



An
Bord
Pleanála

my

Inspector's Report ABP-316128-23

Development	Outline for a house and vehicular entrance.
Location	Crossanagh, Terryglass, Nenagh, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	22573
Applicant	Mary Coonan.
Type of Application	Outline Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant	Mary Coonan.
Observer	None.
Date of Site Inspection	9 th August 2024.
Inspector	Peter Nelson

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1.0 Site Location and Description

- 1.1. The site is located on a local primary road, L-1089-7, just outside the Terryglass settlement boundary. An access road to the northwest of the site serves two dwellings. One of these dwellings to the rear is the applicant's son's family home. There is a watercourse along the southwestern boundary and open agricultural land on the opposite side of the local road.
- 1.2. The site is flat and has an agricultural entrance on the northeastern corner. There is a stone boundary to the front of the site. There is a hedge and fence on the northern boundary and the remaining boundary consists of a tree-lined boundary.
- 1.3. The stated site size is c.0.196 hectares.

2.0 Proposed Development

- 2.1. Outline permission is sought for a dwelling connecting to the existing services, a new vehicular entrance and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

On the 11th November 2022, Tipperary County Council request the applicant to submit Further Information relating to the applicant's housing need and the proposed entrance.

On the 12th December 2022, Tipperary County Council requested the applicant to submit a Clarification of Further Information relating to the ownership details of the accommodation occupied by the applicant during her residence at the Green Bar premises.

On the 3rd March 2023, Tipperary County Council refused outline permission for the following reason:

1. Table 5.2 of the Tipperary County Development Plan 2022 requires that an applicant seeking a new rural dwelling must be building their first home for their permanent occupation, demonstrate a housing need, and must not already own a dwelling in a rural area. Policy 5-11 of the Tipperary County

Development Plan 2022 seeks to facilitate proposals for dwellings in the countryside in accordance, et al. with the requirements of Table 5.2 of said plan.

The Planning Authority is not satisfied, having regard to the information submitted as part of this application that the applicants have demonstrated that they satisfy the requirements of the Tipperary County Development Plan 2022 as required under Table 5.2.

Having regard to the foregoing, the proposed development is considered contrary to the rural housing policies and requirements of Tipperary County Development Plan 2022 as varied. The proposed development would contravene the stated policies and objectives of the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the first planning report dated the 11th November 2022 can be summarised as follows:

- The site is located in a Primary Amenity Area.
- The proposed development would be considered to be located within an existing pattern of ribbon development.
- The applicant has not submitted sufficient documentary proof to substantiate the applicants housing need as set out under Policy 5-11 Category: 'Social Need'.
- The applicant should be asked to submit a revised sight line assessment, demonstrating compliance with the new Tipperary County Development Plan.
- The application includes a Flood Risk Assessment, which adequately addresses any issues arising from the proposed development being located close to an area of flooding.

- An EIA and AA is not required.

The main points of the second planning report dated the 9th December 2022 can be summarised as follows:

- The submitted solicitor's letter outlines that the applicant has never owned a dwelling and has lived most of her adult life over the Green Bar, Borrisokane commercial premises.
- The planner is satisfied that this premises is currently not in the applicant's ownership.
- Details of the applicant's tenure type needs to be confirmed, and confirmation sought as to whether the applicant ever held ownership of this property.
- The Planning Authority is satisfied that the submitted documentation supports the applicant's claim to have lived in the primary amenity area and within 5km of the proposed site for a continuous ten-year period.
- The submitted revised site layout plans show that the required entrance site lines can be achieved.

The main points of the third planning report, dated the 16th February 2023, can be summarised as follows:

- Clarification of Further Information has detailed that the applicant does not own a property and that although the Green Bar has been the applicant's home for 55 years, the applicant does not have ownership of the property.
- Information received has given a chronological account of the ownership of the Green Bar.
- The information does not confirm the ownership status of the property following 1981. No independent verification has been provided supporting the chronological account provided.
- The Planning Authority is not satisfied that sufficient information about the applicant's housing need has been presented.

3.2.2. Other Technical Reports

- Area Engineer report dated the 9th November 2022 recommended that the applicant submit Further Information relating to the site lines of the proposed entrance.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

A representation was made on the Planning Application by Councillor Joe Hannigan.

