

Inspector's Report ABP-320778-24

Development Demolition of house and construction

of house with all associated works.

Location Carralough, Cashel, Co. Tipperary

Planning Authority Tipperary County Council

Planning Authority Reg. Ref. 2481

Applicant(s) Marcus Odwyer and Lina Prisginaite

O'Dwyer

Type of Application Permission.

Planning Authority Decision Grant with conditions

Type of Appeal Third Party

Appellant(s) John Ryan

Observer(s) None

Date of Site Inspection 7th of May 2025

Inspector Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site, 0.41 ha is located on the eastern side of the Old Dublin Road north of Cashel town. The road is the Regional Road R639. This links onto the M8 motorway at the No. 7 interchange within 2km of the subject site.
- 1.2. The site has a rectangular configuration. The western site boundary is the road sid boundary which is a low wall. There are two vehicular entrances to the site along the roadside boundary. The southernmost served an existing dwelling on the subject site, and the northernmost served a field to the rear of the dwelling.
- 1.3. The western site boundary is a low 1m solid wall. There is a considerable setback from the edge of the R639 to the roadside boundary. This is a hard surfaced area.
- 1.4. On the front portion of the site includes an unoccupied single storey dwelling. To the rear of it are a number of outbuildings and a greenhouse.
- 1.5. The site slopes upwards away from the road. It deepens into a small field to the rear of the dwelling which is within the overall site boundaries. The highest point is along the rear, eastern site boundary. There are mature hedges along the northern and southern site boundaries.

2.0 **Proposed Development**

- 2.1. The demolition of the existing house and outbuildings, construction of a dwelling house, septic tank and percolation area, detached domestic garage and ancillary site works.
- 2.2. The house and outbuildings are 141sq,m. The proposed dwelling is 176sq.m. and the detached garage is 49sq.m.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted planning permission for the proposed development on 16th of August 2024 subject to 7No. conditions, including a development contribution condition.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The First Planning Report had no objection in principle to the proposed replacement dwelling on the site. However, it requested additional information as follows:

- Volume 3 -Appendix 6 Development Management Standards, and Section 4.2
 of the Tipperary County Development Plan 2022.
- Cross section of the site
- Sightlines
- Surface water collection and disposal.

The Second Planning Report recommended permission be granted.

3.2.2. Other Technical Reports

 <u>District Engineer:</u> Surface water cannot discharge to onto public road or adjoining properties; Sightlines to be confirmed.

3.3. Prescribed Bodies

There were none notified as it was not considered necessary.

3.4. Third Party Observations

Mr John Ryan objected to the proposed development on the following grounds:

- Carbon Footprint: the proposed development will create a greater carbon footprint compared to refurbishment of the existing dwelling;
- To maintain existing dwellings where possible. A structural report should have been submitted with the application to demonstrate the dwelling is no longer suitable for living.
- The relocation of the new dwelling is onto an elevated section of the site.
- Will the existing entrance be used?
- Could negatively impact his farm, especially of he wishes to build exempt buildings

- Strategic road
- Scenic views negative impact on the amenity of his property.

4.0 **Planning History**

There is no relevant planning history.

5.0 Policy Context

5.1. **Development Plan**

Tipperary County Development Plan 2022-2028

4.2 Replacement Dwellings

The Council supports the refurbishment of structurally sound, habitable dwellings as opposed to their demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant. The Council will apply the following minimum standards to proposals for the replacement of rural dwellings:

- a) The structure was last used as a dwelling and is substantially intact and this is demonstrated by the existence of features such as roof, internal and external walls, entrance doors, windows, chimney, fireplace etc. In the assessment of whether a house which it is proposed to replace is habitable or not, the Planning Authority will rely on the definition of a "habitable house" as defined in Section 2 of the Planning Act.
- b) Existing access on to the public roadway can meet the minimum standards for domestic entrances or can be upgraded to meet the satisfaction of the Council, and,
- c) The on-site wastewater disposal system meets the minimum standards of the EPA Code of Practice for Domestic Wastewater Treatment Systems (EPA, 2021), or can be upgraded to meet these standards.

