



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313872-22

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<b>Development</b>	House with garage and associated site development works.
<b>Location</b>	Ballywilliam, Nenagh, Co. Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	2260193
<b>Applicant(s)</b>	John O'Brien & Emma O'Connor
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	First / Third Party
<b>Appellant(s)</b>	Dorothy Molloy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	5 <sup>th</sup> November 2022
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.86ha and is located in the townland of Ballywilliam approximately 7.2km south west of Nenagh. The site is accessed from the L9453 (cul-de-sac), c100m from the junction with R445. The site is a greenfield site and is relatively flat. The immediate area is characterised as rural with linear residential development farm buildings and associated yards. Access to the site will be provided from the public road by means of a private passageway that is in the applicant's family ownership. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

2.1. Permission is sought for the construction of a vehicular entrance, two storey dwelling house (215sqm, 7.8m high), garage (39.5sqm 4.7m high), private well, domestic wastewater treatment system with polishing filter, together with all associated site works.

2.2. The application was accompanied by the following:

- Letter of Consent from landowner & father of applicant, Matthew O'Brien to make application on the land.
- Copy of Folio TY9735 being the application site, family home & landholding folio.
- Site Characterisation Form / Percolation report
- Birth Certificate of John O'Brien
- Letter from National School for John O'Brien
- Letter from Burgess GAA Club confirming involvement of John O'Brien
- Letter from Gurteen College stating that John O'Brien is currently enrolled and participating on a Distance Education 'Green Cert'
- Herd Number
- Rural Housing Application (Rural Housing Need) – Family run farm in partnership with the John O'Brien's father (supported by documentary evidence of same), John

O'Brien also works in sales with Derryvale, Roscrea and Emer O'Connor works as a primary teacher in Killochgan NS,

- Pre-planning ref PP9069
- Landholding maps

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Tipperary County Council issued a notification of decision to grant permission subject to 15 no standard conditions that may be summarised as follows.

1.	Compliance with plans and particulars submitted
2.	Seven-year owner occupier
3.	Surface water
4.	Maintenance of potable water supply
5.	Compliance with EPS Code of Practise for wastewater treatment
6.	Roadside boundary and sight triangle
7.	Vehicular access
8.	Laying of duct to allow easy broadband connection
9.	Maintenance of existing hedgerow boundaries
10.	External finishes
11.	Underground duct for cables
12.	Garage incidental use to house
13.	Construction work
14.	Construction and demolition works
15.	Section 48 Development Contribution

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The **Case Planner** recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Tipperary County Council reflects this recommendation.

### 3.2.2. Other Technical Reports

- **Area Engineer** – Accepts the sight line can be measured from a 2.4 metre setback due to the very low traffic volumes at the site.

## 3.3. Prescribed Bodies

### 3.3.1. None

## 3.4. Third Party Observations

- 3.4.1. There is one observation recorded on the appeal file from Dorothy Molloy. The issues raised relate to overlooking and impact on our privacy, ribbon development, intensification of traffic along the road resulting in traffic hazard and the development will not integrate into the landscape and detract from views towards Slieve Felim. The observation was accompanied by site photos and planning report.

## 4.0 Planning History

- 4.1. There is no evidence of any previous appeal at this location. The following planning history is noted from the appeal file:

- **Reg Ref 10510484** – Permission granted to Matthew & Maeve O'Brien for agricultural roadway, 295 metres long subject to conditions.
- **Reg Ref 13510257** – Permission granted in November 2013 to Matthew & Maeve O'Brien for a dormer house, septic tank, percolation area, driveway, entrance and all associated site works subject to conditions including a Section 47 Agreement restricting further residential development on landholding submitted with application.

- **Reg Ref 21800** – Incomplete application by Michael Ryan to construct dwelling house, detached garage, waste water treatment system, provide water supply, entrance/exit and all associated site works
- **Reg Ref 21907** - The applicant proposed a new dwelling house (298.83sqm, 6m high), detached garage (58.24sqm, 5.225m high), waste water treatment system, provide water supply, entrance/exit and all associated site works on the appeal site. Withdrawn

4.2. It is also noted that there was a pre planning meeting summarised as follows:

- **PP 9069** - John O' Brien & Emma O' Connor had a pre planning meeting with Tipperary County Council on 15<sup>th</sup> December 2021.