4.0 **Planning History**

P.A. Ref: 21371: An application for outline permission for the erection of dwelling, vehicular entrance, connection to existing services, and all associated site development works was withdrawn on the 13th November 2021. Applicant: Mary Coonan.

P.A. Ref: 201131: An application for outline permission for the erection of dwelling, vehicular entrance, connection to existing services, and all associated site development works was withdrawn on the 12th January 2021. Applicant: Pat and Mary Coonan.

P.A. Ref: 19601027: An application for outline permission for the erection of dwelling, vehicular entrance, connection to existing services, and all associated site development works was withdrawn on the 6th November 2019. Applicant: Pat Coonan.

P.A. Ref: 12510014: Permission granted on 9th March 2012 for an extension of duration to erect 2 no dormer style holiday homes; modified entrance from the public road, access roadway, connection to existing foul sewer and watermain, landscaped areas and other associated site works. Applicant: Pat & Yvonne Coonan.

P.A. Ref: 07510938: Permission granted on 4th December 2007 to erect 2 no dormer style holiday homes; modified entrance from the public road, access roadway, connection to existing foul sewer and watermain, landscaped areas and other associated site works. Applicant: Pat & Yvonne Coonan.

5.0 Policy Context

5.1. Development Plan

The Tipperary County Development 2022-2028 is the operational plan for the area. The plan came into effect on the 22nd August, 2022.

The site is in an area designated as 'Primary Amenity Area'

Relevant Policies

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:

- (i) The applicant must be actively engaged in farming,
- (ii) 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,
- (iii) 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.

5-12

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. An additional individual dwelling, either within, or extending the existing ribbon pattern, will be facilitated in the following circumstances:

- (i) The applicant can demonstrate an Economic or a Social Need (as outlined in Table 5.3), existing or shared accesses are used where practicable, and it is demonstrated that no alternative exists outside of Ribbon Development.
- (ii) Where the site is a 'Gap Site', defined as a site located within a line of existing and permitted dwellings, one dwelling site only will be accommodated, and other than agricultural access to lands to the rear (if required), the site should fully occupy the gap between existing and permitted dwellings.

Sustainable Rural Housing Guidelines for Planning Authorities

These guidelines differentiate between Urban Generated Housing and Rural Generated Housing and direct urban-generated housing to towns, cities, and lands zoned for such development.

National Planning Framework

National Policy Objective 15 Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development while sustaining vibrant rural communities. 5.3.2.

National Policy Objective 19 makes a distinction between areas under urban influence and elsewhere. It seeks to ensure that the provision of single housing in rural areas under urban influence on the basis of demonstrable economic and social housing need to live at the location and 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. Natural Heritage Designations

Lough Derg, North-east Shore Special Area of Conservation, is approximately 750m from the subject site.

5.3. EIA Screening

See Form 1 and Form 2. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The applicant fully complies with the requirements of Table 5.2 of the County Development Plan.

- The applicant has lived most of her adult life over the commercial premises The Green Bar but did not have ownership of this property.
- She has been living with her son in Borrisokane for the last 16 years.
- A letter from her solicitor confirms that the applicant has never owned or constructed a dwelling in a rural area.
- The applicant was born and raised within 5km of the application site at Kyleagoonagh.
- The applicant complies with the requirement to have a 'demonstrable housing need based on exceptional medical circumstances'.
- It is critical that a house is designed to suit the particular need of this applicant and that she is located proximate to her son Pat and his wife Yvonne, who is a public health nurse.
- The site layout indicates an entrance which has clear visibility.
- Confirmation that a stage 2 or 3 flood risk assessment will not be required based on the findings of the Flood Risk Assessment submitted with the application.
- The Board should have regard to Section 4.3 of the Section 28 Rural Housing Guidelines.
- In accordance with Section of 6.3.4 *Age Friendly County* of the Development Plan it is important for older residents' housing needs to be considered on the same basis as younger residents, and for such assessment to be carried out fairly.

