



An
Bord
Pleanála

Inspector's Report

ABP-312678-22

Development	Construction of house
Location	Ashgrove, Terryglass, Nenagh, Co Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	211680
Applicant(s)	Martina Tierney
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Timothy, Mary and Jennifer Tierney
Observer(s)	None
Date of Site Inspection	1 st November 2022
Inspector	Una O'Neill

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.2. Tipperary County Development Plan 2022-2028	7
5.3. Natural Heritage Designations	12
5.4. EIA Screening	12
6.0 The Appeal	12
6.1. Grounds of Appeal	12
6.2. Applicant Response	14
6.3. Planning Authority Response	15
6.4. Observations	15
6.5. Further Responses.....	15
7.0 Assessment.....	15
7.1. Rural Housing Policy.....	16
7.2. Road Safety and Impact on Biodiversity	19
7.3. Impact on Residential Amenity.....	21
7.4. Water Services.....	21

7.5. Appropriate Assessment Screening 22

8.0 Recommendation..... 24

9.0 Reasons and Considerations..... 25

1.0 Site Location and Description

- 1.1. The subject site is located on the western side of the R493, c. 530m south of Terryglass Village, Co. Tipperary. Terryglass village is a small lake side village situated on the north east shores of Lough Derg on the River Shannon. The speed limit along the R493 at this point is 80km/hr, with a solid white line at the centre of the road alongside the boundary of the site.
- 1.2. The site, which has a stated area of 0.5ha, is in agricultural use and forms part of a larger agricultural field to the west and south, which is being sub-divided for this application. The site is roughly rectangular in shape with an additional linear section alongside the road approx. 77m in length. The site has an overall road frontage of c. 164m, with the boundary to the R493 comprising a stone wall and hedgerow. To the north of the site is a two-storey detached dwelling, with two more detached dwellings to the north of that set out in a linear fashion along the R493. There are two detached dwellings on the opposite side of the R493.

2.0 Proposed Development

- 2.1. The proposed development is for a single storey detached dwelling (199.7 sqm in area), detached domestic garage (43.2sqm), new site entrance, wastewater treatment system, and all ancillary site works.
- 2.2. The new entrance is onto a regional road and will involved the removal of a stone wall and hedgerow to achieve sightlines.

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to 15 conditions, including the following:

C2: Occupancy condition.

C5: Wastewater treatment system.

C6: Roadside boundary shall be set back.

C7: Vehicular access to be recessed.

C9: Hedgerows.

C15: Development contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- The applicant has demonstrated she is a daughter of the landowner in compliance with Policy SS5. The applicant has also demonstrated she has resided within the primary amenity area. The applicant has submitted a site selection analysis and it has been concluded there are no alternative sites available. The family home is a protected structure and a site on the family lane would negatively impact on the protected structure.
- The proposed dwelling constitutes ribbon development however the applicant has demonstrated she is the daughter of a farmer with no other site available in compliance with policy SS8.
- Dwelling is acceptable in terms of design and layout and does not impact negatively on residential amenity.
- Road – Applicant has demonstrated 160m sightlines are achievable. All boundary removal is within the applicants site boundary. Roadside boundary is to be set back to achieve the sight triangle.
- EPA 2021 Code of Practice was not used, but assessor is same as it was in 2019 and it can be accepted.

3.2.2. Other Technical Reports

District Engineer – Sightline achieved; as site is higher than regional road there is potential for surface water run-off to flow on the road, therefore no surface water to be allowed to flow onto the road from the site; existing surface water inlets discharging to the applicants lands shall be maintained; no issue of flooding indicated; no road/traffic safety indicated. Conditions recommended in relation to surface water and setback or undergrounding of existing ESB pole.

3.3. **Prescribed Bodies**

No submissions received.

3.4. **Third Party Observations**

One third party observation was received from Timothy, Mary and Jennifer Tierney, who live across the road from the proposed dwelling. The content of the observation is generally reflected in the grounds of appeal (see Section 6 hereunder).

One representation received from Cllr Joe Hannigan.

4.0 **Planning History**

PA Reg Ref 04511586 – Outline permission GRANTED in 2005 to Martina Tierney for a dwelling, entrance and septic tank.

PA Reg Ref 08510096 – Permission Consequent on Grant of Outline Permission GRANTED in 2008 to Martina Tierney for dormer dwelling, entrance and effluent treatment system.

