



An
Bord
Pleanála

Inspector's Report

ABP-321131-24

Development	Construction of a house and all associated site works.
Location	Kylefreaghane, Callan, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2460647
Applicant(s)	David and Sanet Lonergan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	David and Danet Lonergan
Observer(s)	None.
Date of Site Inspection	7 th of May 2025.
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site, 0.689Ha, is located in the townland of Kylefreaghane, Callan, Co. Tipperary. It is directly off the national secondary road between Kilkenny and Clonmel, in close proximity to the town of Callan.
- 1.2. The site is 0.689 ha and is part of a family landholding/ farm. The site immediately adjoins the farmyard and the original family home in a field to the north. The full extent of the family landholding is included on Drawing No. 23-072.
- 1.3. The site is accessed from an existing access directly off the N76 a National Secondary Road, at a point where the national speed limit of 100 kmph applies.
- 1.4. The site is level and occupies the road frontage of the entire field. There are mature hedges along all site boundaries. The field is currently used for grazing.
- 1.5. There is a farm lane along the south-western site boundary.
- 1.6. As stated to the south is the farmyard, a dairy farm, and the original family home, which is occupied by the applicants brother.
- 1.7. On the opposite side of the national secondary road is a farmyard and a contracting business, owned by a different family.

2.0 Proposed Development

- 2.1. A single storey private residence (274sq.m.), detached garage, splayed site entrance, driveway, borewell, wastewater treatment system and polishing filter and all associated site works.
- 2.2. The dwelling is a contemporary house, positioned centrally on the site, with the sewage treatment system located in the northern corner of the site.
- 2.3. Access to the site is off a farm laneway which leads to the wider farm, in close proximity to the access off the N76 that serves the farm.
- 2.4. From the information on the planning file, the applicant currently lives in rented accommodation 7km north from the farm.

3.0 Planning Authority Decision

3.1. Decision

Tipperary Co. Co. made a decision to **Refuse** planning permission for the development for one reason:

This application pertains to the construction of a one-off residential property in a rural area to the east of Mullinahone. The site is to be served by an existing private entrance onto the N76 at a location where the 100 km/h speed limit applies.

It is an objective of Policy 12-4 of the Tipperary County Development Plan 2022-2028 and the Spatial Planning and National Roads Guidelines for Planning Authorities 2012, to avoid the creation of new accesses and the intensification of existing accesses to national roads where a speed limit greater than 60 kph applies. Furthermore, Policy 12-4 aims to protect the safety, capacity and efficiency of Tipperary's roads network.

It is considered that the proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated. It is considered that the traffic turning movements generated by the development would interfere with the capacity, efficiency, safety and free flow of traffic on this national road.

The proposal would therefore conflict with the provisions of Policy 12-4 of the Tipperary County Development Plan 2022-2028 and the Spatial Planning and National Roads Guidelines for Planning Authorities 2012 and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

- It is noted that there is a short stretch of the N76 that is not identified as being a "Strategic Road" in the Tipperary County Development Plan 2022. The

remainder of the N76 within the functional area of Tipperary County Council is identified as a Strategic road.

- There is uncertainty as to the applicability of Policy 5-13 as set out above. As such, the principle of the proposal will be assessed having regard to both National Policy as set out in “Spatial Planning and National Roads” 2012 and Policy 5-11 of the Tipperary County Development Plan 2022.
- While the applicant would appear to have a demonstrated association to this local rural area in the event that the application was to be considered further additional third-party documentation would be required to fully demonstrate compliance with Category 1A or 2 of Policy 5-11. It appears that this matter could be resolved by way of a Further Information Request.
- Recommendation to Refuse.

3.2.2. ***Other Technical Reports***

There are no other relevant technical reports on the planning file.

3.3. **Prescribed Bodies**

3.3.1 ***Transport Infrastructure Ireland***

(i) Official policy in relation to development involving access to national roads and development along such roads is set out in the *DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January, 2012)*. The proposal, if approved, would create an adverse impact on the national road where the maximum permitted speed limit applies and would, in the Authority's opinion, be at variance with the foregoing national policy in relation to control of frontage development on national roads.

