



An
Bord
Pleanála

Inspector's Report ABP-320152-24

Development	Construction of dwelling house, domestic garage, septic tank with percolation area, block up existing entrances and create new recessed entrances, plus all associated site works.		
Location	Rathronan, Clonmel, Co. Tipperary.		
Planning Authority Ref.	2430		
Applicant(s)	Robert and Ciara Hannon		
Type of Application	Permission	PA Decision	To grant
Type of Appeal	Third party	Appellant	Joseph and Elaine Broderick
Observer(s)	None		
Date of Site Inspection	26/09/2024	Inspector	Ann Bogan

Context

1. Site Location/ and Description: The 0.26 ha site is located on a local road approximately 3km from the centre of Clonmel and approximately 1.5ha from the edge of the built-up area of the town. There are bends on the road in the vicinity of the site from both directions and a hill in the approach from the west. There are a number of one-off houses along this stretch of road and in the wider area, generally. The site forms a gap between two existing dwellings.

The site is comprised of a grassed field with two small stables to the rear. Ground levels on the site slope gently downwards in a west to east direction. Ground level

of the site is significantly higher than the public road, and the existing agricultural entrance has a relatively steep gradient. The floor level of the adjacent house to the east is significantly lower than the level of the subject site.

There are hedgerows along to the east and south (rear) site boundaries. The western boundary with the adjacent house (the family home of one of the applicant's) consists of a wooden post and rail fence and a hedgerow. The percolation area serving this adjacent house is located in the south-west corner of the field and this area is excluded from the 'red line' site boundary. The roadside boundary is formed by a double line of post and rail fencing with a number of semi-mature trees planted along it.

A two storey dwelling house and farm buildings on the opposite side of the road are in the ownership of the appellants.

2. Description of development

Permission is sought to construct a house, separate garage, septic tank and percolation area and to close the existing field access and construct a new vehicular access.

The proposed house is one and a half stories, and has a floor area of 232sq m.

Submission of further information on 17th May 2024 resulted in amendments to the design of the vehicular entrance. Additional unsolicited further information submitted on 10th May 2024 modified the 'red line' site boundary map to include the roadside embankment.

3. Planning History

ABP 307943-20 Refusal of permission by planning authority (ref 20/563) upheld on appeal, for construction of dwelling house, garage septic tank and percolation area, block up existing entrance and create new recessed entrance.

Reason for refusal:

The proposed development is located in an area zoned 'Environs' in the Clonmel and Environs Development Plan 2013 for which the objective is to protect lands for the future expansion of Clonmel. This objective is considered reasonable. Section 6.10 (Individual Houses in the Environs) of the Plan states that the land zoned 'Environs' is a pressure area for development and the purpose of this land is to

allow for the continuation of rural/agricultural practices but also to safeguard this land for the future expansion of Clonmel in a co-ordinated and orderly fashion at appropriate periods. It is the policy of the planning authority, as set out in Policy HSG 10, to facilitate individual houses on lands zoned Environs where, inter alia, the applicant can demonstrate eligibility under certain criteria including that the application is being made by a farmer of the land or a direct descendant of a farmer of the land. That is not the case in this application. Therefore, the proposed development would be contrary to Policy HSG 10 of the Clonmel and Environs Development Plan 2013, would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.

PI Ref 06/889 Grant of outline permission for dwelling house, separate garage, effluent treatment system and entrance.

PI Ref 96/614 Outline permission granted for dwelling house, garage, septic tank.

4. National/Regional/Local Planning Policy (see attached)

Tipperary County Development Plan 2022-2028

The Tipperary County Development Plan 2022-2028 was adopted by the Planning Authority on 11th July 2022. It has regard to national and regional policies in respect of rural housing policy and related issues.

- Policy 5-11 Rural Housing Policy
- Policy 5-12 'Ribbon development'
- Table 5.3 Housing need definitions
- Vol 3 Appendix 6, Section 6.1 Road design and visibility at a direct access

Clonmel and Environs Local Area Plan 2024

- Section 5.2.3 One-off housing in town and environs
- Policy 5.3 Dwellings in town environs
- Land-use zoning: Town Environs

5. Natural Heritage Designations

- Lower River Suir SAC (Site code 002137): 3.2km from site
- Comeragh Mountains SAC (Site code 001952): 11.9km from site

- Nier Valley Woodlands SAC (Site Code 000668: 13.4km from site.