PA Reg Ref 12510204 – Extension of duration REFUSED in 2012 for dwelling permitted under 08510096. The reason related to the outdated assessment in relation to wastewater treatment with changes to the county development policy in this regard.

PA Reg Ref 2069 – Application WITHDRAWN in 2020 following further information request for proposed dwelling and entrance for Andrew and Jean Dolan (landowners daughter).

Site to the north:

PA Reg Ref 03511139 – Permission GRANTED in 2003 to John and Sadie Tierney for a dormer style dwelling and entrance.

5.0 **Policy Context**

5.1. **National Policy**

- Project Ireland 2040 National Planning Framework (2018)

- Sustainable Rural Housing Guidelines for Planning Authorities (2005)

5.2. Tipperary County Development Plan 2022-2028

Chapter 4 Settlement Strategy

- **Policy SO-3** – To support the implementation of the County Settlement Hierarchy, in regenerating our towns and villages, creating vibrant town centres, attracting new residents and delivering quality residential neighbourhoods.
- **Table 4.1. County Settlement Plan Hierarchy:** Level 3, Local Service Centre - Terryglass is a designated Local Service Centre.
- Section 4.6.2 Local Service Centres - The Council will seek to maintain the existing range of rural services in place in these settlements in view of their role in reducing unnecessary travelling by rural communities to avail of basic services. A Settlement Statement for each Local Service Centre is set out in Volume 2, and will inform and guide new development in line with the policies and objectives of the Plan.
- **Policy 4.1** - Support and facilitate the sustainable growth of the county's towns and villages as outlined in the Settlement Strategy Chapter 4, thereby promoting balanced development and competitiveness, and a network of viable and vibrant settlements to support the needs of local communities...

Chapter 5 Housing

- **Section 5.5.1 - In '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, environmental and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements; In '**Open Countryside**', facilitate the provision of single housing in the countryside based on siting, environmental and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- **Figure 5.3 Map of Rural Areas with Strategic Transport Corridors and Primary Amenity Areas** - Appeal site is within an area designated as an Area

Under Urban Influence; a Primary Amenity Area; and in an area served by a Strategic Road Network, namely the R493.

- **Table 5.2 Rural Housing Technical Principles for Applicants**
- **Table 5.3 Housing Need Definitions** – Economic and Social Need.
- **Policy 5-11** Facilitate proposals for dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside, and designations illustrated in Section 5.4, and Table 5.2: Rural Housing Technical Principles for Applicants.
- In '**Areas Under Urban Influence**' and '**Primary Amenity Areas**', the Council will consider single houses for persons where the criteria set out in Category 1A or B, or Category 2 hereunder are met:

Category 1: 'Economic Need' ...

Category 2: 'Social Need' The applicant must demonstrate a social need to reside in the local rural area for social purposes in line with Table 5.3.

And all the criteria set out below is met:

- (i) Within a 'Primary Amenity Area', the applicant must have resided within 5km of the site where they intend to build for a substantial period of their lives (10 years),
- (ii) Within an 'Area of Urban Influence', the applicant must have resided within 10km of the site where they intend to build for a substantial period of their lives (10 years), And
- (iii) The applicant does not, or has never owned a house in the open countryside.

In '**Open Countryside**' areas, the Council will consider single houses for persons where the development meets other relevant policies set out in the Plan, and where the proposed development is in accordance with all the criteria set out hereunder.

- (i) The proposed development must meet the normal planning and environmental criteria and development management standards,
- (ii) The applicant does not, or has never owned a house in the open countryside,

- (iii) To prohibit speculative development in these areas, any application for a single permanent dwelling must be made in the name of the person for whom it is intended. An occupancy condition will be attached to any grant of permission,
- (iv) An alternative site is not available within a settlement within 5km of the proposed.

- **Policy 5-12** - Where 5 houses in total exist or are permitted, within any continuous 250 metre section of roadway thereby constituting 'ribbon development' the Council will seek to resist further development in the interest of road traffic safety, visual amenity and groundwater quality...

- **Policy 5-13** - Preserve the carrying capacity of strategic regional roads, identified at Figures 5.3 and 12.2, and safeguard the investment in such infrastructure. The Council will facilitate proposals for new dwellings on strategic routes in the countryside outside of settlements in accordance with the following criteria:

- a) Where the applicant meets an 'Economic Need' (see Table 5.3 and Planning Policy 5 - 11), and there is no availability of alternative sites to the applicant away from the strategic route. ...

