term.
- Any modern homes that have come up for sale are beyond the applicants means.
- The only means of affording their own home is to build on an affordable site.
- The applicants presently reside in Catherine Websters parents' house in Killenaule, Thurles.
- The appeal site is 13 kilometres by road from her parents' house.
- They have been searching for a site for the last six years.
- The applicants have resided within 10 kilometres of the site, for eight of the last ten years.
- Both applicants work in and around Fethard, Robert at Coolmore Stud and Catherine as a Food Safety Consultant and with the Education and Training Board.

- Letters from their employers demonstrate that the applicants have a need to reside in the area.
- The applicants are satisfied that they demonstrated compliance with Policy SS4 as they are persons who are native and deep rooted in this area.
- Policy SS4 is not cast in stone, but a guiding principle.

## **6.2 Planning Authority Response**

The Planning Authority stated that based on the documentation submitted, the applicants had failed to demonstrate compliance SS4 of the South Tipperary County Development Plan, in relation to Housing in the Rural Countryside.

## **6.3 Third party observation**

None received.

## **7.0 Assessment**

7.1 The main issues in this appeal relate to compliance with the Tipperary Rural Housing Policy. Access and traffic safety at the proposed entrance point will also be assessed. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The proposals in terms of dwelling design and servicing are considered satisfactory. The main issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy.
- Access and Traffic Safety
- Appropriate Assessment.

## **7.2 Compliance with Rural Housing Policy**

7.2.1 The proposed development would comprise the development of a part single storey and part storey and a half dwelling in the open countryside. The ‘*Sustainable Rural Housing – Guidelines for Planning Authorities*’, issued by

the Department of the Environment, Heritage and Local Government in April 2005; indicate that the site is located within a 'Stronger Rural Area' – in this instance, largely but not solely, arising from the proximity to Clonmel and Fethard. "In such areas, population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas".

7.2.2 Policy SS4 of the Development Plan aims to prevent urban sprawl and retain the open and rural character of rural areas and the protection / enhancement of biodiversity of those lands that lie within it. The Planning Authority deemed that the appellants had not demonstrated compliance with policy SS4 of the Plan, regarding local needs policy for a rural dwelling at this location.

7.2.3 The Planning Authority considered that the development would not be in accordance with the Development Plan Policy SS4, which requires the applicants to demonstrate a rural housing need based on their social/economic links to a particular rural area. They must demonstrate that they comply with one of the categories (A) to (C) set out within the Development Plan. Based on the planning documentation submitted in support of their rural housing need, I am not satisfied that the appellants have demonstrated social/economic links to this rural area or that either of them has demonstrated that they are originally from this rural area, or originally from a rural area within 10 kilometres of the site, and therefore, not demonstrated compliance with policy SS4 of the Plan. I am not satisfied that the applicants would comply with category (B) of the policy either, given that they have not demonstrated a functional need, by virtue of their employment to reside in the rural area. Neither have they documented any medical circumstances that would require them to reside in a rural area, as required under category (C) of the policy.

7.2.4 The Sustainable Rural Housing Guidelines defines rural areas under strong urban influence as those within proximity to the immediate environs or close commuting catchment of large cities and towns. Circumstances for which a



genuine housing need may apply include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas. In addition, Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area and should have regard to the viability of smaller towns and rural settlements.

7.2.5 It is stated that these lands would be purchased from a third-party. The overall site does not relate to any agricultural landholding belonging to the first party or their immediate families. Information submitted in support of the application states that the first party wish to reside in the area to be closer to family and their places of work.

7.2.6 Based on the documentation submitted with the application in terms of local housing need, it is considered that the appellants have not demonstrated a site-specific rural housing need based on their specific economic or social links to reside in this rural area, as required under Policy Objective SS4 of the Development Plan, the Sustainable Rural Housing Guidelines and Policy Objective 19 of the National Planning Framework.

7.2.7 In the absence of an identified locally based, site specific economic or social need to live in the area, it is considered that the proposed development would contribute to the development of random rural housing in the area, exacerbate the existing pattern of ribbon development and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of the adjacent urban settlements of Fethard and Clonmel.

### **7.3 Access & Traffic Safety**

7.3.1 In terms of access to/from the site, the applicants are proposing to open a new domestic entrance, north of the existing agricultural access serving the appeal site at present. It is proposed to remove the hedgerow along the full frontage of the appeal site onto the cul-de-sac in order to achieve adequate

sightlines. I note the comments of the District Engineer, who observed the design speed of the road in addition to the low vehicular activity on the road and stated that sightlines would be adequate from the proposed entrance point. Although the removal of the full extent of the roadside hedgerow would not represent best practice in terms of respecting biodiversity, I am satisfied that adequate sightlines would be achieved from the proposed entrance point onto the local county road.

#### **7.4 Appropriate Assessment**

Having regard to the nature and modest scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

#### **8.0 Recommendation**

I recommend that planning permission be refused for the following reason:

#### **9.0 Reasons and Considerations**

The subject site is located within a 'rural area under pressure for rural housing, as identified in the South Tipperary County Development Plan 2009 (as varied). Furthermore, the site is located in an area that is designated as under urban influence in the Sustainable Rural Housing Guidelines and in the National Planning Framework, where National Policy Objective 19 aims to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicants have demonstrated a rural housing need to live in this rural area as required under policy objective SS4 of the Development Plan. It is considered, therefore, that the applicants do not come within the scope of the housing need criteria as set out in the South Tipperary County

Development Plan, 2009 (as varied) or in national policy for a house at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Fergal Ó Bric

Planning Inspectorate

2nd February 2021