Development, Decision and Grounds of Appeal

6. PA Decision: grant of permission

Planner's report

The Planning Officer noted the site is located in the environs of a town where rural housing controls apply and concluded that the development was acceptable in principle and that the information provided with the application, substantiated the applicants housing need, as set out in Policy 5-3 Clonmel and Environs Local Area Plan 2024. Design of the dwelling and wastewater treatment proposals were considered acceptable. Further information was requested in relation to the proposed entrance and achievement of adequate sightlines. Following submission of further information on 17th April 2024 and further unsolicited further information on 10th May, 23th May and 27th May, the revised entrance proposals were considered acceptable and grant of permission was recommended.

Other reports

Clonmel District Engineer: Accepted the justification for use of a lower operational speed of 50km/h and sightlines of 70m (as opposed to the 80km/h and 160m sightlines referred to in Development Plan and Local Area Plan). Applicant to be requested to submit revised site entrance details to achieve the required sightline triangle and a suitable flat dwell area between the entrance and public road. Further report following receipt of further information found revised entrance details acceptable.

Regional Design Office: proposed development does not encroach on Preferred Transport Solution Corridor for the N24 Waterford to Cahir project.

Third party submission

Submission raised concerns in relation to the proposed entrance, questioned whether the proposed house could be set back further into the site away from the farmyard and pointed out that the proposed house would be the nearest house to

the farmyard and associated noise and odours, and referred to previous complaints in relation to these issues.

Submission on the further information from same party raised concerns in relation to proposed entrance and road safety and impacts on commercial operation of their neighbouring farm.

7. Third Party Appeal

Appeal by ARC consultants on behalf of Joseph and Elaine Broderick, owners of farm opposite the site. Grounds in summary:

Impact on rural character:

- Intent of zoning is to protect rural environment, provide for agricultural need and avoid urban sprawl to protect future growth of the rural area
- Applicant has not demonstrated lack of alternative accommodation sites in the area
- No evidence that consideration was given to connecting to existing entrance to adjoining family dwelling, instead new entrance is proposed
- Considers thus that the requirements of LAP Policy 5.3 which sets out qualifying criteria for social need for housing in this area have not been met
- Ribbon Development: Local area already has proliferation of urban style rural housing which is considered undesirable in the Development Plan, Sustainable Rural Housing guidelines, Sustainable and Compact Settlement Guidelines and the LAP and can result in safety hazard by excess entrances onto rural roads.
- It is considered proposed development of single house on elevated infill site will contribute to pattern of ribbon development and precedent could give rise to further residential development along the road.
- Design Considerations: No consideration has been given to the impact on the proposed dwelling on the wider area due to topographic levels of the site.
- Design and form of the current and previous proposals (P20/563) are not considered materially similar. Onus remains on applicant to demonstrate compliance with guidance in Appendix 4 Vol 3 of Development Plan, including review of excessive use of projecting front elevations, door emphasis and boundary planting.

- Site Layout Taking account of the Tipperary Rural Housing Design Guide (Fig. 10), the dwelling should be set back 30m from the road boundary, rather than 23m as proposed, due to the height and scale of the proposal, its location opposite a working farm and concerns re protection of residential amenity and gradient

General Access Proposals

- Rural entrance is required to ensure public safety via attainment of adequate horizontal and vertical plane sightlines.
- Review of submitted plans indicates proposed development is not compliant with national (DMRB) and local (Development Plan: Appendix 6, Vol 3, Section 6.1 and LAP: Section 5.3) road safety requirements.
- Planning Authority should therefore be overturned in interests of public safety and traffic hazard
- Expert View of proposals: Report on site access and road impacts prepared for appellant by Denis Brennan Consulting Engineers (DBA) concluded that applicant has not demonstrated that operational speed is less than that specified in order to avail of flexibility with regard to reduced sightlines, as required under Section 6.1 of the Development Plan. Considers that methodology for speed survey carried out by applicants engineer would not give accurate representation of actual traffic speed travelling along the road daily
- Drawings as submitted were not detailed survey drawings based on a topographical survey. Queries reliance on hand drawn sketched layout drawings submitted to Planning Authority
- DBA undertook on site digital topographical survey and prepared drawings showing horizontal sightline drawings and vertical entrance drawings. and results indicate visibility splay 2.4m x 160m as required in DMRB is not achievable. Also concluded available sightlines are less than indicated on the drawings submitted with the application, in particular in direction east [Note: report refers to DBA survey drawings SDS01 and SDS02, but they are not included in the documentation on file]
- DBA concluded available sightlines to east and west would be contrary to local and national requirements and would not be acceptable for this section of road

- Due to excessive height difference between road edge and neighbouring garden to east, significant set-back works would be required to improve sightlines, needing consent from adjoining owner.
- Roads Compliance with Policy 3-5 of LAP: Applicant does not propose a shared access via the adjoining family dwelling as required by Policy 5-3 of LAP. No evidence is provided to demonstrate that a shared entrance is not practicable as allowed for in the policy. Contends applicant has not demonstrated full compliance with Policy 5.3.
- Submits that applicant's commentary regarding historic kerb works and agreement reached with Tipperary County Council re setback of embankment have no relevance to subject application
- Unsolicited further information: Response to further information was submitted on 17th April and unsolicited further information on 10th May. On 13th May Planning Authority requested public notices be published due to submission of significant further information. Applicant submitted unsolicited information documents on three separate dates: 10th May, 23rd May, and 27th May. As the matters raised (rural need and entrance provision) cannot be considered 'non-contentious', the Planning Authority should have directed the applicants to withdraw the application and submit a new one, as advised Section 5.10 of the Development Management Guidelines for Local Authorities 2007.

