



An  
Bord  
Pleanála

## Inspector's Report ABP-320059-24

<b>Development</b>	RETENTION for a mobile home, two outbuildings and all associated site works. PLANNING PERMISSION for an external cladding with plaster finish to the mobile home.
<b>Location</b>	Woodinstown, Cahir, Co. Tipperary.
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	2490
<b>Applicant(s)</b>	Sean Meehan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	As above
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> October 2024
<b>Inspector</b>	Kenneth Moloney

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## 1.0 Site Location and Description

The subject site is located in a rural area situated approximately 3km to the south-east of Newinn, Co. Tipperary.

The size of the appeal site measures approximately 0.13 ha and is located off a local tertiary road and there is a single storey timber cladded mobile home and two outbuildings situated on the appeal site.

The appeal site also includes a driveway and vehicular entrance off the local tertiary road.

The public road adjoining the appeal rises steeply site in a eastern direction.

## 2.0 Proposed Development

Planning permission is sought to **RETAIN** the following;

- a mobile home (presently cladded in timber as to appear as a log cabin), two outbuildings and the use of same for domestic storage, a septic tank and percolation area, entrance & driveway plus all associated site works.
- The mobile home is single storey in height and has a floor area of approximately 28 sq. metres.

**Permission** is sought for the following;

- a new external cladding with plaster finish to the mobile home.

## 3.0 Planning Authority Decision

3.1 The Planning Authority decided to **refuse** planning permission, on the 11<sup>th</sup> of June 2024, for the following reasons.

1. This proposal is for a residential dwelling in a rural area where housing controls exist (Area under Urban Influence). Policy 5-11 of the Tipperary County Development Plan, 2022, allows for consideration to be given to applications for

one off residential units in areas under urban influence subject to the applicant demonstrating an economic or social need to reside in the locality. Based on the information presented, the Planning Authority is not satisfied that the applicant has demonstrated a genuine social need to reside in this location. The proposal is therefore contrary to a stated policy objective of the Tipperary County Development Plan (Policy 5-11) and to the proper planning and sustainable development of the area.

2. Having regard to the location of the development, the design and nature of the structure, the poor aesthetic value of the structure and the likelihood of it deteriorating over time by virtue of the materials used in its construction and the prevailing pattern of development of the area, it is considered that the development for which retention permission is sought:
  - a. would form a haphazard and substandard form of residential accommodation and generally have poor aesthetic value and can detract from the overall appearance of the area;
  - b. would result in a substandard living environment for the residents of the structure;
  - c. would fail to accord with the 'Development and Design Standards' for residential structures as set out in Rural Design Guide, of the

Tipperary County Development Plan 2022, by reason of the overall design and construction of such structure;

- d. would injure the amenities and depreciate the value of property in the vicinity;
- e. would set an undesirable precedent for similar type proposals in the area. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

### **3.1. Planning Authority Reports**

3.1.1. In summary the Planner's Report raises the following relevant issues.

- The mobile home is clad in timber to appear as a log cabin.
- Planning permission also sought to finish the entire structure in plaster.
- The site is located in an area under urban influence.
- County Development Plan (CDP) policy provisions Policy 5-11 apply.
- Application includes documentation, including affidavit, phone bill and court order pertaining to the applicant's divorce.
- Table 5.2 of the CDP confirms that an applicant seeking a rural dwelling must be building their first home for their permanent occupation.
- The applicant was previously an owner of a residential property in the location.
- Policy 5-11 states that an applicant for a new dwelling in an area under urban influence cannot previously have owned a house in the open countryside.
- Based on the information submitted it is considered that the applicant does not comply with the provisions of Policy 5-11.
- The subject dwelling would constitute ribbon development as defined by Policy 5-12 of the CDP.

- The design of the existing dwelling is not considered in keeping with the surrounding area and would not meet the requirements of 'The Rural Housing Design Guide' contained within Appendix 4 of CDP.
- The floor area of the dwelling house (28 sq. metres) is below the minimum floor area of 70 sq. metres advised in the guidance 'Quality Housing for Sustainable Communities'.
- Given the screening in place the structure will not overlook the neighbouring properties or have an overbearing impact.
- No issues in respect of sightlines, wastewater disposal and water supply.
- AA or EIA not required.