OR

- b) The applicant shall be a son or daughter of a person who meets and 'Economic Need' Category A (i) and (ii) and Category B (i), AND, the applicant meets a 'Social Need'. The new dwelling must share the existing domestic entrance of the applicant's family dwelling ...

OR

- c) Where an applicant meets a Social Need and the proposed site has been in the ownership of immediate family members for a minimum of 10 years, and there is no availability of alternative sites to the applicant away from the strategic route. The new dwelling must share the existing domestic entrance of the applicant's family dwelling and will meet sightline requirements set out in Volume 3, Appendix 6, Section 6.1 Road Design & Visibility at a Direct Access.

Chapter 11 Environment and Natural Assets

- Section 11.7.1 Primary and Secondary Amenity Areas – Figure 11.1, site is located within a Primary Amenity Area.
- Upper Lough Derg Landscape Character Area
- **Policy 11-4** (a) Conserve, protect and enhance areas of local biodiversity value, habitats, ecosystems and ecological corridors, in both urban and rural areas, including rivers, lakes, streams and ponds, peatland and other wetland habitats, woodlands, hedgerows, tree lines, veteran trees, natural and semi-natural grasslands in accordance with the objectives of the National Biodiversity Plan (DCHG 2017) and any review thereof....(d) Where trees or hedgerows are of particular local value, the Council may seek their retention, or where retention is not feasible, their replacement and will seek a proactive focus on new tree-planting as part of new development.
- **Policy 11-17** Ensure the protection of the visual amenity, landscape quality and character of designated ‘Primary’ and ‘Secondary’ amenity areas. Developments which would have a significant adverse material impact on the visual amenities of the area will not be supported. New development shall have regard to the following:...(c) Existing landscape features, including trees, hedgerows and distinctive boundary treatment shall be protected and integrated into the design proposal.

Chapter 12 Sustainable Transport

- Section 12.5.2 Safeguarding the Strategic Road Network.
- Figure 12.2: R493 is identified as part of the Strategic Road Network.
- In considering any ‘exceptional circumstances’ that may arise, resulting in a request for new access onto the National Road network, the Council will have consideration to Section 2.6: Exceptional Circumstances of the Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG, 2012) and the recommendation of TII.
- **Policy 12-4:** Maintain and protect the safety, capacity and efficiency of Tipperary’s roads network and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities, (DECLG, 2012) and the Trans-European Networks Regulations and to avoid the creation of

additional access points to national roads to which speed limits greater than 60kmh apply.

Chapter 15 Water and Energy Utilities

- **Policy 15-2** Require that all new septic tanks, proprietary effluent treatment systems and percolation areas to be located and constructed in accordance with the Water Services Guidelines for Planning Authorities (and any review thereof) and the Code of Practice for Domestic waste water treatment systems (EPA, 2021) (and any amendment) and the development management standards of this Plan as set out in Volume 3.
- **Policy 15-7** Require all new development to provide a separate foul and surface water management system and to incorporate nature-based water sensitive urban design, where appropriate, in new development and the public realm...
- **Volume 2, Role of Local Service Centres:** These generally have a population around 50 to 100 persons. Local Service Centres act as local residential and community centres and will accommodate an appropriate level of development, including housing and community services i.e. childcare, primary level education, recreation, convenience retailing etc.
- **Volume 2, Settlement Guide and Settlement Plans - Number 34:** Local Service Centre Settlement Plan for Terryglass. [The appeal site is located outside the settlement boundary for Terryglass].
 - Objective GO1: To facilitate low density development proposals to meet local housing demands together with the provision of local and community services / facilities and local employment opportunities within the village/settlement boundary in accordance with the principles of proper planning and sustainable development, and the Council's 'Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages'.
 - Objective SO4: To support the consolidation of the village core and encourage the redevelopment of underutilised sites within the village centre for appropriate use.
- **Volume 3, Tipperary Rural Housing Design Guidelines.**
- **Volume 3, Development Management Standards.**

- Road Design & Visibility at a Direct Access.

5.3. Natural Heritage Designations

Lough Derg pNHA is located c. 1km northeast of the appeal site (as the crow flies).