## 5.0 Policy Context

### 5.1. National Policy

5.1.1. The ***National Planning Framework – Project Ireland 2040 (NPF)*** is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

5.2. **National Policy Objective 19** refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e., the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to 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. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

### 5.3. Sustainable Rural Housing Development Guidelines 2005

- 5.3.1. The *Rural Housing Guidelines* seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.
- 5.3.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas
- 5.3.3. **Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)"** – Environmental Protection Agency, 2009 – Sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

### 5.4. Development Plan

- 5.4.1. The operative plan for the area is the **Tipperary County Development Plan 2022 – 2028**. **Figure 5.3** Rural Areas with Strategic Transport Corridors and Primary Amenity Areas identifies the site as being within an "**Area Under Urban Influence**". Section 5.5.1 Rural Area Designations states that the Core Strategy makes distinction between rural 'Areas under Urban Influence' and the areas outside of these or 'Open Countryside' as part of its overall approach to strengthening rural fabric and communities and protection of the environment. The approach outlined below will apply:
- 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

5.4.2. It is the policy of the Council to:

- 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 5.5.1, 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’**

A: The applicant must demonstrate an economic need to reside in the area through active employment in farming/agricultural activity (farming, horticulture, forestry, bloodstock). The farm must exceed 20ha in total. And all the criteria below is met:  
The applicant must be actively engaged in farming,

- i) The applicant must demonstrate that they have been engaged in farming at that location for a continuous period of over 5 years prior to making the application,
- ii) The applicant does not, or has never owned a house in the open countryside.

B: The applicant must demonstrate an economic need to reside in the area through active engagement in the running of a farming/horticultural/forestry/bloodstock activity on an area less than 20ha where it is demonstrated to form a significant part of the livelihood of the applicant who is engaged in farming activity on a daily basis, and/or where the farming/agricultural activity provides local employment.

And all the criteria below is met:

- i) The applicant is trained in good farming practice (or qualifies for an exemption from training), owns or occupies, works and maintains land for the purposes of achieving outputs, and demonstrate that they have been engaged in farming/agricultural activity at that location for a continuous period of over 5 years prior to making the application
- ii) The applicant does not, or has never owned a house in the open countryside,

- iii) A detailed 5-year business plan will be required to demonstrate 'compliance with Section (i).

### **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 site

5.4.3. The **Rural Housing Design Guide** is set out in **Appendix 4** of the Development Plan.

### **5.5. Natural Heritage Designations**

5.5.1. The appeal site is not located in or immediately adjacent to a European Site. The Silvermines Mountains West SAC and Slievefelim to Silvermines Mountains SPA is c3km to the south of the appeal site.

## 5.6. EIA Screening

- 5.6.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. 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

- 6.1.1. The third-party appeal has been prepared and submitted by Dorothy Molloy, adjoining landowner to the north and may be summarised as follows. The appeal was accompanied by photos of site and environs.

- **History of site and related files** – This development has a long-related history to other associated files as follows. There are 3 no attempts to gain planning permission in the exact same site.
  - 1) *Reg Ref 10510484* – The purpose of the agricultural lane was queried by the Tipperary County Council. There was a proposed enforcement to the file. Submitted that this lane and farm exist was a precursor for a vehicular road in order to gain planning permission for an additional home on this land.
  - 2) *Reg Ref 21800* – Incomplete and withdrawn
  - 3) *Reg Ref 21907* - Refused
- **Privacy** – The appellants home, gardens and paddock are directly facing this proposed, large-scale development with habitable windows facing directly towards this proposed development. The development will take away all privacy and will overlook the appellant and will have a significant adverse impact upon amenities and enjoyment of appellants homelife.
- **Issues of noise and disturbance** – There will be issues of noise and disturbance from the vehicular access as the new roadway will run directly behind the appellants rear boundary fence.