5.2. Natural Heritage Designations

Lower River Suir (Site Code 002137) is 10km from the subject site.

5.3. EIA Screening

See completed Appendix 1 - Forms 1 and 2 on file. Having regard to the nature and type of development proposed, it is not considered that the proposed development falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (As amended), and as such preliminary examination or an environmental impact assessment is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The neighbour, Mr. John Ryan has taken this third-party appeal. The grounds of his appeal area summarised as follows:

6.1.1 Carbon Footprint

- The deconstruction of the existing dwelling and associated works
- The removal of all waste materials at a recycling facility
- The recycling of deconstructed materials
- The construction of a new dwelling will have a greater negative impact on the carbon footprint than refurbishment of the existing dwelling.

6.1.2 To maintain existing dwellings where possible

 A structural Report should have been submitted to refurbish the existing dwelling where possible. All structures are salvageable. In addition, from general appearance the dwelling would appear to be habitable.

6.1.3 **Proposed Location of Dwelling**

• The proposed location is more elevated than the current location. The stated finished floor level of the proposed development is 113.00. That is 4.5metres higher than the existing dwelling. This is a dramatic increase that will make the dwelling more visible. The current dwelling is located at the bottom of the incline which reduces the visual impact.

6.1.4 Site Entrance

 There needs to be sightlines and stopping distance illustrated on the drawings.

6.1.5 Agricultural Concerns

 The bordering farmland is owned by the appellant. The proposal might affect his farm. Farm building proposals which might be considered exempt and therefore might require planning permission.

6.1.6 Other Issues

- The site is located on a Strategic Road
- The area has Scenic Views
- The development will have a negative impact on his property.
- The property was recently habitable.
- The applicants never maintained the house since they bought it
- The owners have a house in Cashel town and it is wasteful to demolish a house that was habitable in 2020

6.2. Applicant's Response

The property is a 60 year old dwelling with multiple and poorly constructed extensions located within 9metres of a busy regional road. The house is not to modern day standards.

The storm and foul sewage treatment system is non-existent and due to the site's topography cannot be improved if the current dwelling were to be retained.

All services, heating, plumbing, electricals need to be replaced. Damp-proofing and insulation is non-existent. The roofs need to be replaced.

The existing dwelling cannot be upgraded to modern standards in a financially viable manner. The response to the appeal is as follows:

6.2.1 Carbon Footprint

• The current dwelling is not suitable for human habitation. It is not technically possible or financially viable to carry out the required works to the present

property to ever make the CO2 emissions less than those for a new dwelling on the site.

- Most of the demolition waste will be retained/ reused.
- The deisgn life of the new dwelling is at least 50years. The CO2 emissions form the new dwelling will be much less over those 50years.
- The objector's statement in relation to the carbon footprint is completely unfounded and technically incorrect and should not be considered as a point of objection.

6.2.2 To maintain existing dwellings where possible

This issue was raised at the planning application stage, considered by
 Tipperary Co. Co. and considered to be irrelevant to the current proposal.

6.2.3 Location of Proposed Dwelling

- The levels of the site are indicated in the submission drawings. The deisgn of the new dwelling has been determined by the requirements reagriding a septic tank and percolation area.
- There will be rising ground to the rear of the new dwelling, therefore no negative impact on the visual amenities of the area.
- The siting and deisgn complies with Tipperary Co. Co. Rural Housing Design Guide.

6.2.4 Site Entrance

- All information relating to sightlines has been provided.
- There are currently two entrances along the road frontage. The proposed development has only one entrance.

6.2.5 Agricultural Concerns

- The current site contains a dwelling. The future site will contain a dwelling.
 There are no changes to the site boundaries, etc.
- The distance between the application dwelling and the objectors dwelling is
 70metres, therefore there is no exemption for an agricultural structure with

that separation distance. The appellant's argument is ill-informed, incorrect and spurious.