8. PA Response

- None

8A. Applicants Response

Response to appeal submitted by Brian McCarthy, agent on behalf of applicants. Applicants are his daughter and son-in-law and site is adjoining his family home.

Summary of issues raised:

- Outlines history of issues in relation to road boundaries adjacent to Mr McCarthys and appellants properties
- Considers appeal is disingenuous as appellants stated in initial submission that they did not have a problem in principle with the application but in the appeal state they strongly object to the development

- Previous refusal (ABP 307943-20 PA 20/563) for similar development on the site related to compliance with rural housing controls, which have been changed in new Clonmel and Environs LAP and allow for social need as valid consideration for rural housing in the town environs
- Applicants have clearly demonstrated they meet social need requirement through evidence provided of connection to the area
- Refutes claim by appellants that agent and his wife oppose normal noise and odour from farming activities
- Contends ARC claim that Planning Authority engineer, in report on previous application, had serious concerns regard access to site, is inaccurate. He concluded that there would be no sight distance issues, if earth-bank was set back
- Similarly submits that ARC claim that ABP planning inspector found engineer's concern to be reasonable, is inaccurate, as inspector agreed with Planning Authority engineer, that a refusal on the basis of traffic safety or sightlines was not necessary
- Refutes ARC claim that this proposal could result in ribbon development as there are only three existing houses on the stretch of road. County Development Plan policy defines ribbon development as 5 houses over a 250m stretch of road.
- In any case, policy allows for additional individual dwelling in case of social need or where the site is a gap site, both of which would apply in this case
- Contrary to assertion by ARC, agrees with planner's report that proposed dwelling is similar in scale, form and design to that applied for under Reg no 20/563, and meets requirements of Appendix 4 of the Development Plan
- Considers the site layout is optimal when issues such as separation distances from existing and proposed percolations areas and proximity to adjacent houses and boundaries is taken into account

Sightline Compliance

- Appellant's engineer, Mr Brennan of DBA, asserts method used in speed survey submitted is not an accurate depiction of operational speed on the road. Speed survey was carried out by Mr Michael Reilly, Consulting Engineer, on behalf of applicants', in accordance with Tipperary Co Council methodology

and template, which is contained in Part B of Tipperary Co Council planning application form and is in keeping with requirements identified in pre-planning consultation.

- Copy of survey and a supplementary report prepared for the appeal by Mr Reilly, accompanies applicants' response to appeal (Appendix L)
- Submits that no permission was granted for appellants engineer to enter site and without that they could not complete an accurate analysis of sightlines
- Does not accept DBA report which argues sightlines in both east and west direction are less than was submitted as part of application.
- Notes that technical survey drawings referred to in the engineer's report were not submitted with the appeal and cannot be verified. Requests the Board to dismiss DBA claims in relation to same
- Submits that report of Council engineer on previous application considered that a reduced design speed assumption (below the 80k speed limit) and reduced sightlines was appropriate, and that this corroborates the speed survey submitted with this application.
- Meeting held following request for further information with District Engineer to discuss entrance and agree changes to ensure safe solution. Revised design submitted was deemed acceptable by District Engineer and Planner
- Conditions are included (Nos 6 and 10) that adequately address entrance design and safety and that require the required sightlines are delivered prior to further works taking place. Appellants concerns have been addressed comprehensively in planner's report. They can have no justifiable concern regarding sightlines and it is clear that the entrance will not impede traffic associated with their farm or home
- Does not accept appellants assertion that historic works to the road are irrelevant to the application
- Third party was given adequate notice of all information via revised public notice on foot of receipt of further information and first unsolicited further information
- Does not accept ARC's contention that information contained in later unsolicited information documents was also significant as it formed the basis for a housing need, as planner's report shows that housing need was proven

through Part B of the original application form and not through unsolicited further information

- Response is accompanied with a number of appendices including additional engineer's report on sightlines (Appendix L) and a submission by the appellants (Appendix A) with reference to their personal circumstances and need for housing and their acceptance of living in a rural area with farming activities. Historic documents relating to interactions between landowner/agent and appellant are also included as well as copies of documents relating to previous and current planning application and of submissions on draft LAP.

Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10. AA Screening

Having regard to the modest nature and scale of development, and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Having considered the documentation submitted with the application and appeal and local and national policy and guidance and having inspected the site, I consider the issues to be addressed are as follows:

- Rural housing policy
- Road safety and vehicular entrance

- Site layout and house design,
- Wastewater treatment,
- Other issues

2.2. Rural Housing Policy

- 2.2.1. The previous application for a dwelling on this site was refused on the basis that the applicant did not comply with Policy HSG 10 of the Clonmel and Environs Development Plan 2013, the plan in place at the time. This policy aimed to facilitate individual houses on lands zoned Environs where the applicant could demonstrate eligibility under certain criteria including that the application was being made by a farmer of the land or a direct descendant of a farmer of the land. A new County Development Plan has been adopted since the previous application and the Clonmel and Environs Local Area Plan 2024 also contains updated rural housing policies that apply to the area.
- 2.2.2. Policies on rural housing in the Tipperary County Development Plan 2022-2028 restrict one off housing in rural areas under urban influence to those that can demonstrate economic or social need for housing in that area, in line with national policy and guidance. Social housing need can include those who have resided in the area for a period of at least 10 years. (See Development Plan Table 5.3 and Policy 5-11, attached).
- 2.2.3. The Clonmel and Environs Local Area Plan 2024 includes a specific housing policy applying to the area comprising the rural environs of Clonmel, where the subject site is located, that applies in conjunction with the general policies in the County Development Plan. These areas are zoned 'Town Environs' and while the LAP says they *'are not required for town growth and expansion at present, in due course the town may grow and additional lands may be required, and haphazard development of one-off housing will impact negatively on future use of lands'* (Section 5.2.3). The primary use of these areas is to be agriculture, while consideration may be given for a single house in limited circumstances on a case by case basis.
- 2.2.4. The limited circumstances set out in Policy 5.3 of the LAP are where the applicant:
- (i) meets economic need as set out in the County Development Plan and there are no alternative sites available or

- (ii) a social need as set out in the County Development Plan and where the proposed site has been in the ownership of immediate family members for a minimum of 10 years, and there is no availability of alternative sites.

Policy 5.3 also requires that an existing or shared entrance to the applicant's family dwelling should be used where practicable.

- 2.2.5. In this case, the site is in the ownership of one of the applicant's father and is immediately adjacent to her family home. The site and existing family home are shown in a document submitted as representing the extent of the land in the vicinity which is in the ownership of the family. The applicant has also provided evidence of her connection to the area; namely a birth certificate and attendance records from Powerstown National School. Evidence that the applicants have a housing need and are currently in rented accommodation is outlined in Part 2 of the planning application form and is reiterated in a cover letter from the applicants which accompanies the applicants' response to the appeal.
- 2.2.6. Taking account of the information submitted with the application and the appeal, I am satisfied that the applicants have provided sufficient documentary evidence of housing need in compliance with Policy 5-11 of the Tipperary County Development Plan 2022-2028 and Policy 5.3 of the Clonmel and Environs Local Area Plan 2024.
- 2.2.7. The issue of the site entrance is considered in detail below, but in relation to the requirement under Policy 5.3 to use 'An existing and/or shared domestic dwelling entrance of the applicant's family dwelling' where practicable, I accept that this would be not an easily achieved option in this case, due to the configuration and location of the existing entrance to the family home vis a vis the subject site.
- 2.2.8. The appellants raise concerns that the proposed development could increase the risk of ribbon development on this stretch of road. Development Plan Policy 5-11 seeks to resist further development where there are already 5 houses within a 250m continuous section of road of road, except where applicants can demonstrate a social or economic need or where a gap site exists. While there is a significant amount of one-off housing in the area, permitting a house on the subject site would result in 4 houses along the stretch of road and would not therefore constitute 'ribbon' development as defined in the Development Plan. Future development

proposals that might constitute 'ribbon development' is a matter for the planning authority to assess in the event of future applications.

