



An
Bord
Pleanála

Inspector's Report

ABP-319354-24

Development	Dwelling house, entrance, garage and ancillary site development works and services
Location	Gortnacleha, Capparoe, Nenagh, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2460005
Applicant(s)	Mark McCormack and Ciara Dennehy
Type of Application	Planning Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party v Decision
Appellant(s)	Andrew and Laura McNally.
Observer(s)	Michael Gleeson.
Date of Site Inspection	03 August 2024.
Inspector	L. Gough

1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of the L2141 Nenagh-Newport Road, approximately 1km to the north-east of the Shallee Crossroads. The Limerick via Nenagh heavy rail line route is situated c.150m to the north-west of the site.
- 1.2. The site is rectangular in shape and relatively flat, with a stated area of 0.3ha, mature hedgerows along all boundaries and a drain on both the northern and eastern boundaries and an existing field entrance. An existing ESB pole is located in close proximity to the south-western site boundary, with power lines traversing the site.
- 1.3. There are no dwellings adjacent, although there are two dwellings located on the same side of the road; a one-and-a-half storey dwelling c.250m to the north-east and the other, a bungalow, is c.220m to the south-west.
- 1.4. An existing two-storey dwelling is located immediately opposite the site on the western side of the L2141 at a lower level than the subject appeal site. The lands surrounding this residential dwelling appear to be boggy and are covered in reed grass. There is a fast-running stream which also appears to run north-westwards along the north-eastern boundary of this site.
- 1.5. The closest zoned Settlement Plan Area is Silvermines which is situated approximately 2.6km to the south-east of the subject appeal site, with the zoning boundary of Nenagh Town being approximately 7.4km north-east of the site.
- 1.6. The appeal site is located in an 'Area under Urban Influence' under the Tipperary County Development Plan, 2002-2028.

2.0 Proposed Development

- 2.1. It is proposed to erect a part 1.5 storey type dwelling, with a maximum f.f.l to ridge height of 7.0m and a stated floor area of 263 m². A stand-alone garage of 38sqm is also proposed, as is the construction of an entrance, domestic wastewater treatment system and all associated site works.

- 2.2. The dwelling would be accessed by means of an existing, upgraded entrance from the local road. It is proposed to erect a detached garage (38m²) to the side and approximately 3m to the north-west of the proposed dwelling. The front elevation of both the garage and the main component of the proposed dwelling would be set back 22,74m from the centreline of the local road, whilst the single storey annex part of the dwelling would be slightly forward of this and c.20.3m from the centreline of the road.
- 2.3. The rear garden area would be approximately 66m long and vary between c.14m to 11.7m in depth to the rear of the dwelling. As the proposed dwelling and garage would be situated within the north-eastern half of the site, the main garden area however would be within the southern half of the site, and measure approximately 31m x 37m.
- 2.4. The existing mature hedgerows would be retained along the north-eastern, south-western, and south-eastern boundaries. It is proposed to setback the roadside hedgerow boundary and that this will be planted with a new native hedgerow mix.
- 2.5. It is proposed to provide a wastewater treatment system with a percolation area and polishing filter in the south-western corner of the site. The application form states that the proposed development would be served by a public mains water supply and a soakpit is proposed to the north, south and east of the dwelling and garage. Information submitted with the application include details of the location of the family home, approximately 3.4km from the application site, documentation from employers and local clubs covering the period from 2008-2023 also indicating the family home address, confirmation of acceptance to connect to the local group water scheme (submitted as unsolicited further information) and a site suitability test report.
- 2.6. A letter from the ESB to the applicants was also submitted with the planning application documentation, which confirms that *“if the MV or LV lines are conflicting with the new house build, the MV and/ or LV Network will be diverted outside hazard range once planning permission is granted.”*

3.0 Planning Authority Decision

3.1. Decision

Tipperary County Council (the Planning Authority) decided to grant planning permission by Order dated 28th February 2024, subject to 12 no. conditions. These were generally of a standard type.

Condition 1 refers to the proposed development being carried out in accordance with the drawings and documentation received, including Unsolicited Further Information submitted.