There are fifteen European sites within 15Km of the subject site. The closest European sites are Lough Derg North-East Shore SAC (002241) and Lough Derg (Shannon) SPA (004058), which are located c.1km to the northeast of the site (as the crow flies).

5.4. EIA Screening

Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest 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 at preliminary examination and a screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

One objection was received from the occupants of a dwelling opposite the appeal site. The objection was received on 9th February 2020 and is summarised as follows:

- Precedent for similar cases which have been refused by the Board and by Tipperary County Council - file refs ABP-306658-20; TCC-211487; and TC-21925 (decisions included in appendix to appellant submission).
- The proposed development is located within a designated Primary Amenity Area.
- The site is located in an area under urban influence and not in accordance with National Policy Objective 19 of the National Planning Framework.

- The appellant's home is directly across the road from the proposed development and concerned that it would seriously impact on their residential amenity.
- Proposed dwelling is opposite front door/living room/bedroom windows of appellants dwelling, which would impact on privacy.
- Non-compliance with Policy SS8 Ribbon Development of the North Tipperary County Development Plan 2010, as varied.
- Non-compliance with Policy SS6 and associated Policy SS4 in relation to access off national secondary roads in exceptional circumstances – applicant does not comply with all three criteria.
- The site would create a traffic hazard as it is located along where speed limit is 80 km/hr and is directly opposite three existing vehicular entrances.
- Contrary to Policy SS5 for access onto the R493 – site 2 in site selection analysis would be more suitable as it can provide a safe access and would not constitute ribbon development or affect amenity of appellant's dwelling.
- Safe Access Sightlines: Traffic hazard due to inadequate sightlines as per section 10.9.1 of the development plan. The proposed sightline triangle intersects with the stone wall and ESB pole on the adjoining property.
- Extent of hedgerow removal contrary to Policy LH2, with requirement for removal of 240m of established mature hedgerow and stonewall on the approach road from Terryglass village, would detract from protection of visual amenity and character of primary and secondary amenity areas. The site rises above the road and the proposal will have an adverse impact on visual qualities of the area and presents an abrupt addition onto the countryside.
- Proposal conflicts with Policy SS8 and would result in the loss of roadside feature.
- Policy LH5: Biodiversity, trees and habitats – contrary to this policy.
- The site is unsuitable for disposal of foul effluent with photos submitted of flooding at location of the percolation area and evidence of flood overflow onto

the road. At the location of the percolation area the ground level varies from 1.3m to 620mm over the road level.

- Applicant cannot demonstrate bone fides for new dwelling as per Policy SS4 of development plan, or Policy 5.5.1 and 5.5.2 of the draft development plan as applicant does not reside or work in the area and does not work on the family farm.
- Site is located in an Area Under Urban Influence, as per the draft county development plan and is a designated primary amenity area.
- No screening for AA provided.
- There are other potential sites on the family landholding that have not been examined. Proposal outlines only 4 on landholding of 69 ha.
- No objection to a site which does not infringe on privacy.

6.2. Applicant Response

A response to the grounds of appeal was received by the Board on 7th March 2022 and is summarised as follows:

- Housing need – the applicant has demonstrated housing need as per Policy SS4 in the development plan and as per Policy 5-11 of the Draft Tipperary County Development Plan 2022-2028, meeting the criteria of social need.
- Road safety and sightlines – The site is located along the R493, which is a regional road, therefore policies in relation to national secondary roads do not apply. The proposals meets development plan policies in this regard. Works to the boundary and location of an ESB pole, will result in the sightlines required being met. The location of the boundary of the neighbouring property is accurately included in the sightline assessment.
- Natural Heritage – As the hedgerow to be removed will be replaced with a native species, it is proposed that the development will have no adverse impact on the biodiversity of the area. The stone from the existing roadside wall will be retained and used in the construction of the new boundary wall. This will ensure the protection of existing landscape features.

- Flooding – As per information from CFRAM maps and national indicative fluvial mapping available at floodinfo.ie, the site is not susceptible to flooding and there is no history of flood events. The photographs submitted by the appellant were submitted shortly after a heavy rainfall event where rainwater has temporarily lodge on the surface. This is a normal occurrence on tillage lands such as this and the rainwater soaks away quickly following the rainfall event.
- Privacy and neighbouring amenity – As illustrated on the site layout plan, the proposed dwelling is not located directly opposite the appellants house but is opposite agricultural land to the north of the dwelling. The dwelling is set back 45m from the road edge. The new boundary hedgerow will contribute to privacy for the applicant and surrounding dwellings, while ensuring sightlines are met. The proposal is in compliance with the Rural Housing Design Guide, is adequately scale in proportion to the site, surrounding landscape, and neighbouring dwellings. There are no other suitable sites for a house within the family landholding. The location is considered suitable given its location within an existing cluster of rural houses.