(ii) The proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

3.4. Third Party Observations

There were no third party submissions received.

4.0 Planning History

There is no relevant planning history.

5.0 Policy Context

5.1. Development Plan

5.1.1 The current development plan is **Tipperary County Development Plan 2022-2028**.

Section 5.0 Housing contains the relevant policies associated with the proposed development.

The site is located in an Area Under Urban Influence. The relevant policy is

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 5.4, and Table 5.2: Rural Housing Technical Principles for Applicants.

In '**Areas Under Urban Influence**' and 'Primary Amenity Areas', the Council will consider single houses for persons where the criteria set out in Category 1A or B, or Category 2 hereunder are met:

Category 1: 'Economic Need'

A: The applicant must demonstrate an economic need to reside in the area through active employment in farming/agricultural activity (farming, horticulture, forestry, bloodstock). The farm must exceed 20ha in total.

And all the criteria below is met:

- (i) The applicant must be actively engaged in farming,
- (ii) The applicant must demonstrate that they have been engaged in farming at that location for a continuous period of over 5 years prior to making the application,

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

5.1.2 12.5.2 Safeguarding the Strategic Road Network

It is a key aim of the Council to maintain and protect the safety, capacity and efficiency of national roads and associated junctions, avoiding the creation of new accesses and the intensification of existing accesses to national roads. New development proposals will be assessed having regard to Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG, 2012).

The Council will seek to restrict access onto national routes in order to protect critical investment in infrastructure, route carrying capacity and the safety of road users. The Council has identified routes of strategic importance, by virtue of their significance in terms of connectivity between settlements, traffic volumes and role as scenic tourism routes within the county. These routes include all motorways, all national primary and secondary routes and heavily trafficked regional routes.

In considering any 'exceptional circumstances' that may arise, resulting in a request for new access onto the National Road network, the Council will have consideration to Section 2.6: Exceptional Circumstances of the Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG, 2012) and the recommendation of TII. It should be noted that any 'exceptional circumstance' being considered in accordance with the Guidelines shall be included by way of variation in accordance with Section 13 of the Planning Act.

5.1.3 12.6 Planning Policy

12 – 3 Protect the viability of the 'Strategic Transport Investment' priorities in the road network as set out in Section 12.5.1, by reserving corridors for the proposed routes free from inappropriate development.

12 – 4 Maintain and protect the safety, capacity and efficiency of Tipperary's roads network and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities, (DECLG, 2012) and the Trans-European Networks Regulations and to avoid the creation of additional access points to national roads to which speed limits greater than 60kmh apply.

Section 12-4

Maintain and protect the safety, capacity and efficiency of Tipperary's roads network and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities, (DECLG, 2012) and the Trans-European Networks Regulations and to avoid the creation of additional access points to national roads to which speed limits greater than 60kmh apply

..

5.1.4 Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG, 2012)

2.5 Required Development Plan Policy on Access to National Roads

With regard to access to national roads, all development plans and any relevant local area plans must implement the policy approaches outlined below.

Lands adjoining National Roads to which speed limits greater than 60 kmph apply:

The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmph apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

2.6 Exceptional Circumstances

Notwithstanding the provisions of Section 2.5 above, planning authorities may identify stretches of national roads where a less restrictive approach may be applied, but only as part of the process of reviewing or varying the relevant development plan and having consulted and taken on board the advice of the NRA and having followed the approach outlined below:

(2) Lightly-trafficked Sections of National Secondary Routes A less restrictive approach may also apply to areas where additional development may require new accesses to certain lightly-trafficked sections of national secondary routes. Such areas would be confined to lightly trafficked national secondary roads serving structurally weak and remote communities where a balance needs to be struck between the important transport functions of such roads and supporting the social and economic development of these areas. In such areas, policies in development

plans permitting new accesses to national secondary roads may be considered acceptable where the following criteria apply:

- Traffic volumes are low and are forecast to remain below 3,000 AADT (as verified by the NRA) for the next 20 years;
- There is no suitable alternative non-national public road access available;
- The development otherwise accords with the development plan, and
- Safety issues and considerations can be adequately addressed in accordance with the NRA's Design Manual for Roads and Bridges. Where planning authorities wish to identify an area/national road where the foregoing less restrictive approaches could apply in a development plan or local area plan they must:

(a) Consult with the NRA at the earliest practicable stage in reviewing the development plan on the identification of areas and developments that the planning authority considers represent exceptional circumstances, taking the criteria above and below into account; and

(b) Ensure that any submissions from the NRA have been fully and properly considered within the process of preparing the plan.