Condition 2 includes an occupancy requirement requiring the dwelling house to be the first place of residence for a period of 7 years. **Condition 3** relates to the treatment of surface water and a requirement that all surface water be collected and disposed of within the curtilage of the site.

Conditions 4 and 9 relate to restricting the use of the garage to domestic purposes and the materials and external finishes of the house and garage respectively.

Condition 11 requires the installation of the wastewater treatment system and polishing filter in accordance with the EPA COP, a certificate of installation, compliance with the EPA Code of Practice and the undertaking of a maintenance contract for the WWTP and the polishing filter.

Condition 12 requires payment of a development contribution of €7,068.00 under the General Development Contribution Scheme.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planner's report assesses the development in terms of rural housing policy, siting and design, impact on residential amenity, access, servicing and flooding. The report states that the applicant has provided documentation to demonstrate their 'social' housing need, and that having regard to same, the planner was satisfied that their housing need had been demonstrated, in compliance with Policy 5-11.

- The planning report highlights that a Site Suitability Assessment accompanies the planning application and that the site is underlain by a locally important aquifer with moderate vulnerability. Notwithstanding, the report also identifies that, in reference to the TCC GIS, zone of contribution of the local Group Water Scheme, the application site is located outside of the 1km buffer (outer protection area) of the zone of contribution, and therefore groundwater protection response R1, indicated in the Site Suitability Assessment, is acceptable.
- The planning report recommended a grant of permission, generally as set out in the Chief Executive's Order.

3.2.2. Other Technical Reports

District Engineer – Identifies that 160m sightlines required on roads where the speed limit is 80kph and that this may be reduced (in accordance with the TCDP), where the effective speed has been established. No objection to the proposed development, subject to conditions relating to surface water not being allowed onto the public road and setting back of the front boundary as per the submitted Site Layout Plan.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3No observations were submitted to the planning authority. Issues raised related to:

- Surface water drainage
- Overshadowing and loss of view due to proposed location and height of the dwelling
- No indication of acceptability to join group water scheme
- Impact on farming activities on adjacent farmland
- Proposed design is contrary to Council's Rural Housing Design Guide
- Proposed site depth and shape unsuitable for a dwelling
- Proposed development front building line setback inconsistent with settlement pattern in the area

4.0 Planning History

PA Ref 04511227 - Outline permission **granted** to John Ryan on 05/11/2004 for a dwelling house, domestic garage, entrance, septic tank and percolation area and associated site works.

PA Ref 06511500 - Permission consequent, **granted** (in respect of outline permission ref. 04511227) to John Ryan on 12/01/2007 for a dwelling house, domestic garage, entrance, septic tank and percolation area and associated site works.

5.0 Policy Context

5.1. Development Plan

- The Tipperary County Development Plan (TCDP), 2022-2028, is the operational plan for the area and came into effect on 22nd August 2022. The Core Strategy of the Development Plan makes a distinction between rural areas 'under urban influence' and the areas outside of these or 'open countryside' as part of its overall approach to strengthening the rural fabric and the protection of the environment.
- The TCDP policy for one-off rural houses in the countryside has been developed in compliance with NPO 19 of the NPF, the Circular Letter PL 2/217 relating to the Flemish Decree, the 'Sustainable Rural Housing: Guidelines for Planning Authorities' (DEHLG, 2005) and the broader settlement strategy of the CDP.
- The site is in a rural 'Area 'under Urban Influence'. Relevant policies in relation to this appeal include: Policy 5-11: Facilitate proposals for dwellings in the countryside outside 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. Categories of Need are detailed.

- Table 5.3 of the TCDP provides a definition of ‘economic’ & ‘social’ need in the context of the rural housing policy. ‘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
 - (b) A person with a demonstrable 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.
- 4.14 Domestic Garages The scale and detail of domestic garages shall be subordinate to the main dwelling and their use shall not impact on adjoining residential amenity. Detached garages should be less than 70sqm and should be discreetly located on the site to compliment the dwelling appearance and finish.
- Policy 15-2: Relates to WWTS.
- Volume 3 – Appendix 3 Rural Housing Design Guide; Appendix 6 Development Management standards. Section 3.5 relates to Site Proportion and Set-Back and notes that “*the new house will need to be set-back an acceptable distance from the public road to provide adequate frontage for planting and to reduce the visual impact of development*”. The set-back distance will vary according to plot size, adjacent building line and the natural features of the site generally. Figure 10 provides an illustrative guide to appropriate setbacks.
- The **Rural Housing Design Guide** is set out in **Appendix 4** of the Development Plan.