### 3.1.2. **Other Technical Reports**

The report from the Area Engineer indicates no concerns

### 3.2. **Prescribed Bodies**

None

### 3.3. **Third Party Observations**

None

## 4.0 **Planning History**

On Site

**Ref. No. 23/223**: Planning permission **refused** on the 11<sup>th</sup> of October 2023 for;

- a. mobile home now clad in timber as to appear as a log cabin,
- b. two outbuildings and the use of same as domestic storage,
- c. septic tank and percolation area,
- d. entrance and driveway plus all associated siteworks.

The reasons for refusal include the following;

1. the applicant has not adequately demonstrated a genuine social need to reside at this location, as such the proposal is contrary to Policy 5-11 of the Tipperary CDP, 2022 – 2028.
2. the proposed dwelling for retention would form a substandard form of residential accommodation and generally poor aesthetic value, form a substandard form of residential accommodation, would be inconsistent with the Design Guide of Tipperary CDP, would injure the amenities of the area and set an undesirable precedent for similar proposals.

**Ref. No. 23/156**: Planning permission **refused** on the 1<sup>st</sup> of August 2023 for

- a. a mobile home (temporary for 5 years) now clad in timber as to appear as a log cabin,
- b. two outbuildings and the use of same as domestic storage,
- c. septic tank and percolation area,
- d. entrance and driveway plus all associated siteworks.

The reasons for refusal include the following;

1. The application is for a temporary period (5-year) and does not meet the technical requirements of Table 5.2 of the Tipperary CDP which relates to a permanent residence.
2. Contrary to Policy 5-11 of the Tipperary CDP.
3. The proposed dwelling for retention would form a substandard form of residential accommodation and generally poor aesthetic value, form a substandard form of residential accommodation, would be inconsistent with the Design Guide of Tipperary CDP, would injure the amenities of the area and set an undesirable precedent for similar proposals.

#### Pre-Planning

#### **Ref. PP/9874**

Pre-Planning Meeting held with Senior Executive Planner on 24/5/2023. The applicant was advised about concerns in relation to the requirements of Policy 5-11 given that the applicant has previously owned a dwelling. In addition, the applicant was advised the design of the subject dwelling is not in accordance with design

standards of the CDP, and the that the floor area of the subject dwelling is less than the minimum required floor area for a house.

#### Enforcement History

#### **Ref. TUD 19-159**

Warning Letter issued on 2<sup>nd</sup> June 2021 refers to unauthorised development consisting of;

- The placement of a mobile home on lands and use of same as a residence
- The placement of 3 no. outbuildings on the lands and use of same as domestic storage
- The widening of a vehicular entrance from the lands to the L7106 to serve the development
- The formation of a driveway on the lands with crushed stone to access the mobile home and outbuildings

## **5.0 Policy Context**

### **5.1. National Policy Provisions**

#### Sustainable Rural Housing Guidelines DOEHLG 2005.

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

#### National Planning Framework, 2018

Policy Objective 19 is to: 'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the



commuter catchment of cities and large towns and centres of employment, and elsewhere:

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

## 5.2. Development Plan

The current development plan is the Tipperary County Development Plan, 2022 – 2028.

Section 5.5 of the Plan relates to 'Residential Development in the Open Countryside'. In accordance with Figure 5.3 '*Rural Areas with Strategic Transport Corridors and Primary Amenity Areas*', the appeal site is located in an area designated 'Area under Urban Influence'.

Table 5.2 'Rural Housing Technical Principles for Applicants' sets out a set of principles, for applicants to consider and to inform the policy for rural housing. This relates to site and design, housing need and occupancy, sustainable low carbon design and function, road traffic safety and environment, flooding and cultural heritage.

Table 5.3 sets out the housing need definitions for Economic and Social Rural Housing Need.

Section 5.6 refers to Planning Policy for Housing, and the following policy provisions are relevant to the subject appeal;

- Policy 5 – 11 (rural housing need)

The applicant must demonstrate a social need to reside in the local rural area for social purposes in line with Table 5.3 of the Development Plan. And all the criteria set out below is met:

- 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),
- 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
- The applicant does not, or has never owned a house in the open countryside

Policy 5 – 12 (ribbon development)

Section 15.6 refers to Planning Policy for septic tanks, and the following policy provision is relevant to the subject appeal;

- Policy 15 – 2 (waste water)

The Tipperary Rural Housing Design Guidelines as set out in Volume 3 (Appendix 4) will apply to planning applications for one-off houses in the open countryside. It provides guidance on planning a new house, including site planning and design.