2.3. Road Safety and Vehicular Entrance

- 2.3.1. The proposed vehicular access off the L2512 is situated at the western end of the front boundary. The issue of adequate sightlines at the entrance was raised in the District Engineer's report on the application and has also been raised by the appellants. The road has a mandatory speed limit of 80km/h and sightlines of 160m would therefore be required, in accordance with Table 6.2 in Section 6.1 of the Volume 3 of the Tipperary County Development Plan 2020-2028. However, Table 6.2 also allows for the use of a lower operational speed and lesser sightlines if it can be demonstrated to the Council that the operational speed of the road is less than the mandatory speed.
- 2.3.2. Results of a speed survey carried out by a consulting engineer (Mr Reilly) on behalf of the applicant, were submitted with the application. Further detail on the survey was provided in a report from the engineer, was submitted as part of the applicants' response to the appeal (Appendix L: Consulting Engineer road analysis). Mr Reilly's conclusion is that an operational speed of 50km/h is appropriate due to bends and rising ground, which necessitate reduced speeds on this stretch of road. I note that the appellants' engineer (DBA) questions the suitability of the survey methodology. However, the survey appears to have been largely carried out in the format required by the Planning Authority and recorded on the standard form provided as part of the planning application form. Mr Reilly's report submitted in the response to the appeal provides additional clarity on the methodology. I note the Planning Authority District Engineer accepts the justification for the use of a reduced speed of 50km/h and a corresponding reduced sightline requirement of 70m at the proposed entrance and, based on the information provided and observation on site, I consider this to be reasonable.
- 2.3.3. The ground level of the site at the site of the proposed entrance is circa 1m above the road and the District Engineer found that modifications would be required to the roadside embankment to enable adequate sightlines of 70m to be achieved, in line with the requirements of Table 6.1 of the Volume 3 of the Tipperary County Development Plan 2022-2028 and to provide a suitable flat dwell area at the

entrance in the interests of traffic safety. A further information request issued seeking revised site entrance details to address the *'requirement for a level section of at least 6m at the junction between the entrance and the road and the requirement to demonstrate the required sightline triangle at the junction, taken from a point 2.4m from the road edge, to an object height 1.05m above the road surface'*, and detailing modifications to the roadside embankment etc required to achieve adequate sightlines. Following a site meeting with the District Engineer to discuss the requirements, a revised drawing was submitted including a revised plan and cross section of the proposed entrance.

- 2.3.4. I note that the appellants consulting engineers, DBA, state they undertook a topographical survey and horizontal and vertical entrance sightline drawings and the results indicate visibility splay of 2.4m x 160m as required in DMRB (Design Manual for Roads and Bridges) is not achievable. They also conclude that available sightlines are less than indicated on the drawings submitted with the application. Reference is made in their report to survey drawings, however these do not appear to have been submitted with the appeal and are not therefore available for consideration.
- 2.3.5. The revised layout plan submitted under further information shows the lowering of the roadside embankment to the east, the relocation of the ESB pole at the entrance, and removal of fencing and roadside trees to achieve sightlines to the east. It indicates that sight distance of 98m is achievable to the west and, with the modifications proposed to the embankment, a sight distance of 71m to the east is achievable, although I note it is not possible to accurately scale this from the drawing provided and no vertical section along the sightlines has been provided. The sight distances indicated, if implemented, would meet the standard required in Table 6.1 of Appendix County Development Plan. The District Engineer in commenting on the further information found that the details of the entrance arrangement outlined in the plan drawing and section are as agreed on site and acceptable.
- 2.3.6. I note in the previous application (ABP 307953-20; PA 20/563),) the District Engineer's report considered adequate sightlines could be achieved by removal of the embankment along the front of the site. His recommendation to seek further information on this basis did not proceed, presumably as a refusal was recommended in any case on rural housing policy grounds. The planning inspector

in his report on the appeal noted that the Planning Authority did not recommend a refusal based on traffic safety or sightlines and he also considered a refusal on this basis was unnecessary.

- 2.3.7. On balance, despite some limitations in the drawings provided, I am satisfied that, based on the information provided, the revised entrance proposals are acceptable to provide safe access to the site, subject to conditions to ensure traffic safety. These include conditions requiring the on-site demonstration of sightlines of 98m to the west and 70m to the east, to the satisfaction of the Planning Authority; the lowering of the embankment and removal of trees, ESB pole and any other obstacles; delivery of the sightlines prior to any other works taking place on site; and the recessing of the vehicular access 6m from the existing roadside boundary to create a level dwell area.
- 2.3.8. I do not consider issues raised with respect to previous works to the embankment and road some time ago, to be pertinent to the assessment of the proposed development.

2.4. Site Layout and House Design

- 2.4.1. The proposed dwelling is set back 23m from the front boundary fence line and approximately 25m from the edge of the road, when the roadside embankment is included. The building line proposed corresponds to that of the existing house to the west. I note the request from the appellants that the dwelling be set back 30m from the road, referring to the elevation of the site above the road, the building height and their concerns as to its proximity to a working farm. The proposed house would be approximately 35m from the nearest farm building and the applicants have indicated that they grew up on a farm/lived in a rural area and are aware and accepting of normal farm activities such as noise and odours. I consider that the proposed development is unlikely to impact negatively on the commercial operation of the farm.
- 2.4.2. Having considered the guidance of the Tipperary Rural Housing Design Guide (Section 3.4, Volume 3, Appendix 4, County Development Plan) and taking into account the characteristics of the site and the general pattern of development in the area, I am satisfied that the proposed location of the dwelling on the site is acceptable.