5.2. National Policy

- Climate Action Plan 2023
- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030

National Policy Objective (NPO) 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.

5.3. Regional Policy

- Regional Spatial and Economic Strategy for the Southern Region

5.4. National Guidance

- Sustainable Rural Housing, Guidelines for Planning Authorities (2005)
- Environmental Protection Agency's 2021 Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)

5.5. Other Guidance

- CIRIA SuDS Manual (2015)

5.6. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a European Site. The Slievefelim to Silvermines Mountains SPA (site code: 004165) is c 0.93km to the south of the appeal site and the Silvermines Mountains West SAC (site code 002258) is c.1.26km south of the appeal site.

5.7. EIA Screening

See Form 1 and Form 2. Concerning 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 may be summarised as follows:

- Risk of flooding to appellant's property and home by removal of the front ditch and height of the subject appeal property relative to that of the appellants.
- Percolation system to the front of the appellant's house will be negatively impacted.
- Proposed dwelling should be set back 30m from the road, in accordance with the Tipperary County Development Plan (2022-2028) and other dwellings within the area.
- Proposed dwelling will block natural light to the house and views of the mountain, and will dwarf and overlook appellant's property, negatively impacting their privacy.
- The area's private water scheme is full and the proposed dwelling will not be connected to it, nor a public water scheme.
- Plans submitted indicate a well located beside the proposed wastewater system and it is questioned whether sufficient distance is provided between the two for the well to be accessed and used.
- The applicant's local housing need does not appear to have been established as they are not from the parish.

6.2. Planning Authority Response

None on file.

6.3. Observation

A third-party observation was received from a nearby landowner, owner of the farm adjacent to the site. Issues raised, include:

- Contrary to Tipperary County Development Plan (2022-2028) Rural House Design Guidelines.
- Proximity of the proposed dwelling, only 11.7m from farm field, may impact ability to farm adjacent to the dwelling site due to restrictions which might apply.
- Site depth is contrary to character of surrounding dwellings and settlement pattern and is unsuitable for development of a house. The proposed dwelling would not be setback 30m from the road, similar to existing dwellings in the area.
- Proposed dwelling (f.f.l) would be c. 2.1m above that of the appellant's house f.f.l., resulting in a potential loss of residential amenity to the appellants.
- Maps submitted with two other local planning applications indicate the presence of a well on the site where the proposed wastewater treatment plant will be located.
- The planning history of the site should have no relevance as it relates to a time of 'site farming' as a means of capital income.

6.4. First Party Responses

- Flooding risk
 - Addressed by local authority – District Engineer identifies no history of flooding; Planning Report outlines site context including that it is not located within a flood risk zone; all surface water runoff will be managed on site.
 - Site Suitability/ Drainage assessment report identifies that the site is well drained and no surface water ponding occurs; the report also suggests that remedial drainage works would be beneficial.

- Flooding to the rear of the appellants property relates to stream discharge from a stream which runs along their boundary ditch.
- Given the topography in the area, the proposed dwelling site does not contribute to existing drainage/ flooding issues on the appellant's site; this is supported by on site photos and videos taken at the site and within the area.
- Appellant's planning file indicates a number of circumstances which would likely contribute towards their existing on-site drainage issues.
- Character of Area and Amenity of Adjoining Properties
 - Proposed front building line setback is and appropriate to the size of the site and proposed dwelling and the topography of the site and is in accordance with the provisions of the Tipperary County Development Plan.
 - The proposed 2No. dormer windows on the front elevation, at a maximum height of 5m will be the only windows above the hedge screening. Notwithstanding, the proposed location, road setback and width of the road, there is sufficient separation and screening between the proposed dwelling and that of the appellants, to ensure privacy of the appellant's dwelling is not compromised.
 - A proposed dwelling of less than 7m in height is unlikely to cast a shadow of 50+ metres, even during winter sun paths. Blockage of daylight, sunlight or overshadowing of the appellant's dwelling is therefore unlikely to occur.
 - Planning history of the site, at which time outline permission had been granted for a dwelling on the subject appeal site, predates the appellant's grant of planning permission for their dwelling. Their dwelling was subsequently constructed in the knowledge that there would likely be a house constructed on the subject appeal site. An issue relating to blockage of mountain views should not therefore arise. There is also no inherent right to a view, however the design of the proposed dwelling has sought to minimise established views or vistas from existing houses as much as is reasonable.
 - Design of the proposed dwelling is in accordance with the Rural Design Guide of the development plan. Design is a simple, rectangular shaping, with a