### 5.3. **Natural Heritage Designations**

None relevant

### 5.4. **EIA Screening**

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

## 6.0 The Appeal

6.1. The following is a summary of a first party appeal submitted by Sean Meehan;

- The appellant is a retired pensioner with significant medical issues.
- The appellant is recently divorced and as part of a separation legal agreement, was required to sell his home, making him homeless.
- A site was offered to the appellant by a neighbour to allow the construction of a home.
- There are no houses for a single man to rent in the locality.
- Acknowledged that eligibility for houses in the county prioritises the farming community.
- The site is a gap site within a line of existing dwellings consistent with the County Development Plan.
- The appellant has lived all his life in the location of Woodinstown and attended schools locally and has immediate family living locally.
- Appellant has previously submitted two planning applications, and both were refused planning permission.
- The most recent planning application (24/90) was refused planning; however, subject proposal includes to cover the external building with an external cement board suitable rendered.
- Recent similar planning application for retention in Cappawhite, Co. Tipperary (LA Ref. 23 60067) was granted planning permission. Proposed house is the same as that in the Cappawhite application.
- The external cement board covers to the proposed dwelling carries a European logo for standard of specification for the product, which complies with the Building Regulations and the existing timber cover the unit is kiln and dried and has had a Protim Protection seal cover applied.
- Full compliance in relation to economic and social need to live in the area has been demonstrated.

## 6.2. Planning Authority Response

- None

## 6.3. Observations

- None

## 7.0 Assessment

The following are the principal issues in the consideration of this appeal.

- Local Rural Housing Need
- Design and Visual Impact
- Residential Amenity

### 7.1. Local Rural Housing Need

I would note that the housing unit, the subject of this appeal, is located in the open countryside in an area designated '*area under urban influence*' in accordance with Figure 5.3 'Rural Areas with Strategic Transport Corridors and Primary Amenity Areas' of the Tipperary County Development Plan, 2022 – 2028.

In order to satisfy the requirements of the development plan, the applicant must demonstrate sufficient genuine local need consistent with Policy 5-11 of the Tipperary County Development Plan, 2022 – 2028, to reside in this rural location.

Policy 5-11 (ii) requires that the applicant must have resided within 10km of the site where they intend to build for a substantial period of their lives (10 years). Policy 5-

11 (iii) requires that applicant does not or has never owned a house in the open countryside.

The principal consideration therefore in this appeal is whether the applicant's application for a house in the rural area meets the criteria of Policy 5-11 of the Tipperary County Development Plan, 2022 – 2028.

In respect of Policy 5-11 (ii) the County Development Plan I would consider that although the appellant claims in the appeal submission that he has strong local connections to the rural area, these claims have not been substantiated by supporting documentation. I note that the documentation supporting the rural housing need includes an affidavit and a mobile phone bill. I would consider that the applicant's social local rural housing need has not been adequately demonstrated in accordance with the provisions of Policy 5-11 of the County Development Plan, which requires proof that he has lived a substantial period of his life locally.

In respect of Policy 5-11 (iii) the County Development Plan objective requires that the applicant does not or has never owned a house in this rural area. I would consider, based on the information on the file, that the applicant has owned a house in the open countryside previously. The applicant previously owned a house in the local area which was sold and therefore the current proposal is not consistent with the provisions of Policy 5-11 of the County Development Plan, which requires that an applicant does not or has never owned a house in the open countryside.

Therefore, I would consider, based on the information available, that the applicant has failed to fully demonstrate sufficient genuine local need consistent with Policy 5-11, in particular parts (ii) and (iii) of the same policy objective.

The appellant makes a comparison with a previous planning case situated in Cappawhite, Co. Tipperary, LA Ref. 60067. In relation to this case, I would note from the local authority website that planning permission was granted for this development, and in addition I note from the local authority planner's report, relating to this application, that it was considered that the applicant submitted sufficient documentary evidence to substantiate the applicants local housing need as set out

under Policy 5–11 of the Tipperary County Development Plan, 2022 – 2028. This would therefore differentiate the case from the subject appeal before the board.

