



An
Coimisiún
Pleanála

Inspector's Report

ABP322417-25

Development	Retention of alterations to the northern and western site boundaries from those permitted under planning reference number 15/600912.
Location	Oldgrange, Clonmel, County Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	2518
Applicant	Sean and Elaine Tobin.
Type of Application	Permission.
Planning Authority Decision	Permission with condition.
Type of Appeal	Third Party
Appellant	Richard Carroll.

Observer(s)

None

Date of Site Inspection

9th June 2025.

Inspector

Derek Daly

1.0 Site Location and Description

- 1.1. The development is located in the townland of Oldgrange in a rural area approximately 3.5km northeast of the village of Ardfinnan in the south of County Tipperary.
- 1.2. On the appeal site is a dwelling, garage and shed. The site is served by an existing entrance onto a local road which defines the site's eastern boundary. The remaining boundaries of the site adjoin open lands are defined by hedgerows. The lands to the north currently are in use for agriculture are accessed by a field entrance. To the north of these lands is the site of a dwellinghouse.

2.0 Proposed Development

- 2.1. The proposed development as received by the planning authority on the 14th February 2025 is stated as the retention of alterations to the northern and western site boundaries from those permitted under planning reference number 15/600912. The alterations to the boundaries are outlined on site layout plan which indicates the boundaries of the previously permitted development under 15/600912 with a green hatched line and the revised site boundary which are outlined in red. The revision retains the southern boundary and it reduces the site's road frontage by approximately 25 metres and the northern boundary is moved in a southerly direction to correspond with the revised proposed road frontage on the eastern boundary and the western boundary is marginally reconfigured with a small reduction in the depth of the site.
- 2.2. It is noted there is currently a hedge to the south of the dwelling, this line of hedgerow is not the site boundary as the southern site boundary remains the same as that granted under PI Ref 15/600912.
- 2.3. The dwelling, shed, entrance and wastewater treatment plant and associated percolation area are retained within the area of the proposed site boundaries.
- 2.4. The stated area of the site to which the application relates is 0.55 hectares.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The decision of the Planning Authority was to grant planning permission subject to one condition.
- 3.1.2. *Save where modified by the following conditions, the proposed development shall be retained in accordance with the drawings and documentation submitted with the planning application on 14/02/2025.*

REASON: To clarify the terms of the permission and in the interest of proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planning report dated the 3rd April 2025 refers to the planning history of the site; that the principle of the development is acceptable; the retention of the boundaries as constructed are acceptable and do not present any design related issues. The report noted on inspection of the site that the existing front elevation and building footprint differs from that granted under PI Ref 15/600912 and can be dealt with by way of a new enforcement file.

The third party submission is referred to and that the Planning Authority are satisfied that the revision to the northern and western boundaries at this site does not set a precedent in relation to the future applicants to seek two or more dwellings on one site.

Permission was recommended.

4.0 Planning History

4.1.1. P.A Ref. No 15/600912

Permission granted for a dwelling, garage, effluent treatment system, entrance and associated site works

P.A Ref. No 24198

- 4.1.2. Permission applied for the construction of a single storey dwelling, domestic garage, a septic tank and percolation area, a new site entrance and all associated site works and services. This site is located within the site of the original site of P.A Ref. No 15/600912 and roughly corresponds with the area of the site removed by amending the site under the current appeal. Further information was requested on the 24/10/2024.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The statutory development plan is the Tipperary County Development Plan 2022-2028.
- 5.1.2. The site has a rural designation of an “Area under Urban Influence”
- 5.1.3. Development Management Standards are set out in section 4.1 Rural Residential Development in relation to design of all new one-off houses outside designated settlements and shall comply with the relevant policies of the Plan and the Rural Design Guideline for one-off houses in the open countryside set out in Appendix 4 of the Plan.

5.2. Natural Heritage Designations

- 5.2.1. The subject site is not located within site designated as a Natura 2000 site or NHA/pNHA and a significant distance of the subject site from any designated site.