- **Reduced outlook** – It will be intrusive and have an overbearing effect on the appellants property. It will look completely out of character with the rural setting. This development will greatly affect and reduce the value of the appellant’s home.
- **Ribbon Development** – Turning a non or rarely used farm exit into a vehicular entrance, will result in numerous vehicle accesses onto a very small single lane, rural lane / road in a pressure area. All vehicles will exit onto the R445. It will be dangerous for walkers, cyclists and traffic. Submitted that this goes against TII guidelines.
- **Site selection** – This new development will not integrate with the landscape and is not an integral part of the farm composition. Instead, it is further up the land and impacting the appellants home on many grounds. It is understood that there is some provision for accommodation for family members on existing farmsteads in exceptional cases. However, two previous and very recent attempts to receive planning permission to build on this exact site were not by a family member and were withdrawn / refused. Submitted that there are many other suitable sites, adjacent / beside / behind the applicant’s parents house and land, where a more modest home in scale could be built.
- **Further information** – The appellant bought their home in 2006 from the appellants parents. They did not object to the files 10/51/0484 or 13/51/0257 as it was clearly posted to the Council webpage that
  - 1) The laneway by the appellants home was agricultural 10/51/0484
  - 2) Under 13/51/0257 information was / is also published of written replies stating “..... none of the children were intending to build on this land. They had gone to school out of the parish in Newtown and had expressed that’s where they would live”. This was in response to an objection by others in relation to another house build application on this land and posted publicly to Tipperary County Council Planning webpage and HSG 13 Policy.
- **Conclusion** – This development will have an adverse impact upon the character of the area and will adversely impact the amenities and enjoyment of the home life on adjoining lands.

## 6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by the applicants and may be summarised as follows:

- **Privacy** – The front of the proposed development is facing a cul-de-sac / tertiary road L94453 and does not directly face the appellants residence. The side of the house which is visible to the appellant contains a total of four windows as opposed to the non-facing side of 7 windows. Out of the four windows visible, three are on the ground floor which are well below the level of the appellant’s house. There is only one small window on the upper floor visible which is solely for light purposes.
- **Noise & Disturbance** – The appellant raised concern of noise and disturbance from the impact of “vehicular access granted” on the proposed driveway. This is a very minor vehicular domestic access and will not generate any significant additional noise or disturbance to the appellant. Certainly, the noise or disturbance from this entrance will be far less than the noise from the adjacent R445 (former limerick to Dublin National Primary Road).
- **Future Builds** – The appellants makes reference to a letter written by the first named applicants mother whereby she quotes the alleged disinterest of her children to eventually build beside the home house in Ballywilliam. This letter was written in 2013 when the first named applicant was 21 years old. Clearly the lack of interest to build a future home at this time is understandable and at no point in this letter was a conclusive statement made about future builds.
- **Site Selection** – The appellants argues the proximity of the site to the farmstead. The appeal notes that “it is not close by the farmstead”. The selected site is roughly 200m from the farmstead and is in fact, of comfortable walking distance to the farmstead. At the pre-planning meeting on 15<sup>th</sup> December 2021, this was noted to be accordance with the County Tipperary Development Plan.
- **Ribbon Development** – The proposed development complies fully with the North Tipperary County Development Plan 2010 and the newly adopted Tipperary County Development Plan 2022 – 2028. The first named applicant satisfies the local need criteria and furthermore he is currently in year 2 of the Green cert Programme with Teagasc with a view to taking over the full time running of the

farm from his father. The first named applicant has clearly demonstrated his economic interest in the farm, and it is of great importance that the proposed development is both near the farm and his parents.

### **6.3. Planning Authority Response**

6.3.1. None

### **6.4. Observations**

6.4.1. None

### **6.5. Further Responses**

6.5.1. None

## **7.0 Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Residential Amenity
- Traffic Impact
- Other Issues
- Appropriate Assessment

### **7.2. Principle**

7.2.1. Permission is sought for the construction of a vehicular entrance, two storey dwelling house (215sqm, 7.8m high), garage (39.5sqm 4.7m high), private well, domestic wastewater treatment system with polishing filter, together with all associated site works.

7.2.2. It is worth noting that the Planning Authority assessed the proposed scheme under the North Tipperary County Development Plan 2010, as varied. However, the operative plan in the assessment of this appeal is the Tipperary County Development Plan 2022 – 2028. The Board may wish to invite the relevant parties to comment on same prior to making its decision.

7.2.3. The rural settlement policy for Tipperary County is set out in Chapter 5 of the Tipperary County Development Plan 2022 – 2028. Figure 5.3 Rural Areas with Strategic Transport Corridors and Primary Amenity Areas identifies the site as being within an “Area Under Urban Influence”. I refer to Policy 5 – 11 where it is the stated intention to facilitate proposals for dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside where either an economic or social need is met. All applicants for one-off rural housing will need to demonstrate compliance with the qualifying criteria of one of these categories unless otherwise specified as being located within an area where the Rural Housing Policy does not apply.