6.2.6 Other Issues Arising

- The proposal meets with the planning authority's requirements as regards the Regional Road.
- The site is not on a scenic route as designated by the Tipperary County Development Plan.
- There will be no loss of amenity to the appellant's dwelling house because both dwellings are 100m apart.
- The application was presented in accordance with the statutory requirements.
 The applicant did not have to inform the neighbours. Another spurious grounds of appeal.
- The previous owner of the property is not a relevant issue.
- The area is not within an SAC or a pNHA.

6.3. Planning Authority Response

The planning authority considers the decision to grant planning permission was appropriate.

7.0 Assessment

- 7.1. I inspected the subject site on the 7th of May 2025, and considered the proposed development and the issues raised in the third-party appeal.
- 7.2. Essentially, Tipperary County Co.Co. has granted planning permission for a replacement dwelling on a 0.41 ha site in a rural area, north of Cashel town off a Regional Road. The existing dwelling on the site is a single storey unit positioned 9metres from the roadside boundary and includes two entrances along the road frontage. The replacement or new dwelling is setback 40metres from the edge of the Regional Road on a finished floor level 4metres higher than the existing dwelling. It includes one entrance as opposed to the current layout of two accesses. The proposed dwelling is a modest modern single storey dwelling (176sq.m.).

- 7.3. The third-party appellant resides in a dwelling 100metres south of the subject site. He has a small farmyard to the south of the dwelling. There is an agricultural field separating the subject site and the appellant's property.
- 7.4. The appeal will be assessed under the following headings:
 - Development Plan Policies
 - Third Party Concerns
 - Other Issues Arising

7.5 **Development Plan Policies**

- 7.5.1 The principle of a dwelling house on the subject site, or compliance with the local needs policy is not under consideration in this appeal. The subject site is 4.1Ha with a bungalow and two entrances. The issue for consideration, is the replacement of the bungalow with a new bungalow, installation of a new sewage treatment system and access arrangements at the site.
- 7.5.2 Section 4. 2 of the Tipperary County Development Plan outlines the *Replacement Dwellings* policy. The section states the planning authority encourages the refurbishment of structurally sound, habitable dwellings as opposed to their demolition unless there is strong justification put forward by the applicant. A structural assessment was submitted by the applicant indicating the existing dwelling has a Building Energy rating of G. The report stated there are very poor extensions to the dwelling, and there is no storm or foul sewage treatment due to the topography to the site. It is not financially viable to upgrade the existing dwelling house, as the roof needs to be replaced.
- 7.5.3 In consideration of the cited policy, I consider a replacement dwelling on the subject site is warranted for the following reasons:
 - The demolition materials can be screened and recycled at an aggregate recovery facility.
 - The existing dwelling holds limited architectural merit and includes very poorly constructed extensions to the rear.
 - The existing dwelling is positioned only 9metres from the edge of the Regional Road, and the revised dwelling will have a 40metre setback from the road.

- The new sewage treatment system complies with the relevant EPA Guidelines. Any proposal to install a new system to serve the existing dwelling on site will require pumping, as the land to the rear of the existing dwelling ascends from west to east, and the percolation area will be uphill of the dwelling house. The revised proposal to have the sewage treatment system downhill of the dwelling house in line with EPA Guidelines following a Site Suitability Report, is a signifigant material enhancement in terms of public health.
- The proposed development will reduce the number of vehicular accesses onto the Regional Road from the subject site, thereby improving the traffic safety of the development. The current dwellinghouse has two accesses points off the Regional Road at the northern and southern extremity of the roadside boundary. Under the new proposed development, there will only be one access at the northern extremity of the roadside boundary.
- 7.5.4 On balance, the proposed development meets with the county development plan criteria for a replacement dwelling and complies with the rural housing design guidelines. Fundamentally, the principle of a dwellinghouse is establish on the subject site. The current proposal represents an upgrade regarding the visual amenity of the area, the residential amenity for the future occupants, traffic safety and public health.

7.6 Third Party Concerns

7.6.1 The appellant has made a number of claims on the appeal which have not been substantiated with technical evidence. I will address each <u>relevant</u> issue raised under the following headings:

Carbon Footprint: There is no evidence to suggest the demolition of the existing dwelling and the construction of a new dwelling on the site will have a greater negative impact on the carbon footprint as opposed to refurbishing and upgrading the existing dwelling. The technical report on file outlines the substantial works to be carried out on the existing dwelling including a new roof, removal of substandard extension, and provision of new services and insulation and dry walling. The demolition material can be recycled at a recovery centre. The existing dwelling on

site was constructed over fifty years ago. A new energy efficient house on the site will have less CO2 emissions that the existing dwelling on site.