single-dormer combination that is less imposing than a two-storey, and more typical of a rural dwelling.

- Water
 - Subject appeal site has had connection approval to the group water scheme since 2007 and the scheme has capacity for new connections. A letter has been submitted as unsolicited further information confirming acceptability of connection of the proposed dwelling to the scheme.
 - The mentioned well is at the opposite end of the site to the proposed tertiary treatment system. Tertiary treatment adds a third, more advanced and rigorous level of treatment to water purification.
- Local Need
 - This has been fully assessed and addressed in the local authority Planner's Report.
 - Applicants are in their thirties, have a child on the way and are battling to establish roots and purchase their own home/ secure stable housing in the current housing crisis and have lived with the applicant's parents for a number of years.
 - Applicant's sibling has profound special needs and requires full-time caregivers. The applicants are dedicated members of her support network and future full-time caregivers. Proposed dwelling also consequently incorporates a disabled accessible floor plan.
 - Applicant has a large network of support and wider family members within 10km of the proposed site.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, after an inspection of the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues to be considered in this appeal are as follows:

- Principle - Rural Housing Policy
- Siting/ Design/ Residential Amenity
- Surface Water
- Wastewater Treatment
- Other Issues

Principle – Rural Housing Policy

- 7.2. The site is located within a rural '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.
- 7.3. Having regard to information on file, I consider Policy 5-11 and the associated 'social' housing need definition as set out in Table 5.3, to be applicable to the subject appeal application. Details of the criteria as set out in the Development Plan are provided in Section 5.1 of this report.
- 7.4. Having regard to the aforementioned documentation on file, and having reviewed the provisions of the Tipperary County Development Plan, I am satisfied that the Applicant complies with the 'social' housing need criteria outlined in accordance with same. It is also noted that the Tipperary County Development Plan requires that an 'Occupancy Condition' is 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.

Siting/ Design/ Residential Amenity

- 7.5. The Appellant raises concern with the siting of the development being in proximity to his dwelling and that it contravenes the Tipperary County Development Plan Rural

Housing Design Guide. I note the planning history associated with the proposed dwelling, and the location, design and character of existing dwellings within the area.

- 7.6. The appellants and observer raise issue with the shape of the site and proximity of the proposed dwelling to the public road. In this regard whilst it is acknowledged that the appellants dwelling (to the north of the subject appeal site, and the dwelling located c.265m to the north-west, are setback c.30m from the centreline of the local road, the development plan guidance highlights that the set-back distance will vary according to plot size, adjacent building line and the natural features of the site. In this regard I also note that there are a number of dwellings on the same side of the road to the south-west of the site, with two of these being located at a distance of c.220m and c.320m, that are between c.10-18m setback from the centreline of the local road. Similarly, there are also existing dwellings within the area with a similar site size and configuration to that of the subject appeal site.
- 7.7. The proposed dwelling will be sited between 20 and 22m back from the centreline of the road and approximately 54 metres from the appellant's dwelling to the north. The topography of the subject site and wider lands are relatively level with a gentle slope from the south to the north. Having regard to these separation distances, as well as those of other dwellings within the area, I am satisfied that the development will not significantly impact adjoining residential amenity in terms of overlooking and privacy amenity, or overshadowing and that the proposed dwelling is in accordance with the character of other dwellings within the area.
- 7.8. I note the existing and proposed planting, including the setback of the existing roadside hedgerow to achieve the required sightlines. Such planting should ensure that there is no excessive removal of hedgerow in order to achieve sightlines.
- 7.9. Furthermore, I am satisfied with the proposed single and dormer-style dwelling design solution having regard to the topography of the site and wider lands and character of existing development in the area. I am satisfied that there will be no unduly negative impact in terms of the visual amenity of the area, nor on the ability to continue farming adjacent farmlands. Overall, I consider the siting and design of the proposed development acceptable in terms of the provisions of the Tipperary County Development Plan 2022-2028 (CDP) and the rural house design guide.