- 2.4.3. The proposed house is one and a half stories in height and is typical of houses in the vicinity. It is similar in design and scale to the house proposed in the previous application on the site, with some elevational changes. I do not consider it would be visually incongruous or obtrusive and would not result in over shadowing or undue overlooking of any houses in the vicinity.

2.5. Wastewater Treatment

- 2.5.1. The site characterisation form and results accompanying the planning application was prepared in May 2020 and was submitted as part of the previous planning application (20/563). The assessor says as the site and proposal have not materially changed, and he is confident that carrying out a second test under the EPA Code of Practice: Domestic Wastewater Systems (PE<10), 2021 (EPA COP 2021) will not alter the results of previous tests, and this was accepted by the Planning Authority.
- 2.5.2. The site is in an area with a regionally important aquifer with extreme vulnerability. No groundwater or bedrock was encountered in the 3m deep trial hole. Soil in the trial hole was primarily silty clay. Table E1 (Response Matrix for DWWTS's) of the EPA COP 2021, states that an R2² response category indicates that a system is acceptable subject to normal good practice and a minimum of 2m unsaturated topsoil/subsoil beneath the invert of percolation trench or of septic tank system or secondary treatment system with 0.3m soil/sub soil and appropriate percolation value.
- 2.5.3. The assessment found a T-test value of 39 and a P-test value of 37.78, consistent with the ground conditions and vegetation observed on site. A septic tank system with discharge to groundwater is proposed based on these results and site characterisation. A percolation area of 108sqm. is proposed in the south-eastern corner of the site. It will be relatively close to the road and eastern site boundary but appears to be in keeping with the minimum distances requires under table 6.2 of the EPA COP 2021.
- 2.5.4. Taking account of the findings of the assessment and onsite inspection I consider the proposed WWTS to be acceptable, subject to standard conditions.

2.6. Other Issues

- 2.6.1. Response to further information request was submitted on 17th April 2024 (revised entrance details) and unsolicited further information submitted on 10th May (revised 'red line' site boundary). The Planning Authority considered the information to be significant, in particular the revision of the 'red line' boundary, and requested publication new public notices. Copy of the notices were received on 23rd May, accompanied by a letter from the applicants outlining the issues they experienced in seeking planning permission, their need for housing and requesting a timely decision. Those who had made submissions on the application were notified. A slightly amended copy of the applicant's letter was again submitted on 27th May.
- 2.6.2. In my view the process followed by the planning authority in addressing the further information and unsolicited further information received was appropriate and acceptable.

3.0 Recommendation

- 3.1. I recommend that permission for the development be granted.

4.0 Reasons & Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028 and the Clonmel and Environs Local Area Plan it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities or character of the area or of property in the vicinity and would be satisfactory in the context of traffic safety and convenience.

5.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and with the further plans and particulars submitted on the 17 th day of April 2024 and 10 th day of May 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be
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	<p>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 and shall remain so occupied for a period of at least seven years thereafter.</p> <p>(b) Within two months of the occupation of the proposed dwelling a written statement of confirmation of the first occupation of the dwelling shall be submitted to the Planning Authority in accordance with paragraph (a) and the date of such occupation.</p> <p>(c) This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.</p> <p>Reason: To ensure to ensure that development in this rural area is appropriately restricted to meeting essential social and economic need in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>External finishes of the proposed dwelling and garage shall be in accordance with those indicated on the submitted plans.</p> <p>The colour of the roof slates shall be dark in colour</p> <p>Facing material shall be neutral in colour and texture and render finishes shall be painted or pigmented prior to occupation.</p> <p>Local stone only shall be used on the elevations as indicated</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>The garage shall be used for purposes incidental to the enjoyment of the dwelling house and shall not be used for any residential, commercial or industrial purpose.</p> <p>Reason: In order to regulate the use of the development in the interest of proper planning and sustainable development of the area.</p>