5.2. Natural Heritage Designations

The Lower Ricer Suir (Site Code 002137) is 6.2km from the site.

The River Barrow and Nore SAC (Site Code 002162) is 4km from the 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

6.1.1 There are contradictions in the reason for refusal.

6.1.2 The applicant, David Lonergan, has lived all his life with his parents, brothers and sisters on the farm until 12 years ago. Himself and his wife started renting a house over 12 years ago and are still there. His father was still alive at that time. He has worked on the farm all his life. His father passed away a few years ago. There was one brother living in the family home at that time and still does. He does not work on the farm, he works in Waterford City.

6.1.3 The applicant is the only family member that works on the farm and it is his only income. He wants live beside the farm and work as long as possible. There has only ever been one entrance from the farm and the farmhouse onto the main road. This same entrance was used by family members over the past few years. It is proposed to link the entrance to the proposed dwelling with the existing entrance.

6.1.4 The applicant has a dairy farm which means he has to go to the farm a number of times per day, at least twice a day for milking. The entering and existing the farm by the applicant at the entrance, particularly during calving season, will be reduced if he lives at the farm. The justification in granting the permission will in fact reduce traffic as opposed to increasing it.

6.1.5 In 2024, the applicant was diagnosed with a medical condition, details of same are on the appeal (letters from doctors are attached). Overtime, the illness will reduce his ability to drive back and forth to the farm, and he will require rest periods.

6.1.6 The proposed entrance meets with the development plan requirements regarding sightlines of 215m. Policy 12.4 of the Tipperary Co. Dev. Plan. The road has a speed limit of 100kmph and the required sightlines as per Table 6.2 is 215m from the entrance in both directions. The entrance has the required sightlines. It is an extremely safe and wide section of the road.

6.2. Planning Authority Response

The Planning Authority had no further comment to make on appeal.

7.0 Assessment

7.1. Having visited the site and considered the appeal file I will assess the relevant issues under the following headings:

- Compliance with Rural Housing Policy
- Compliance with National and Local Planning policy regarding National Routes
- Design and Layout
- Sewage Treatment
- Other Matters Arising

7.2 Compliance with Rural Housing Policy

7.2.1 The relevant development plan is the Tipperary County Development 2022-2028. The rural housing policies are outlined under Section 5 of this report. In particular section 5-11 as outlined below which is in line with the National Planning Framework whereby persons with an economic and/ or social need to reside in a rural area should meet certain criteria to be considered favourable for a dwelling house in a rural area in particular areas under urban influence and development pressure.

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 5.4, and Table 5.2:

Category 1: 'Economic Need'

A: The applicant must demonstrate an economic need to reside in the area through active employment in farming/agricultural activity (farming, horticulture, forestry, bloodstock). The farm must exceed 20ha in total.

And all the criteria below is met:

- (i) The applicant must be actively engaged in farming,*
- (ii) The applicant must demonstrate that they have been engaged in farming at that location for a continuous period of over 5 years prior to making the application,*
- (iii) The applicant does not, or has never owned a house in the open countryside.*

7.2.2 The applicant is farmer who works on the family landholding. Due to circumstances following the death of his father, the land was left to all of the six family members. The subject site forms part of the entire landholding (in excess of 25ha), which includes a farmyard and the original family home. The original family home is occupied by a brother who, according to the appeal documentation, does not work on the farm, he works in Waterford. The applicant moved out of the family home twelve years ago into rented accommodation, which is 7km from the farm. The applicant has submitted sufficient evidence to support his case of compliance with Section 5-11 of the county development plan policy, to support his case that he is a fulltime farmer working on the landholding.