6.3. Planning Authority Response

None.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and having inspected the

site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Rural Housing Policy
- Road Safety
- Impact on Residential Amenity
- Water Services

The Tipperary County Development Plan 2022-2028 came into effect on 22nd August 2022. I note the Planning Authority's assessment of this application was undertaken under the previous North Tipperary County Development Plan 2010, which was the operative plan at the time of the appeal submission. I assess hereunder the application against the current operative development plan, Tipperary County Development Plan 2022-2028.

7.1. Rural Housing Policy

- 7.1.1. The PA assessed the proposal against the rural housing policies of the previous plan and was of the view that the applicant complied with the rural housing policies.
- 7.1.2. The submission from the applicant in the response to the grounds of appeal addresses the previous county development plan which was then in operation and also assesses the proposal against the draft development plan and concludes that the applicant is compliant with the policy in relation to rural dwellings. I note the policy in the draft plan is the same as exists now in the adopted development plan.
- 7.1.3. The applicant has submitted information under the criteria relating to Category 2, Social Need. It is indicated that the applicant has lived in the family home, 530m south of the application site, in a primary amenity area, for a continuous period in excess of ten years and has never owned a rural dwelling, as per the requirements of Policy 5-11. Three alternative sites on the landholding are examined and the appeal site is deemed the most suitable. Documentation submitted to support the application includes a letter from the local primary school indicating the applicants name and family home address, with the applicant attending the school from 1987 to 1994 (seven years), and a letter from the secondary school in Borrisokane indicating the applicants name and address at the family home, with the applicant attending the

school from 1996 to 2001 (five years). A letter is included from the applicant's employer, with her stated occupation being an Executive Officer in the Office of the Minister for Agriculture, Food and the Marine, with the offices based in Kildare Street, Dublin 2. It is stated that the applicant is based in the office two days and week and works from home three days a week. A letter is included from the applicant's landlord, stating she rents a room in the property in Kimmage while working a couple of days a week in Dublin. The applicant's birth certificate is included.

- 7.1.4. National Policy Objective 19 in the National Planning Framework (NPF) states in relation to areas under urban influence, that it will be necessary for applicants to demonstrate 'a functional economic or social requirement for housing need' (National Policy Objective No. 19), stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements. The Sustainable Rural Housing Guidelines 2005 further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.
- 7.1.5. The proposed dwelling is located in a rural area, with the nearest settlement being Terryglass village, 530m to the north, which is a designated local service centre in the settlement hierarchy of the county. Ribbon development is evident on the approach roads to Terryglass village. The R493 which bounds the site has no footpaths and there is a solid white line in the centre of the road bounding the appeal site. The location of the appeal site is defined in the development plan as being in an 'Area Under Urban Influence' and in a 'Primary Amenity Area', as well as being along an identified 'Strategic Transport Route'. In such designated areas, there are restrictions on the development of new houses. Policy 5-11 of the operative development plan applies. Policy 5-13 relates to rural dwellings located on Strategic Routes. Policy 11-17 relates to Primary and Secondary Amenity Areas.
- 7.1.6. Under Section 5.5.1 of the operative development plan, it is stated that in 'Areas under Urban Influence', the provision of single housing in the countryside should be facilitated based on the core consideration of demonstrable 'economic or social' need to live in a rural area, and siting, environmental and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller

towns and rural settlements. I refer the Board to Policy SO-3, Policy 4-1 and to Objectives G01 and S04 relating to Terryglass village which seek to support the development of the village and to implement the settlement hierarchy for the county.