7.2.4. Having regard to information on file I consider that the applicant should be assessed under Policy 5 – 11 with reference to the housing need definition as set out in Table 5.3 where the Council has provided a definition of ‘Economic’ and ‘Social’ need in the context of rural housing policy. Details of the criteria as set out in the Development Plan are provided in Section 5.4 of this report.

7.2.5. **Category 1: ‘Economic Need’**

(A) Farmer of the Land – I note from the information on file that this is a family farm, run in partnership with the applicant’s father. The stated overall landholding is 9.1 ha. This is substantially less than the 20ha required to meet the Development Plan definition of a “farmer of the land” where a “farmer” is defined as a landowner with a holding of >20ha. As the landholding falls short therefore the requirement to meet other criteria within this category relating to the applicant being actively engaged in farming for a continuous period of over 5 years prior to making the application and that they have never owned a house in the open countryside is neither necessary nor relevant here.

(B) An owner and operator of a farming/horticultural/forestry/bloodstock activity on an area less than 20ha - While I note the information provided with the planning

application (as set out in Section 2.0 above) included a letter from Gurteen College stating that John O'Brien is enrolled and participating on a Distance Education 'Green Cert' together with a Herd Number and the statement that it is a family farm, run in partnership with the John O'Brien's father (supported by documentary evidence of same) it remains that no substantive or credible evidence has been provided demonstrating that the farming/agricultural activity forms a **significant** part of the applicants livelihood on a daily basis (emphasis added). Again, like Category 1(A) above the requirement to meet other criteria within this category relating to demonstrating that they have been engaged in farming/agricultural activity at that location for a continuous period of over 5 years prior to making the application, whether they ever owned a house in the open countryside and the provision of a detailed 5-year business plan is neither necessary nor relevant here.

7.2.6. Having regard to the foregoing I am not satisfied that the applicant has demonstrated an "Economic Need" to develop a one-off rural house at this location. However further assessment under the "Social Need" criteria is merited in this case having regard to the information on file.

7.2.7. **Category 2: 'Social Need'**

7.2.8. In line with Table 5.3 Housing Need Definitions the applicant must demonstrate a social need to reside in the local rural area for social purposes in accordance with the following criteria for an "Area of Urban Inference".

- According to the Rural Housing Need form the applicant has lived at the current residence since birth. However, I also note that the letter from Gurteen College dated 28<sup>th</sup> March 2022 is addressed to the applicant at Coille Bheatha, Nenagh, Co. Tipperary. While this seems to contradict the information within the Rural Housing Need form, I am satisfied, based on the information provided that the applicant has resided within 10km of the appeal site, for a substantial period of their lives (10 Years) and that they do not, or have never owned a house in the open countryside. The applicant has therefore demonstrated a social need to reside in this rural area.

7.2.9. Table 5.2: Rural Housing Technical Principles for Applicants requires that an application for a dwelling in the rural area must be made in the name of the person for



whom it is intended, and an 'Occupancy Condition' will be attached to any grant of permission requiring that the applicant must live in the dwelling for the first 7 years after its construction. It is recommended that should the Board be minded to grant permission that such a condition be attached.

- 7.2.10. The siting of the proposed dwelling along this cul de sac with access off a private passageway is compatible with the general principles set out in Appendix 4 of the Rural Housing Design Guide of the Development Plan. In terms of the proposed elevational treatment, I am satisfied that the proposed house has had due regard to the Tipperary Rural Housing Design Guide in terms of the simplicity of the design, the plan form that takes advantage of passive solar gain, the consistent roof slopes and the well-proportioned windows and doors. Accordingly, the design and elevational treatment of the scheme is acceptable.
- 7.2.11. I am satisfied that the applicant meets the social need criteria set out in Section 7.1 of the Development Plan for the development of dwellings in the countryside outside of settlements in an "Area Under Urban Influence". As set out above it is recommended that should the Board be minded to grant permission that an occupancy condition be attached.
- 7.2.12. The appellant refers to Reg Ref 13/51/0257 and states that in a previous planning application on the overall landholding it was submitted that "none of the children were intending to build on this land. They had gone to school out of the parish in Newtown and had expressed that's where they would live". The appellant also submits that this was in response to an objection by others in relation to another house build application on this land. In this regard I note from the Case Planners report that following the grant of planning permission under Reg Ref 13/51/0257, the landowner entered into a Section 47 agreement on the landholding whereby there would be no developments whatsoever on the landholding for a period of seven years save for residential development for the children of the landowner. It is stated that this agreement ended 11th December 2020.