7.2.3 I note the planning authority was satisfied the applicant complied with the development plan policy, although it did state further information was required. However, I have examined the submitted documentation, and I am satisfied the applicant complies with the following for a rural dwelling in accordance with section 5-11 of the development plan. The farm is over 25Ha. The applicant has submitted details of his herd number. He has also submitted evidence he is renting a house, 7km from the farm. On the day of my inspection, I met the applicant tending to calves in a large shed within the farmyard. I am satisfied that Mr. Lonergan has demonstrated sufficient economic and social grounds to construct a dwelling alongside and within the lands he farms on a daily basis. He has a demonstrated a genuine economic and social need to reside within his farm and family landholding. He has lived and worked in the area all of his life. He has not owned another dwellinghouse.

7.3 Compliance with National and Local Planning policy regarding National Routes

7.3.1 The issue of the access on to the National Secondary Road, the N76, between Clonmel and Kilkenny, is the crux of the appeal. This issue was the sole reason for the planning authority's decision to refuse planning permission for the dwelling house.

7.3.2 The reason for refusal stated the site is to be served by an existing private entrance onto the N76 at a location where the 100 km/h speed limit applies. It is an objective of Policy 12-4 of the Tipperary County Development Plan 2022-2028 and the Spatial

Planning and National Roads Guidelines for Planning Authorities 2012, to avoid the creation of new accesses and the intensification of existing accesses to national roads where a speed limit greater than 60 kph applies. Policy 12-4 aims to protect the safety, capacity and efficiency of Tipperary's roads network. It is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated. It is considered that the traffic turning movements generated by the development would interfere with the capacity, efficiency, safety and free flow of traffic on this national road.

7.3.3 The decision to refuse was not supported by any technical reports on the planning application file, other than the Planning Report. Transport Infrastructure Ireland had made a submission stating the proposed development was at variance with the DoECLG *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)*.

7.3.4 The merits of the case need to be examined in greater detail having regard to the extraordinary and exceptional circumstances of the applicant. As stated, the applicant works on the adjoining land and farmyard. His work includes tending to livestock on a daily basis. The farm is a dairy farm, and this requires milking cows twice a day. The livestock I observed on the day of my inspection, where young calves within a shed, which require intensive management due to their vulnerable age. In addition, during calving season, cows normally calve during the night and require supervision during the night. It is standard farming practice for a fulltime farmer to reside adjacent to where he works and manages livestock, i.e. on the farm. This is to ensure the farmer has easy access to his yard in case of emergencies, for security purposes and to enable better supervision and responsiveness to livestock. The applicant is living in rented accommodation 7km from the yard and has been managing the farm under these challenging circumstances for a number of years. There is a house adjacent to the farmyard that was originally the family home, where the applicant grew up and lived originally with his immediate family. This is occupied by a brother of the applicant, who does not farm. The applicant has to commute to the farm on a daily basis from his rented accommodation, where he lives with his wife.

7.3.5 The exceptional and extraordinary case of the applicant is further exacerbated by the applicant's health issues which are detailed in the appeal submission appeal and came to light in August 2024. The diagnosis is supported by a letter from his consulting doctor. As this is a private matter, I will not go into further detail on this issue. It is noted the diagnosis will make the applicant's commute to his farm more difficult over time, and indeed the management of livestock and operations of the farm. In my opinion, this is this is an exceptional case. In my opinion, it is apparent the applicant has demonstrated a clear and exceptional necessity to live adjacent to the farmyard in terms of the future and ongoing management of his farm. It would be extremely onerous and virtually impossible in the future due to his illness, for the applicant to continue farming if he was forced to continue commuting to his farm from rented accommodation 7km from the landholding. Therefore, I will continue to examine the technical merits of the traffic implications of the proposed development.

7.3.6 In terms of technical issues surrounding the proposed access to the dwelling house, the proposed access to the dwelling house is off an existing laneway serving the farm and the original family home. There is an existing entrance to the subject site off the laneway which is an agricultural entrance. Therefore, as stated, there is no new entrance/ access proposed. The existing access serving the entire property off the N76 is wide and defined on both sides by low walls. On the opposite side of the N76, there is another farm entrance into a large commercial yard, which appears to be an agricultural contracting business. The access laneway, providing access to the proposed dwelling, runs to the back of the farmyard. There is a broken white line fronting the site on the N76, and the maximum speed limit of 100kmph applies. There are sufficient sightlines in both directions at the existing entrance onto the N76, i.e. 215metres in both directions.