7.1.7. While I would accept that the applicant has close family links to the area and has a housing need, I would have serious reservations as regards the validity of the applicant's functional social need to reside at this specific site. Given the close proximity of the subject site to Terryglass village and the sites location within a Primary Amenity Area, and as the applicant's main employment does not necessitate her residence in the rural area in question, I consider that the existing settlement in the immediate locality would be capable of satisfactorily addressing the applicant's residential needs. The Board will note in relation to NPO 19 that it is a core consideration in rural areas under urban influence, that the provision of single housing in the countryside is based on demonstrable economic or social need, as well as the requirement to have regard to the viability of smaller towns and rural settlements, with the latter point being, in my opinion, of particular import in this case. I consider this proposed rural dwelling would exacerbate issues around the sustainable development of existing serviced urban areas, which would contravene Policy SO-3 and Policy 4-1, given this area is under significant development pressure due its proximity to an existing village settlement and within a Primary Amenity Area proximate to Lough Derg. I consider the proposal would also exacerbate an existing pattern of ribbon development in the area.

7.1.8. Having regard to my assessment above, to the totality of the National Planning Framework, Sustainable Rural Housing Guidelines for Planning Authorities (2005), the relevant provisions of the operative Tipperary County Development Plan 2022-2028, and the location of the site proximate to Terryglass Village, I am not satisfied that the applicant has demonstrated adequate compliance with the policy objectives in relation to dwellings in rural areas under urban influence, having regard to the viability of smaller towns and rural settlements. Furthermore, with regard to Table 5.2 Rural Housing Technical Principles for Applicants, the applicant has not demonstrated that the proposal is fully in accordance with the stated technical principles, specifically point 4 in relation to road traffic safety. Policy 5-13 seeks to 'Preserve the carrying capacity of strategic regional roads, identified at Figures 5.3 and 12.2, and safeguard the investment in such infrastructure. The Council will

facilitate proposals for new dwellings on strategic routes in the countryside outside of settlements in accordance with the following criteria:... The new dwelling must share the existing domestic entrance of the applicant's family dwelling'. The proposal does not comply with Policy 5-13 in this regard as it does not share an entrance with the existing family home.

7.2. Road Safety and Impact on Biodiversity

- 7.2.1. The third party submission raises concerns in relation to inadequate sightlines and traffic hazard given the proposal is for a new access onto a regional road where the speed limit is 80km/hr and raises concerns in relation to the loss of biodiversity to achieve sightlines, contrary to development plan policy to protect hedgerows and to protect the visual amenity and character of primary amenity areas.
- 7.2.2. The PA report indicates that the sightlines have been achieved and raises no issue in this regard.
- 7.2.3. The proposed dwelling is set back c. 45m from the existing roadside boundary and in line with the neighbouring dwelling to the north. The proposed new entrance is located c. 70 southeast of the footprint of the proposed dwelling. The R493 rises from the northern corner of the site as one travels south, with the proposed entrance located approx. at the brow of the hill. It is proposed to remove the existing site boundary with the R493, which is 164m in length and comprises a traditional stone wall and hedgerow. A new hedgerow boundary is to be established, set back 4m from the existing roadside edge, in order to achieve 160m sightlines in either direction.
- 7.2.4. Policy 12-4 of the Tipperary County Development Plan 2022-2028 seeks to maintain and protect the safety, capacity and efficiency of the road network and to avoid the creation of additional access points to national roads to which speed limits greater than 60 km/hr apply, which is in accordance with national policy, as set out in the Spatial Planning and National Roads: Guidelines for Planning Authorities, DECLG 2012. The R493 is identified in figure 12.2 of the operative development plan as part of the 'Strategic Road Network'. While the applicant in the response to the grounds of appeal argues that the regional road, R493, is not a national road and therefore the guidelines above do not apply, I note the guidelines state the following in relation

to regional roads: 'Other non-national roads, especially the regional road network, provide essential links between the various Gateways and Hubs identified in the National Spatial Strategy and their rural hinterlands...For the future, the protection of such capacity and preservation of enhanced safety standards will be important in ensuring that such regional roads can continue to perform important local and regional transportation functions'. I consider the protection of the capacity and function of the regional road is an important consideration having regard to the national guidelines as well as local policy. It is stated under Policy 5-13 that the Council will facilitate proposals for new dwellings on strategic routes in the countryside outside of settlements in accordance with specific criteria. The applicant does not comply with the specific criteria as it is not proposed to share the entrance with the applicant's family dwelling. I consider it reasonable that in accordance with Policy 12-4 and Policy 5-13 that the carrying capacity of the R493 should continue to be protected.