Retain Existing dwelling: The report submitted by the applicant, by way of further information, demonstrated it is not financially viable to refurbish the existing dwelling, it is not possible to construct a sewage treatment system on site in line within the EPA Guidelines if the existing dwelling is to be retained. The third-party appeal claims the dwelling on the site appears to be habitable, and that the walls are structurally sound and the roof is acceptable. However, these claims are based on observations from outside of the site and no technical evidence. The technical report on file examined the entire dwelling internally, and concluded it is more practical and feasible to construct a new dwelling than to refurbish the existing dwelling both in terms of construction costs and future operational issues.

Proposed location of the dwelling; The site rises from west to east, i.e from the roadside boundary to the rear boundary. I examined the cross section accompanying the planning application. The finished floor level of the existing dwelling is at 108.5m and the new dwelling has a finished floor level of 113m. Therefore, a difference in finished floor levels of 4.5m over a distance of 30metres. The increase is gradual across the site, with no signifigant cutting into the site to accommodate the dwelling. The topography continues to rise eastwards at the rear of the dwelling. The dwelling house is a low profile single storey unit which will not be obtrusive when viewed form the surrounding area.

Site Entrance: The proposed development removes one entrance from the public road, thereby improvising traffic safety at the proposed development.

Agricultural concerns: The appellants claims that the proposed development may negatively impact on any future development proposals relating to his adjoining farm, eg development that may otherwise be considered exempt, may not be exempt due to separation distances. This is not a relevant issue. The proposed dwelling and the appellants farmyard are approximately 100metres apart. To make hypothetical statements about possible future buildings or activities relating to the adjoining farm without substantiated evidence is merely imaginary and cannot be considered relevant this appeal.

7.7 Other Items Raised on Appeal:

- The Regional Road is not a designated Strategic Road.
- There is no impact on the views of the Rock of Cashel from any aspect of the proposed development.
- The appellant's dwelling is approximately 75metres south of the subject dwelling. The photographs, taken during my site inspection, demonstrate the appellant's dwelling is not visible from the position of the proposed dwelling. There is a field separating both properties and mature hedges along both site boundaries. The proposed replacement dwelling will not impact on the residential amenities of the existing dwelling to the south.
- The planning authority validated the planning application and was satisfied the public and site notices were in accordance with the appropriate legislation.
- The issue of the ownership, where the applicant's reside, and the maintenance of the property, are not relevant planning matters.

8.0 AA Screening

- 8.1. I have considered the nature and scale of the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The proposed development comprises a single dwelling house and wastewater treatment system and percolation area as described in section 2 of this report.
- 8.2. The subject site is not located within or adjacent to a European Site. The Lower River Suir (Site Code 002137) is 10km from the site. There is no hydrological link between the subject site and the European sites.
- 8.3. Having considered the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 8.4. This determination is based on:
 - Small scale and domestic nature of the development
 - Distance from European sites.

No hydrological connections to the European sites.

8.5 I conclude, on the basis of objective information, that the proposed development

would not have a likely significant effect on any European Site either alone or in

combination with other plans or projects.

8.6 Likely significant effects are excluded and therefore Appropriate Assessment (stage

2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission be granted for the proposed development.

10.0 Reasons and Considerations

Having regard to the nature and extent of the replacement dwelling, the structural

condition of the existing dwelling and its location within the subject site in close

proximity to the roadside boundary, the design characteristics and site development

works associated with the new dwelling, and the provisions of the Tipperary County

Development Plan 2022-2028, it is considered the proposed development would be

acceptable in terms of traffic safety, public health and visual amenity, and would be

in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans

and particulars lodged with the application, and the further information received on

23rd of July 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.

Reason: in the interest of clarity.