5.	<p>Prior to the commencement of development, the applicant shall submit for the written agreement of the Planning Authority, a landscaping plan which provides details of the planting of native hedging on the site boundaries to the north (behind sightline triangle) and east.</p> <p>Reason: In the interest of visual amenity and to promote biodiversity.</p>
6.	<p>a) Sightlines shall be taken from a point 2.4m back from the road edge at the centre of the proposed access to a point 98 metres to the west and 70 metres to the east, at the nearside road edge. The sightlines shall be demonstrated on-site and agreed in writing by the planning authority prior to construction commencing. Once agreed, all hedges and trees within the sight triangle shall be set back behind same and the existing bank shall be reduced as per the Site Layout Plan submitted as further information on 17th April 2024. Sightlines shall be delivered prior to further works taking place on site.</p> <p>b) Where roadside boundary is removed a new roadside boundary shall be put in place (behind sightline triangle) which shall comprise 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. Details of the proposed roadside boundary treatment shall be included in the landscaping details to be submitted to the Planning Authority.</p> <p>c) ESB, Telecom poles or services connections on roadside shall be removed and either setback to the new fence line or laid underground in agreement with the service provider.</p> <p>d) The area between road boundary and road carriageway shall be trimmed and rolled level with the carriageway, top soiled, seeded with grass and thereafter maintained without obstruction.</p> <p>Reason: In the interest of traffic safety and in the interest of visual amenity</p>

7.	<p>The vehicular access shall be recessed 6 metres from the existing roadside boundary and shall have a minimum width of 3 metres at the inside piers increasing via splay walls to a maximum opening of 13 metres at the existing roadside boundary. The height of the splay walls shall not exceed 1.2m and shall not impede the required sightline. At the entrance, a drainage kerb / cattle grid or approved equivalent surface water cut-off drain shall be set back a minimum distance of 3 metres behind the roadside boundary, the surface level of which shall be a minimum of 100mm below the level of the edge of the adjacent public road and it shall discharge to a stone filled sump located within the site.</p> <p>The access, driveway and hard surfaced areas within the site shall be surfaced using permeable finishes.</p> <p>Wing walls shall be of sod and stone, stone faced masonry or dry-stone masonry.</p> <p>Reason: In the interest of traffic safety and visual amenity</p>
8.	<p>The developer shall enter into water connection agreement with Uisce Eireann prior to the commencement of this development.</p> <p>Reason: In the interest of public health.</p>
9.	<p>a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled 'Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021'.</p> <p>b) Location, construction and commissioning of the proposed treatment system shall be supervised by a Civil Engineer or appropriately qualified individual, who upon completion of works/commissioning shall submit to the Planning Authority certification (to include photographs) that the system has been laid out and constructed in accordance with the 'Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021', within three months of installation.</p>

	<p>c) The owners/occupiers of the subject site shall be responsible for the maintenance of their treatment system.</p> <p>Reason: In the interest of public health and environmental protection.</p>
10.	<p>Surface water drainage arrangements shall comply with the requirements of the Planning Authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
11.	<p>All service cables associated with the proposed development (such as electrical, television and telephone cables) shall be run in underground ducts.</p> <p>Reason: To preserve the visual amenities of the area.</p>
12.	<p>The developer shall ensure that all demolition/construction works on site are carried out in a manner such that noise and dust emissions do not result in significant impairment of, or significant interference with, amenities or the environment beyond the site boundary.</p> <p>The developer shall ensure that material from the site is not spread or deposited on the public roadway and shall maintain the roadway in a clean, tidy and safe condition. Any damage to or interference with the roadside drainage shall be made good without delay at the developer's expense, to the satisfaction of the Local Authority.</p> <p>No construction or demolition activity giving rise to noise audible from the nearest habitable dwelling shall be carried out on Sundays, Bank Holidays or Public Holidays. From Monday to Friday, all construction and demolition activity giving rise to noise audible from the nearest habitable dwelling shall be restricted to the hours between 8.00a.m. and 6.00p.m. (inclusive) and to the hours between 8.00a.m. and 2.00pm (inclusive) on Saturdays. (excluding Bank/Public Holidays).</p> <p>Reason: To protect residential amenities.</p>
13.	<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</p>

	<p>by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. 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 the Board 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 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.

Ann Bogan
Planning Inspector
5th October 2024

Appendix 1: National and Local Policy and Guidance

Clonmel and Environs Local Area Plan 2024

5.2.3 One-off Housing in the Town and Town Environs

Single housing units will be facilitated throughout the town on serviced and infill sites and assessed on a case by case basis. However, lands zoned ‘Town Environs’ are under urban pressure and have an important role in the long-term growth of Clonmel, particularly in the context of Clonmel’s designation as key regional driver and strategic employment location. Whilst they are not required for town growth and expansion at present, in due course the town may grow and additional lands may be required, and haphazard development of one-off housing will impact negatively on future use of lands. The primary use of these lands shall be agriculture in line with the land use zoning matrix as set out in Chapter 9. With consideration on a case by case basis, a single house may be permitted in the limited circumstances outlined under Policy 5.3.