6.2. Planning Authority Response

- None

6.3. Observations

- None

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Rural Settlement Policy
- Ribbon Development – New Issue

7.1. Rural Settlement Policy

- 7.1.1. The reason for refusal stated that the Planning Authority was not satisfied that the applicant had demonstrated that they satisfy the requirements of Policy 5-11 and Table 5.2 of the Tipperary County Council Development Plan.
- 7.1.2. The site is in an area designated in the Development Plan as a 'Primary Amenity Area'. Policy 5-11 states that in these areas, the Council will consider dwellings in the countryside for persons with an economic or social need to live there.
- 7.1.3. The applicant contends they have a 'Social' need to reside in the area. A definition of a 'Social' need in the context of housing policy is set out in Table 5.3: Housing Need Definitions in the Development Plan.
- 7.1.4. 'Social' need is defined as:

'(a) A person who has resided in a rural area (as defined in Table 2.4 Chapter 2 Core Strategy):

(i) Within 5km of the site where they intend to build for a substantial period of their lives (10 Years) within a 'Primary Amenity Area',

(ii) Within 10km of the site where they intend to build, for a substantial period of their lives (10 Years) within an 'Area of Urban Influence'

Or

(a) A person with a demonstratable housing need on the basis of exceptional medical circumstances. Any planning application must be supported by

documentation from a registered medical practitioner and disability organisation, proving that a person requires to live in a particular environment, and in a dwelling designed and built purposely to suit their medical needs.'

- 7.1.5. The applicant states that she was born and raised within 5km of the application site at Kyleagoonagh. A map showing where the applicant was raised is submitted with the appeal. The home house is approximately 3.81km from the application site. It is stated that the applicant attended the Old Kylepark School from 1943 until 1947, which is 1.86km from the family home and 4.82km from the subject site and attended the Sisters of Mercy Convent School, Borrisokane, Co.Tipperary until 1952. Evidence of school attendance has been submitted with the appeal. The applicant states that it has been demonstrated that they have lived within 5km of the proposed site for a continuous period of 14 years (1938-1952). I note that the planning report dated 9th September 2022 states that the Planning Authority is satisfied that the applicant has demonstrated that they have lived in the primary amenity area and within 5km of the proposed site for a continuous ten-year period. I am satisfied that the applicant meets the housing need definition of 'social' in Table 5.3 of the Development Plan.
- 7.1.6. Policy 5-11 requires that in order to meet 'Social Need', an applicant shall not, or has never owned a house in the open countryside. The planning report dated the 16th February 2023 states that information received by the applicant has given a chronological account of the ownership from 1918 to the present of the Green Bar, Borrisokane, which was the applicant's home for 55 years. The report states that the clarification of further information submitted does not confirm the property's ownership status following 1981 and that no independent verification has been provided supporting the chronological account provided. I note that the clarification of further information submitted to the Planning Authority on the 7th February 2023, states that after 1981, the Green Bar was operated by Chris Coonan (the applicant's son) until 2013 and then passed to Eoin Coonan (the applicant's nephew) who operated it until 2019. I consider that the ownership of The Green Bar is not relevant in this case as The Green Bar is located in a 'Service Centre' Settlement and it is not a house in the open countryside as stated in Policy 5-11.
- 7.1.7. A letter from the applicant's solicitor was submitted with the planning application and included in the appeal, stating that Mary Coonan has never owned or constructed a

dwelling in a rural area and is now seeking to build her first home for her occupation. Having regard to the information supplied with the appeal I am satisfied that the applicant has not, or never owned a house in the open countryside.

- 7.1.8. The appeal states that the applicant has been living with her son Christopher Coonan for the past 16 years at Sheshheraghmore, Borrisokane, Co. Tipperary and that her present accommodation does not meet her needs.
- 7.1.9. A letter dated the 7th September 2022 from the applicant's Doctor has been submitted with the appeal, which states that the then 82-year-old applicant is quite frail and infirmed, resulting in falls and due to failing health, she plans in the near future to reside with her son Patrick Coonan. The doctor advises the applicant to have ground-floor accommodation and avoid using the stairs.
- 7.1.10. The appeal states that a house must be designed to suit the applicant's particular needs, and she is located proximate to her son and his wife, a public health nurse. Her son lives in the dwelling to the rear of the site.
- 7.1.11. While it is unfortunate that that new dwelling on a separate site is being proposed rather than living in an independent unit on the same site or in the same house as the adjoining son, the applicant does comply with the Tipperary County Development Plan 2022-2028 policy 5-11 on housing need.