- 2. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) The establishment of a hedgerow along the western and norther site boundaries with native hedgerow species interspersed with native trees at five metre intervals
 - (b) Any plants, trees or hedging which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
 - (c) The existing roadside boundary hedgerow shall be retained except at the location where the proposed entrance is to be provided. The hedgerow shall be trimmed back at regular intervals to maintain the required sightlines of 70metres in both directions at the entrance.

Reason: in order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity

3. 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.

Reason: in the interest of traffic safety and to prevent flooding or pollution.

4. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 9th of April 2024 and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems— Environmental Protection Agency, 2021.

- (b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice Domestic Wastewater Treatment Systems— Environmental Protection Agency, 2021.
- (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: in the interest of public health and to prevent water pollution.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 Pleanala to determine the proper application of the terms of the Scheme.

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.

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.

Caryn Coogan Planning Inspector

11th of June 2025

Form 1

EIA Pre-Screening

An Bo	ord Plea	ınála	ABP 320778-24			
Case Reference		nce				
Proposed			Demolition of existing dwelling house/ outbuildings, and			
Development		t	construction of new dwelling house, septic tank and			
Summary			percolation area, etc			
Development Address			Carralough, Cashel, Co. Tipperary.			
'project' for the purpos			elopment come within the definition of a es of EIA? tion works, demolition, or interventions in	Yes	Tick if relevant and proceed to Q2.	
the natural surroundings)				No	Tick if relevant. No further action required	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?						
	X	•	p)(i) of Part 2 (dwelling units)	Pro	oceed to Q3.	
Vac		Class 1(a) of Part 2 (rural restructuring/hedgerow				
res	Yes		moval)			
		Class 10(d	dd) of Part 2 relating of private roads in the			
		form of dri	veway.			
No				Tic	k if relevant.	
NO				No	further action	
				rec	uired	
		posed dev	elopment equal or exceed any relevant TH	IRESH	OLD set out	
		State the	relevant threshold here for the Class of	EIA	A Mandatory	
Yes		developm	ent.	EIA	AR required	

No				Proceed to Q4
4 10 464				Class of
		nt [sub-threshold devel	w the relevant threshold for the opmentl?	Class of
Yes	Х	Class 10(b)(i) of Part 2	Preliminary	
		dwelling units.	examination	
162		Class 1(a) of Part 2 (ru	required (Form 2)	
		removal) - Length of fie	eld boundary to be removed is	
		less than 4km.		
		Class 10(dd) of Part 2	relating of private roads in the	
		form of driveways - Private road would not exceed		
		2000metres in length		
5. H	as Sch	edule 7A information b	peen submitted?	
No		X	Pre-screening determinat	ion conclusion
			remains as above (C	Q1 to Q4)
Yes				
Inspecto	r:		Date:	

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320778-24
Proposed Development Summary	Replacement Dwelling house
Development Address	Carralogh, Cashel, Co. Tipperary

The Board carried 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.

This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.

Characteristics of proposed development

(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).

The site is currently a residential curtilage. The proposed development has a total floor area of 175sqm and is not significant in size or scale. Excavation works are required for the construction of the dwelling and the installation of site drainage infrastructure. The use of natural resources and the production of waste, pollution and nuisance and the risk of accidents is not significant and would be typical of a project of this scale/nature

Location of development

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European

The proposed development does not have the potential to have likely significant effects on these European Sites. This matter has been considered in a Stage 1 Appropriate Assessments which have been undertaken in relation to this appeal case

	The construction impacts which would arise on foot of the development reflect typical residential developments of this nature, including increased construction traffic on local roads, with an associated increase in noise/emissions, disturbance (ligh dust, noise) impacts to neighbouring residential properties and fauna species, generation of construction waste materials (soil, building materials, waste from staffacilities), surface water run-off an potential for fuel / oil leaks from construction equipment. Such impacts could reasonably be controlled / managed through		
		development potential to re effects with like	ditions. The propose does not have the sult in cumulative kely significant effectment during the age.
	Conclusion		
Likelihood of Significant Effects	Conclusion in resp	ect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.		NO EIA required

ABP-320778-24