- 7.2.5. I note that in order to achieve sightlines significant works are required with the removal of 164m of a natural wall and hedgerow boundary along the R493 to create a new roadside boundary set back 4m from the existing boundary. Under Chapter 11 Environment and Natural Assets of the operative development plan, it is stated that trees and hedgerows are important components of the local landscape/ townscape and the protection and support of existing trees and hedgerows will be a consideration in the assessment of development proposals by the planning authority. The proposed removal of a significant length of a traditional boundary at this location, within a primary amenity area, would in my opinion contravene Policy 11-4 and Policy 11-17 of the operative development plan. Policy 11-17 specifically relates to the protection of the visual amenity, landscape quality and character of designated 'Primary' and 'Secondary' amenity areas and states 'Existing landscape features, including trees, hedgerows and distinctive boundary treatment shall be protected and integrated into the design proposal'. The replacement of 164m of this traditional boundary would in my opinion have a significant adverse material impact on the visual amenities of this area.

7.3. Impact on Residential Amenity

- 7.3.1. The third party submission raises concerns in relation to negative impacts on the residential amenity of existing dwelling opposite the site, arising out of the positioning of the proposed dwelling directly opposite the dwelling in question, with resultant loss of privacy.
- 7.3.2. I note the positioning of the proposed dwelling relative to the dwelling on the opposite side of the R493. The proposed dwelling is not directly opposite the existing bungalow but is offset from it. I note the positioning of the entrance is not directly opposite the existing dwelling but to the side of it, with the driveway approximately parallel to the road. The distance between the proposed dwelling and the existing dwelling is c. 68m. Given the positioning of the proposed dwelling on the site and given the separation distance between this and the existing dwelling on the opposite side of the R493, I do not consider a significant negative impact on residential amenity will arise.

7.4. Water Services

- 7.4.1. It is proposed to serve the development by public water mains. The applicant proposes a wastewater treatment system with percolation area to address wastewater.
- 7.4.2. The application is accompanied by a site characterisation form and in this the site is recorded as having a T test result of 26.39 min/25mm and the P test result of 20 min/25mm, indicating the site is suitable for a packaged wastewater treatment system and polishing filter. The information submitted in terms of the wastewater treatment system does not highlight specific concerns and I note the PA is satisfied with regard to the information submitted. While the third party submission raises concerns in relation to disposal of foul effluent given flooding at the location of the percolation area and evidence of overflow onto the road, I note that flooding is not an issue at this location as per OPW data and the PA has not raised flooding as an issue in this area. Given the nature and use of the site and dependent upon weather conditions, as well as vegetation, soil type and geology, in the absence of specific drainage measures, some element of intermittent ponding would not be uncommon on sites such as this. I note the PA recommend a condition to ensure no overflow of

surface water from the site to the adjoining road, which is at a lower level at this corner of the site. I am satisfied that the development would be at low risk of flooding and it would not increase the risk of flooding to other lands. The ponding noted and in evidence from the observers' photographs was not extensive, would appear to be seasonal, and could be addressed by condition, should the Board be minded to grant permission, as part of the overall site drainage strategy without potential to significantly impact on neighbouring areas, in particular through displacement.

- 7.4.3. With regard to surface water issues raised, I note soakaways are proposed and I note the flow direction of water is to the southeast, away from Lough Derg. I have no concerns in this regard.

7.5. **Appropriate Assessment Screening**

- 7.5.1. The appeal site is not located in or immediately adjacent to a European site. A summary of the European Sites that occur within a possible zone of influence of the proposed development are set out within the PA's screening report, ie those within 15km. I have verified the location of same on GIS mapping and I have considered hydrological links for those within and beyond 15km. The nearest European Sites are Lough Derg North-East Shore SAC (002241) and Lough Derg (Shannon) SPA (004058), which are located c.1km to the northeast of the site (as the crow flies). Given the proximity of these sites, further consideration of them is appropriate. The other sites identified can be discounted from further consideration given distances involved and lack of a source-pathway-receptor.
- 7.5.2. The site contains no rivers, stream or waterbodies and the appeal site is in agricultural use and under crop. Surface water will discharge to ground via soakaways and wastewater will be treated in an on-site wastewater treatment system.
- 7.5.3. Habitat loss/fragmentation: In terms of the zone of influence, I note that the site is not within or immediately adjacent to a European site and therefore there will be no loss or alteration of habitat, or habitat/species fragmentation as a result of the proposed development. The site does not contain any habitats listed under Annex I of the Habitats Directive.