Surface Water

- 7.10. The appeal also raised concerns about surface water drainage and associated flooding. It must be highlighted that the concerns relate to an existing problem which clearly pre-dates the proposed development. I have reviewed OPW flood mapping (floodinfo.ie, accessed 10th November 2024) and note that the site appears to fall just outside the Kilmastulla Drainage District, whilst the appellant's site falls within same. Notwithstanding, there are no records of past or predicted flood events in the vicinity of the site. The local authority Planners report also highlights that a review of the flood risk mapping available for the county indicates that the subject appeal site is not located within a flood risk zone.
- 7.11. Having inspected the site, I noted that the appellant's property is below the level of the natural topography of the subject site. Having regard to the submitted photographs from both the appellants as well as the applicant's response to same and associated photographs, it does appear that there is an existing surface water management issue relating to the appellant's site.
- 7.12. Notwithstanding, and from my observations on site, particularly of the land adjacent and surrounding the appellant's property which exhibit significant reed growth indicative of wet and boggy soil conditions, as well as the existing drainage channel comprising their north-western site boundary, I would not consider that the subject appeal site, contributes to same, and am satisfied that subject to good maintenance of the existing boundary drains alongside the application site, as well as implementation of the application surface water management proposal, there should be no risk of flooding resulting from the development as proposed.
- 7.13. Overall, having regard to the percolation characteristics of the lands and to the use of soakaways and permeable paving, which are in accordance with the provisions of the Tipperary County Development Plan and the CIRIA SuDS Manual, I am satisfied that the proposed development should not result in an adverse impact on the amenity of the area with regards to pluvial flooding. Consistent with the planning authority approach, I consider that this is a standard issue which can be satisfactorily resolved, in accordance with the surface water management proposals submitted as

part of the planning application documentation and also by the imposition of condition(s) to any permission, to ensure implementation of same.

Wastewater Treatment

- 7.14. On the date of site visit there was no general evidence of ponding or particular vegetation indicators, which would flag unsuitable soil conditions. It is proposed to install a packaged wastewater treatment system and polishing filter. The application is accompanied by a Site Suitability Assessment Report in accordance with the EPA Code of Practice for Domestic Wastewater Treatment Systems (2021).
- 7.15. The Site Suitability Assessment identifies that the site is underlain by a locally important aquifer with moderate vulnerability. The trial hole depth of 2.3 metres encountered a water table at 0.8m and a subsurface percolation T-value of 38.25 was recorded. The soil condition indications are that the soil is well drained with a high permeability subsoil. As per Table E1 of the Code of Practice (CoP), the Groundwater Protection Response Matrix (R1) indicates that wastewater treatment is acceptable subject to normal good practice.
- 7.16. The Site Suitability Assessment report also indicates the presence of some rushes in the northern corner of the site, but notes that this is beside an area of the site which is located beside a drain which would benefit from remedial works. The report also notes that whilst well drained, the site does hold surface water, and that in this regard, the site would benefit from drainage works being completed.
- 7.17. The Site Assessment recommends the installation of a packaged secondary treatment system with a PE of 6 and a percolation bed of 45m². I am satisfied that the proposed wastewater treatment system would comply with the minimum separation distances as outlined in Table 6.2 of the CoP. Furthermore, I am satisfied that the proposal complies with the recommendations for secondary packaged wastewater treatment systems and tertiary treatment systems as outlined in sections 9 and 10 of the CoP.
- 7.18. The proposed dwelling house would have four bedrooms and a population equivalency (PE) of 6 persons. The proposed system has been sized/designed accordingly. I note that the planning authority has not raised any objection to the wastewater proposals subject to conditions. Having regard to the foregoing, I would

have no objection to the proposed wastewater treatment proposals or any associated impacts on public health and/or the environment.