7.3.7 In terms of **Section 12.5.2** of the Tipperary County Development Plan 2022-28, it states, *'It is a key aim of the Council to maintain and protect the safety, capacity and efficiency of national roads and associated junctions, avoiding the creation of new accesses and the intensification of existing accesses to national roads. New development proposals will be assessed having regard to Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG, 2012).'* The Plan further states *'In considering any 'exceptional circumstances' that may arise, resulting in a request for new access onto the National Road network, the Council*

will have consideration to Section 2.6: Exceptional Circumstances of the Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG, 2012) and the recommendation of TII. It should be noted that any 'exceptional circumstance' being considered in accordance with the Guidelines shall be included by way of variation in accordance with Section 13 of the Planning Act'. This is an individual planning application and does not fall under Section 2.6 Exceptional Circumstances of the Spatial Planning and National Roads: Guidelines for Planning Authorities (DECLG, 2012), because the Guidelines require reviewing the development plan regarding identified strategic stretches of certain national routes. Therefore, in my opinion, the appeal should be assessed on its own individual and exceptional merits as cited earlier in this report. The proposed development is not relevant to this policy because the planning authority and development plan includes no objective to reduce the speed limit at this location.

7.3.7 The sole reason for refusal by Tipperary Co. Co. cites Policy 12-4 of the Tipperary County Development Plan 2022-2028, which reads as follows:

12 – 4 Maintain and protect the safety, capacity and efficiency of Tipperary's roads network and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities, (DECLG, 2012) and the Trans-European Networks Regulations and to avoid the creation of additional access points to national roads to which speed limits greater than 60kmh apply.

I submit that Policy 12-4 does not specifically refer to the intensification of existing accesses onto national routes and only refers to the creation of additional access points on to national roads to which speed limits greater than 60kmh apply. The proposal will use an existing access onto the N76 and it does not create a new or additional access onto a national secondary road. In saying that Policy 12-4 does make reference to the *Spatial Planning and National Roads Guidelines for Planning Authorities, (DECLG, 2012)* in terms of maintaining, protecting the safety, capacity and efficiency of Tipperary's roads network. In this context, I consider the re-location of the applicant from rented accommodation 7km from the subject site to alongside his farmyard and livestock will:

- Reduce the number of trips generated to the farm on a daily basis, ultimately protecting the safety, capacity and efficiency of the national route.
- The traffic turning movements created by the applicant on a daily basis will be reduced ultimately improving the safety at the existing access onto the N76.

I accept there will be additional traffic generated by services such as the postman, etc, however, these services are currently in operation at the family home occupied by the applicant's brother in the original family home. In my opinion, the proposal will not result in a material intensification of traffic turning into the existing access off the N76. If the applicant had presented current traffic counts into and out of the access on a daily basis, I would be confident, the proposed development would result in a reduction of trips to and from the access on a daily basis, in particular, those generated by the applicant himself.

7.3.8 On balance, based on

- the applicant's occupation as a farmer,
- the separation distance between the applicant's current rented accommodation and the subject farm,
- the close proximity of the proposed development to the functioning dairy farm,
- the current use of the existing access to serve the farm and the original family home,

it is my conclusion, the use of the existing entrance at the farmyard to facilitate access to the proposed dwelling house, would not result in an intensification of use at the existing entrance and would maintain, improve and protect the safety, capacity and efficiency's of Tipperary's road network. I do not consider the proposed development conflicts with Policy 12-4 of Tipperary County Development Plan 2022-2028 as specified in the reason for refusal. Furthermore, I do not consider the proposal conflicts with Spatial Planning and National Roads Guidelines for Planning Authorities, (DECLG, 2012) because it has not been demonstrated the proposal will result in a material intensification of use of an existing entrance. It is my opinion based on the evidence presented on appeal, and the above assessment, the traffic turning movements at the existing entrance will be reduced, not intensified. I consider the Board can dismiss the planning authority's reason for refusal because

the proposal does not conflict with stated policy 12-4 of the Tipperary County Development Plan 2022-2028 and the applicant has presented unique and exceptional circumstances that would not create a precedent for similar development proposals.