### **7.3. Residential Amenity**

- 7.3.1. Concern is raised in the appeal that the proposed development will impact on the appellants property to the north in terms of loss of privacy by reason of overlooking and noise and disturbance from the vehicular access.
- 7.3.2. Given the location, scale and proximity of the proposed dwelling to both the appellants property and other dwellings in the immediate area together with the established boundary treatment to the rear of the appellants property between the appeal site and the appellants property to the north I am satisfied that adjoining residential amenities will be unaffected in terms of overshadowing and overlooking. Further I do not consider that a significant loss of sunlight would occur that would negatively impact on the residential amenities of the appellants property to such an extent that would merit a refusal of permission in this instance. Overall, I am satisfied that the proposed scheme does not significantly diminish residential amenities to the adjoining site.
- 7.3.3. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

### **7.4. Traffic Impact**

- 7.4.1. The appellant raises concerns with regard to turning a non or rarely used farm exit into a vehicular entrance and associated vehicular impact together with noise and disturbance from the impact of “vehicular access granted” on the proposed driveway.
- 7.4.2. I refer to the Area Engineers report. The site access is onto a private lane which is shared with one other property. The junction of the private lane onto the tertiary public road has adequate site lines to the north. The sight lines to the south are impeded by an existing earthen embankment and ditch. The site layout drawn dated 27<sup>th</sup> April 2022 identifies a section of hedgerow to be set back to achieve the required sight lines. This proposal is considered acceptable due to the nature of the scheme and the volumes of traffic associated with such a development.

7.4.3. Having regard to the foregoing together with my site inspection I am satisfied that the site entrance is adequate to serve the proposed development and that subject to the implementation of the measures outlined in the application that the vehicular movements generated by the proposed development would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic movements in the immediate area.

7.4.4. With regard to noise and disturbance associated with the proposed scheme I generally agree with the applicant that this is a very minor vehicular domestic access and it is unlikely to generate any significant addition negative noise or disturbance to the immediate environs.

## 7.5. **Other Issues**

7.5.1. **Development Contributions** – I refer to the Tipperary County Council Development Contribution Scheme. The development is not exempt from the requirement to pay a development contribution. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

## 7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the development and its distance to 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**

8.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the following reason.

## 9.0 Reasons and Considerations

9.1. Having regard to the policy and objectives as set out in the Tipperary County Development Plan 2022 – 2028 in respect of rural residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing visual character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>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.</p>

	<p>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.</p> <p>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.</p> <p><b>Reason:</b> 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</p>
3.	<p>a) The roadside boundary shall be setback behind the required sight triangle. The sight triangle is taken from a point 2.4m back from the road edge at the centre of the proposed access to a point as per depicted on drawings submitted in both directions at the nearside road edge. The sight triangle shall be achieved prior to further construction on site.</p> <p>b) Where the roadside hedge is removed a new roadside boundary hedge shall be constructed. The new roadside boundary shall compose of an earthen bank to a consolidated height of 1.2 metres that shall be planted with shrubs suitable for hedging and common to the locality (e.g. holly, hawthorn, blackthorn, ash, elder, bramble etc.). All landscaping and planting shall take place in the first planting season following occupation of the dwelling.</p> <p>c) Alternatively, the new front boundary fence shall be of stone and sod, stone-faced masonry or dry stonewall. The stone used shall be indigenous to the area. The wall shall not be more that 1.2 metres in height over road level. A post and rail type fence are specifically not permitted.</p> <p>d) The area between new road fence and road carriageway shall be trimmed and rolled level with the carriageway, top soiled, seeded with grass and thereafter maintained without obstruction, trim and tidy.</p>

	<b>Reason:</b> In the interest of traffic safety AND in the interest of visual amenity.
4.	<p>a) 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.</p> <p>b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided 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.</p> <p>c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p><b>Reason:</b> In the interest of traffic safety and to prevent pollution.</p>
6.	The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

	<p><b>Reason:</b> To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.</p>
7.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
8.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>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 the 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</p>

	<p>be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> 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.</p>
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**Mary Crowley**

**Senior Planning Inspector**

**8<sup>th</sup> November 2022**