- 7.5.4. Habitat disturbance/species disturbance: With regard to direct impacts of habitat loss and disturbance, the application site is not located adjacent or within a European site. Given the scale of works involved, the nature of the existing intervening environment and distances involved to European sites, specifically Lough Derg, habitat disturbance is unlikely to occur. With regard to indirect impacts, the area around the proposed development has not been identified as an ex-situ site for qualifying interests of a designated site, and the lands themselves are not suitable for ex-situ feeding or roosting of wetland birds. The site is too far from the SPA at Lough Derg to result in impacts from noise or other forms of human disturbance during construction and operation.
- 7.5.5. Habitat degradation as a result of hydrological impact: There is no direct pathway from the site to Lough Derg or any other European site. Given the scale of works involved, the nature of the existing intervening environment, and distances involved to Lough Derg, habitat degradation is unlikely to occur.
- 7.5.6. Habitat degradation as a result of hydrogeological impacts: In the unlikely event that pollutants enter the ground water, I note the distance of the site from Lough Derg level of settling and dilution likely to occur prior to reaching of any European site and the lack of a direct hydrological link. I am satisfied that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of Lough Derg or any other European sites, either alone or in combination with any other plans or projects, as a result of hydrogeological effects.
- 7.5.7. No cumulative impact issues arise.

European Site	Qualifying Interests	Distance from Site
Lough Derg North-East Shore SAC (002241) Conservation Objective: To restore/maintain the favourable conservation condition of the identified habitats (see NPWS for list of attributes and targets)	Juniperus communis formations on heaths or calcareous grasslands [5130] Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] Alkaline fens [7230]	c. 1km – there is no direct hydrological link between the sites. No potential pathway for significant indirect effects on this SAC as a result of the proposed development is identified.

	<p>Limestone pavements [8240]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Taxus baccata</i> woods of the British Isles [91J0]</p>	
<p>Lough Derg (Shannon) SPA (004058)</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Tufted Duck (<i>Aythya fuligula</i>) [A061]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p>	<p>c. 1km – there is no direct hydrological link between the sites. No potential pathway for significant indirect effects on this SPA as a result of the proposed development is identified.</p>

7.5.8. Having regard to the nature and scale of the proposed development, to the intervening land use, and distance from European Sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site 202241 (Lough Derg North-East Shore SAC), 004058 (Lough Derg (Shannon) SPA) or any other European site, in view of the said sites' conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

8.0 Recommendation

8.1. I recommend that permission be refused based on the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to

- (i) the location of the site within a rural area under urban influence, as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issues by the Department of the Environment, Heritage and Local Government in April 2005,
- (ii) National Policy Objective 19 of the National Planning Framework (February, 2018) which, for rural areas under urban influence, seeks 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 viability of smaller towns and rural settlements,
- (iii) The objectives of Tipperary County Council Development Plan 2022-2028, including Policy SO-3 and Policy 4-1, which seek to discourage urban generated housing in rural areas and to direct provision for housing into towns and villages such as Terryglass,

it is considered that, the nature of the housing need is urban generated and that the applicant has not demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with National Policy Objective 19. The proposed development would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would contravene the provisions of the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located within a 'Designated Primary Amenity Area', where emphasis is placed on the importance of protecting the visual amenity and the landscape quality and character of the area in accordance with Policy 11-17 of Tipperary County Development Plan 2022-2028. Having regard to the existing pattern of ribbon development in the area

and the extent of boundary removal along the R493, it is considered that the proposed development would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The location of the entrance to the proposed development is directly onto the R493, a designated strategic transport corridor, at a location where the speed limit of 80 km/hr applies. It is policy of the Spatial Planning and National Roads: Guidelines for Planning Authorities (2012) (DOECLG), as reflected in Policy 12-4 of the Tipperary County Development Plan 2022-2028, to maintain and protect the safety, capacity and efficiency of the road network. The entrance and the additional turning movements created by the development interfere with the unobstructed, safe and free flow of traffic on the route and therefore materially contravene Policy 12-4 of the Tipperary County Development Plan 2022-2028 and is contrary to the proper planning and sustainable development of the area.

Una O'Neill
Senior Planning Inspector

19th January 2023