Policy 5.3

Permit new dwellings on lands zoned for ‘Town Environs’ where the applicant meets (i) an ‘Economic Need’ (see TCDP Table 5.3 and Planning Policy 5 – 11), and there is no availability of alternative sites, or (ii) a ‘Social Need’ (See TCDP Table 5.3 and Planning Policy 5-11), where the proposed site has been in the ownership of immediate family members for a minimum of 10 years, and there is no availability of alternative sites. An existing and/or shared domestic dwelling entrance of the applicant’s family dwelling should be used, where practicable, and it will meet sightline requirements set out in TCDP Volume 3, Appendix 6, Section 6.1 Road Design and Visibility at a Direct Access.

Appendix 3 Development Management: Land use zoning Objective

TE	Town Environs: To provide for agricultural needs and to protect and enhance the rural environment and setting of the settlement.	Prioritise the protection of rural amenity and avoid harmful impacts of urban sprawl. Provide for and protect agricultural activities and rural -related business activities which have a demonstrated need for a rural location and will not conflict with the future growth of the town.
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Table 17 Zoning Matrix: Residential uses in Town Environs zoning open for consideration

Tipperary County Development Plan 2022-2028

Vol 1 Written Statement

5.5.2 Rural Housing Policy

This planning policy for one-off 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 40 and the 'Sustainable Rural Housing: Guidelines for Planning Authorities' (DEHLG, 2005).

Table 5.3: Housing Need Definitions

The Council has provided a definition of 'Economic' and 'Social' need in the context of rural housing policy, as set out below;

Economic	<p>A person who is actively engaged in farming/agricultural activity on the landholding on which the house is to be built, meeting either of the following:</p> <p>(a) A farmer of the land – defined as a landowner with a holding of >20ha. Or</p> <p>(b) An owner and operator of a farming/horticultural/forestry/bloodstock activity on an area less than 20ha, who is engaged in farming activity on a daily basis, where it is demonstrated that the farming/agricultural activity forms a significant part of their livelihood.</p>
Social	<p>(a) A person who has resided in a rural area (as defined in Table 2.4 Chapter 2 Core Strategy):</p> <p>(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',</p> <p>(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'</p> <p>Or</p> <p>(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.</p>

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 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	<p>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:</p> <ul style="list-style-type: none"> (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.
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Vol 3 Appendix 6 Development Management Guidelines

Section 6.1 Road design and visibility at a direct access (extracts)

On all national and non-national roads, the full 'Y – Distance' shall be to an object height of 1.05m above the road surface level measured at the near edge of the travelling lane (the yellow line, or if none exists, the edge of the paved surface). Forward visibility equal to the Y-Distance shall also be provided along the public road on the approaches from each side of an access.

The distance back along the minor road or direct access from which the full visibility is measured is known as the 'X-Distance'. It is measured back along the centreline of the minor road or direct access from the continuation of the line of the nearside edge of the paved surface (including hardstrip or hard shoulder) of the major road. The 'X-Distance' on the minor road for visibility measurements shall be as defined in Table 6.1 below.

Table 6.1: X-Distance Requirements (relevant extract)

Regional and local roads, Accesses lightly trafficked (single residence): X distance of 2.0m applies.

For direct access to a non-national road, the same principles apply as for national roads. Where posted mandatory speed limits are provided the design speeds and associated Y-Distances in Table 6.2 shall apply:

Table 6.2: Design Speeds and associated Y-Distances			
Mandatory Speed Limit	Design Speed (operational Speed)	Rural Non-National Road	Urban Non-National Road
km/h	km/h	Y-Distance (m)	Y-Distance (m)
30	40	N/A	33
40	50	70	45
50	60	90	59
60	70	120	72
80	85	160	N/A
100	100	215	N/A

On non-national roads, in cases of particular difficulty, the use of a lower design speed for a given mandatory speed limit (as set out in Table 6.2) may be accepted by the Council. In such a case, the applicant must demonstrate to the satisfaction of the Council that the 'operational speed' of the road is less than the specified design speed. In such cases, the Council may accept the use of the lower speed than identified in column 2 of Table 6.2 above.

6.1.1 Measuring 'Operational' Speed

The operational speed shall be determined by measurement of actual speeds between 07:00 am and 07:00 pm over a period of three days, excluding weekends or public holidays. It represents the 85th percentile speed of the traffic travelling on that section of road during that period. The 85th percentile speed is the speed at or below which 85% of the traffic is travelling.

As an alternative, the applicant may use the methodology described in Section 10.2 of DN GEO 03031: Rural Road Link Design (TII, April 2017) to determine a design speed based on the physical characteristics of the road section.

The minimum design or operating speed that will be allowable under any circumstances for a rural non-national road shall be 50kph, and for an urban non-national road it shall be 40kph. The Council's decision on the appropriate design or operating speed shall be final.