7.4 Design and Layout

7.4.1 The subject site is a level field of rectangular configuration, with mature hedgerows along all site boundaries. The access to the site is off an existing farm lane. The proposed dwelling is single storey, positioned centrally on the site.

7.4.2 The proposed dwelling is contemporary in design with clean line finishes and elevational treatment. It is a T-shaped dwelling circa 250sq.m. with a ridge height of 6.75metres. The development will not detract from the rural and visual qualities of the area.

7.4.3 The overall design, scale, orientation and material finishes of the proposed dwelling are satisfactory and are considered to meet the requirements of Appendix 4 of County Development Plan 2022-2028.

7.5 Sewage Treatment

7.5.1 The site is underlain by a regionally important aquifer. Groundwater vulnerability in the area is low. The Site Suitability Assessment states that the soil tests were carried out on the 15th of June 2024. Based on the findings of the soil tests, the proposed treatment system was designed in accordance with the EPA Code of Practice 2021. A sub surface percolation value. A tertiary treatment system is proposed. This is acceptable.

7.6 Other Matters Arising

- There is a public water supply in the area. However the applicant has proposed a private well.
- Occupancy condition should be imposed if the Board is favourably disposed to grant permission for the proposed development.

- Development Contributions are applicable for a dwelling house in the countryside.

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 6.2km from the site and the River Barrow and Nore SAC (Site Code 002162) is 4km 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 planning permission be granted for the proposed development.

10.0 Reasons and Considerations

Having regard to the exceptional personal circumstances of the applicant as presented on the appeal file, to the transportation policies and objectives of the Tipperary County Development Plan 2022-2028, the consideration the proposed development does not include a new access onto a national secondary road or represent an intensification of use of the existing access onto the national secondary route and would maintain, improve and protect the safety, capacity and efficiency of Tipperary's roads network. The proposed development would be acceptable in terms of traffic safety 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 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. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter (unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant). Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation. This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. 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

4. Prior to the commencement of the development, the applicant shall agree in writing the layout and specification of the proposed access to the dwellinghouse off the farm laneway. The layout shall ensure there will be no interference with the free flow of traffic utilising the existing access off the national Secondary Road (N76)..

Reason: in the interest of traffic safety.

5. 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.

- 6 (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 6th of August 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.

7. 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 Pleanála 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

05/06/2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP 321131-24		
Proposed Development Summary	Dwelling house, detached garage, sewage treatment works, and all associated site works		
Development Address	Kylefreaghane, Callan, Co. Tipperary.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10(b)(i) of Part 2 (dwelling units) Class 1(a) of Part 2 (rural restructuring/hedgerow removal) Class 10(dd) of Part 2 relating of private roads in the form of driveway	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required

No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	<p>Class 10(b)(i) of Part 2 (dwelling units) - Less than 500 dwelling units.</p> <p>Class 1(a) of Part 2 (rural restructuring/hedgerow removal) - Length of field boundary to be removed is less than 4km.</p> <p>Class 10(dd) of Part 2 relating of private roads in the form of driveways - Private road would not exceed 2000metres in length</p>	Preliminary examination required (Form 2)

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

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321131-24
Proposed Development Summary	Dwelling House
Development Address	Kylefreaghane, Callan, Co. Tipperary.
<p>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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(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).</p>	<p>The site is currently agricultural land. The proposed development has a total floor area of 250sqm 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.</p>
<p>Location of development</p> <p>(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</p>	<p>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</p>

sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).		
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		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 (light, dust, noise) impacts to neighbouring residential properties and fauna species, generation of construction waste materials (soil, building materials, waste from staff facilities), surface water run-off and potential for fuel / oil leaks from construction equipment. Such impacts could reasonably be controlled / managed through planning conditions. The proposed development does not have the potential to result in cumulative effects with likely significant effects on the environment during the operational stage.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	YES

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)