Other Issues

- 7.19. I note the Appellant's concern in relation to an existing well on site and it being in the same location as the proposed water treatment system. Having conducted a site visit, I was unable to identify any well onsite. In addition, the Site Suitability Assessment report also notes that no well was visible during the days of site attendance whilst undertaking tests and surveys. Notwithstanding, having reviewed the planning history documentation relevant to the site, I note the presence of a well indicated on the OSI maps relating to LA planning reference 06511500. I also note that the location of the well is indicated as being within close proximity of the rear (south-east) boundary of the site, approximately 20m distant from the treatment system and almost halfway along the rear boundary. It will not therefore be within the same area of the site as the proposed water treatment system. As such, I am satisfied that there will be no conflict between the existing well and the proposed water treatment system.
- 7.20. 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.

Appropriate Assessment (AA Screening)

- 7.21. I have considered the proposal to construct a dwelling in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is located within a rural location Slievefelim to Silvermines Mountains SPA (site code: 004165) is c 0.93km to the north of the nearest European Site, Slievefelim to Silvermines Mountains SPA (site code 004165). The development proposal consists of construction of a single dwelling. 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:

- Scale and nature of the development]
- Location-distance from nearest European site and lack of connections

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

8.0 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 unsolicited further information received by the Planning Authority on 04/01/2024 and unsolicited Further Information submitted on the 08/02/2024, 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>Reason: 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>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is</p>

	appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area
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 than 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> <p>Reason: In the interest of traffic safety AND in the interest of visual amenity.</p>
4.	<p>a) The proposed tertiary wastewater treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority [on the 04/01/2024], and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and</p>

	<p>agreed in writing with, the planning authority prior to commencement of development.</p> <p>b) 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 proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>Reason: 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. Surface water shall be discharged to soakways and/or sustainable urban drainage methods within the site to be agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of traffic safety and to prevent pollution.</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: 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>Reason: 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</p>

	<p>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>Reason: In the interests of visual and residential amenity.</p>
9.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment</p> <p>(b) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established</p> <p>(c) A timescale for implementation, including details of phasing, which shall provide for the planting to be completed before the dwelling is first made available for occupation.</p> <p>Reason: In order to screen the development and assimilate it into the surrounding urban landscape, in the interest of visual amenity.</p>
10.	<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>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
11.	<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</p>

	<p>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 be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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.

.L. Gough
Planning Inspector

09 November 2024

Appendix 1 - Form 1: EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319354-24			
Proposed Development Summary	Dwelling house, entrance, garage and ancillary site development works and services			
Development Address	Gortnacleha, Capparoe, Nenagh, 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)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	X	Class 10, (b) (i)	Sub-Threshold	Proceed to Q.4
4. Has Schedule 7A information been submitted?				
No	X	Preliminary Examination required		
Yes		Screening Determination required		

Inspector: _____

Date: __09/11/2024__

An Bord Pleanála Case Reference	ABP-319354-24	
Proposed Development Summary	Dwelling house, entrance, garage and ancillary site development works and services	
Development Address	Gortnacleha, Capparoe, Nenagh, 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?	The site is located in a predominately rural location on a site of agricultural land. The proposed development is not exceptional in the context of existing environment. No, the proposal is to construct a dwelling house All waste can be managed through standard construction management measures.	No No
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 and/or permitted projects?	The size of the proposed development, of a single dwelling on a site of c.0.3ha, is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended. There are no other developments under construction in proximity to the site. All other developments are established uses.	No No
Location of the Development Is the proposed development located on, in, adjoining or does it have the	There are no ecologically sensitive locations in the vicinity of the site. The site is not within a European site and the nearest European sites to the subject appeal site are:	No

<p>potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<ul style="list-style-type: none"> • Slievefelim to Silvermines Mountains SPA (site code: 004165) is c 0.93km to the south • Silvermines Mountains West SAC (site code 002258) is c.1.26km to the south <p>The proposal includes standard best practice methodologies for the control and management of wastewater and surface water on site.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	<p>No</p>
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment in terms of the nature, size and location of the proposed development and having specific regard to the criteria set out in Schedule 7 of the P&D Regs 2001 (as amended).</p> <p>EIA not required.</p>		

Inspector: _____

Date: 09/11/2024