7.2. Ribbon Development – New Issue

- 7.2.1. Policy 5-12 of the Tipperary County Development Plan 2022-2028 seek to resist further development where 5 houses existing or permitted dwellings along any one side of a 250 metre section of roadway. Within a continuous 250 metre section of roadway from the subject site and outside the Terryglass settlement boundary there are currently four dwellings, a vacant cottage and a site where permission has been grant in 2023 for a dwelling (P.A. Ref: 23/71) , therefore I consider this to be an area of ribbon development.
- 7.2.2. The policy allows for an additional individual dwelling, either within, or extending the existing ribbon pattern, will be facilitated if the applicant can demonstrate an Economic or a Social Need existing or shared accesses are used where practicable, and it is demonstrated that no alternative exists outside of Ribbon Development.

- 7.2.3. As stated in 7.1 of this report, I consider that the applicant has demonstrated a 'social' need to live on the appeal site.
- 7.2.4. The applicant proposes to create a new access rather than using the shared access and laneway that is in the ownership of the applicant's son and included in the site outlined in blue.
- 7.2.5. I note that in the first planners report dated the 11th November 2022 that it was considered that the proposed dwelling would be in an area with an existing pattern of ribbon development and the applicant should demonstrate that no alternative exists outside of Ribbon Development.
- 7.2.6. The applicant has not demonstrated that no alternative exists outside of ribbon development.
- 7.2.7. It is stated in the appeal that the applicant is currently living with her son in a property in the service centre of Borrisokane but that this accommodation does not meet her standards. The Land Registry map and details of the son's property has been submitted with the appeal. This is a detached dwelling on a substantial site.
- 7.2.8. I consider that there are potential options for alternative independent living solutions to the housing needs of the applicant outside of ribbon development, both on the site outlined in blue and within the service centre of Borrisokane.
- 7.2.9. I therefore consider that the proposed development would be contrary to Policy 5-12 of Tipperary County Development Plan 2022-2028 and would constitute undesirable development in an area outside a settlement centre and would, therefore, be contrary to the proper planning and development of the area.
- 7.2.10. This is a new issue and the Board may wish to seek the views of the parties.

8.0 AA Screening

- 8.1. I have considered the proposed dwelling in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is c.750m from the Lough Derg, North-East Shore Special Area of Conservation.

The proposed development comprises a dwelling and entrance.

No nature conservation concerns were raised in the planning appeal.

8.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The small scale and nature of the development.
- The location from the nearest European site and lack of connections.
- Taking into account screening report and determination by LPA.

8.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.4. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

8.5. This does not preclude further consideration of this matter in a subsequent and more detailed application pursuant to a grant of outline permission.

9.0 Recommendation

I recommend that Outline Permission be refused permission based on the following reason and considerations.

10.0 Reasons and Considerations

1. It is the policy of the planning authority as set out in 5-12 of the Tipperary County Development Plan 2022-2028 to control ribbon development. This policy is considered reasonable. The proposed development would be in conflict with this policy because, taken with existing and permitted development in the vicinity of the site, it would constitute and contribute to ribbon development in a rural area outside the Terryglass settlement boundary. This would mitigate against the preservation of the rural environment and lead to demands on public services. The proposed

development would therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Peter Nelson
Planning Inspector

14th August 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	316128		
Proposed Development Summary	House and vehicle entrance		
Development Address	Crossanagh, Terryglass Co. Tipperary		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	
Yes	X	!0. b) (i) Construction of more than 500 dwelling units	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference	316128-23	
Proposed Development Summary	Dwelling House and entrance	
Development Address	Crossanagh, Terryglass, Co.Tipperary	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	<p>A dwelling house in this location is not exceptional in the context of the existing environment.</p> <p>A dwelling connecting to existing services will not result in the production of any significant waste, emissions or pollutants</p>	<p>No</p> <p>No</p>
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing	<p>A single dwelling house in this location is not exceptional in the context of the existing environment.</p> <p>There are no significant cumulative considerations having regard to other existing and/or permitted projects.</p>	<p>No</p> <p>NO</p>

and/or permitted projects?		
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	<p>The site of the proposed development is not located on, in, adjoining or does not have the potential to significantly impact on an ecologically sensitive site or location.</p> <p>The proposed single-dwelling house does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	There is a real likelihood of significant effects on the environment.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)