Overall, I would conclude that the applicant has not adequately demonstrated his local rural housing need in accordance with Policy 5-11 of the Tipperary County Development Plan, 2022 – 2028, in particular Part (iii) of Category 2 ‘Social Need’ which requires that an applicant does not or has never owned a house in the open countryside.

## 7.2. Design and Visual Impact

The dwelling the subject of this appeal is a single storey mobile home finished in timber cladding. The subject mobile home is set back from the public road and to the rear of the established rear building lines of the adjoining properties either side of the appeal site, as is evident from the contiguous elevation submitted with the planning application.

Appendix 4 ‘Rural Housing Design Guide’ of the Tipperary County Development Plan, 2022 – 2028, provides guidance on scale, form, materials, roof chimneys and windows / doors in the design of rural houses in the countryside.

The proposed mobile home, a permanent home, would be inconsistent, with the character of the area, in terms of design given the scale and the materials of the proposed unit, and would set an inappropriate precedent for other such development in the area and would be inconsistent with Design Guidance for rural houses in Appendix 4 of the Tipperary County Development Plan, 2022 – 2028.

## 7.3. Residential Amenity

The total floor area of the proposed two-bedroom residential unit measures 28 sq. metres. I would note that the Planner’s Report refers to the Department of Environment, Heritage and Local Government publication ‘Quality Housing for Sustainable Communities’ (2007). Table 5.1 of these guidelines provides space provision and sizes for typical dwellings and for a single storey 2-bed unit the target floor area is 70 sq. metres.

The proposed housing unit, the subject of this appeal provides an inadequate provision of floor areas and therefore an unacceptable level of amenity for the future

occupant which would be contrary to the DoEHLG Guidelines 'Quality Housing for Sustainable Communities' (2007) and would set an undesirable precedent for a similar type of development in the area.

## **8.0 AA Screening**

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

## **10.0 Recommendation**

I recommend that planning permission be refused for the reasons set out below.

## **11.0 Reasons and Considerations**

1. Policy 5-11 of the Tipperary County Development Plan, 2022 – 2028, seeks to facilitate individual dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside, and consistent with Section 5.5.1, and Table 5.2: 'Rural Housing Technical Principles for Applicants' of the Tipperary County Development Plan, 2022 - 2028. It is considered that the applicant has failed to satisfy the criteria set out in Table 3.5 and in particular Policy 5 (iii) of the Development Plan. The proposed development would therefore be contrary to Policy 5-11 of the Tipperary County Development Plan, 2022 – 2028, and would be contrary to the proper planning and sustainable development of the area.
2. Appendix 4 'Rural Housing Design Guide' of the Tipperary County Development Plan, 2022 – 2028, provides guidance on scale, form, materials, roof chimneys and windows / doors in the design of rural houses in the countryside. The proposed mobile home, a permanent home, would be inconsistent, with the character of the area, in terms of design, and would set

an inappropriate precedent for other such development in the area and therefore would be inconsistent with Design Guidance for rural houses in Appendix 4 of the Tipperary County Development Plan, 2022 – 2028. It is therefore considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would militate against the preservation of the rural environment and would set an undesirable precedent for other such located development in the vicinity. Furthermore, the proposed housing unit, the subject of this appeal provides an inadequate provision of floor areas and therefore an unacceptable level of qualitative standard in which would be contrary to the DoEHLG Guidelines 'Quality Housing for Sustainable Communities' (2007). The proposed development would therefore set an undesirable precedent in the area, seriously injure the residential amenity of the area and 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.

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Kenneth Moloney  
Senior Planning Inspector

20<sup>th</sup> November 2024



# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-320059-24		
<b>Proposed Development Summary</b>	Retention for a mobile home, two outbuildings and all associated site works. Planning Permission for an external cladding with plaster finish to the mobile home.		
<b>Development Address</b>	Woodinstown, Cahir, Co. Tipperary.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>			Proceed to Q3.
<b>No</b>	✓		✓ No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>	N/A		
<b>No</b>	✓		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>			

5. Has Schedule 7A information been submitted?		
No	✓	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_