5.3. EIA Screening

- 5.3.1. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

A preliminary examination of the nature, size and location of the proposed development has been carried out which determines that there is no real likelihood of

significant effects on the environment arising from the proposed development. It is therefore concluded that an EIA is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal in summary refers to;

- There is no objection to the granting for the retention of boundaries in principle.
- The appellants request that the Bord include a condition that lands outside of the new boundary be retained for agricultural purposes only and not for the building of further dwellings.
- Reference to the planning history of the site and that the applicants would position the dwelling some distance from their dwelling so as not to impact on the appellants' visual amenity or privacy.
- The actions over the years have been to create a gap site in the location of the dwelling and the unusual area of the site.

6.2. Planning Authority Response

There is no response from the planning authority in relation to the grounds of appeal.

6.3. First Party Response

The applicants in a response to the grounds of appeal in summary refer to;

- The purpose of the current planning application (25/18) appeal was to regularise the alterations made to site boundaries as requested by the planning department in a further information request for my brothers current planning application P.A. Ref. No. 24/198. As no decision has been made on their application, it cannot be used to influence any opinion on this appeal.
- In relation to the boundary adjustment of the site (Ref. 15600912), this was a practical decision undertaken during the construction of our home. It was not felt that they would utilise all of the ground for domestic use. The septic tank was relocated to the rear of the property, with all necessary notifications made

to the Planning Department in good faith at that time. These changes resulted in the northern boundary being moved southwards, thereby reducing the overall site area. The remaining ground, still under our family's ownership, has since been used for agricultural purposes.

- The applicants were not aware that formal planning permission was required for this boundary modification, given that ownership of the lands remained unchanged.
- As life and family circumstances the applicant's brother Michael Tobin and his partner Rebecca Kerin found themselves in a situation where the only practical location for them to build their own first home was beside ours, hence their current planning application (Ref. 24/198).
- It became clear that formal retention was required for our site boundary during the assessment of Michael Tobin and Rebecca Kerin's application and the applicants then acted to address it through the proper planning process.
- Specifically, to the grounds of appeal the applicants categorically reject the implication of any intentional wrongdoing or long-standing deceit.
- Michael Tobin and Rebecca Kerin, should have the right to apply for planning permission on family-owned lands and are entitled to a fair process without having to be accused of deceit.
- it is noted that the letter of appeal indicates 'no issue' with the retention of the site boundaries requested by us (Ref 25/18) and as this is the main purpose of our application so we find it inappropriate that they are using this appeal process to object to a separate application.
- it is requested that An Coimisiún Pleanála uphold the original decision of Tipperary County Council.

7.0 Assessment

- 7.1. The main issues in this appeal are principle of the development and the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

7.2. The principle of the development

- 7.2.1. The proposal as submitted is for alterations to the northern and western site boundaries from those permitted under planning reference number 15/600912. In effect the site as granted under 15/600912 is reduced by the shrinking of the site moving the sites northern boundary southwards and reducing the site's road frontage. The retained site remains relatively large in area and is stated as 0.55 hectares. In principle I would have no objections to the revised site boundary which retains sufficient site area to accommodate the existing dwelling and associated site services.

7.3. Grounds of appeal

- 7.3.1. The appellant in the grounds primarily raises a concern to the revised boundaries on the basis that the reduction in site area and road frontage will create a gap site between the revised site boundary and the appellant's site creating a situation where a dwelling site is accommodated within the gap site. There is no objection by the appellants to the granting for the retention of boundaries in principle but appellants request that the Bord include a condition that lands outside of the new boundary be retained for agricultural purposes only and not for the building of further dwellings.
- 7.3.2. Reference is made to the history of the site and that the applicants would position the dwelling some distance from their dwelling so as not to impact on the appellants' visual amenity or privacy.
- 7.3.3. It is noted that in the planner's report there is reference to Planning reference 24198 which is a separate application and will be assessed separately and that the revision to the northern and western boundaries at this site does not set a precedent in relation to the future applicants to seek two or more dwellings on one site.
- 7.3.4. The provisions of the Planning and Development Act 2001 as amended do permit for revisions of a development granted planning permission and also provide for individual planning applications to be assessed on their own merits and in accordance with the provisions of statutory development plans.
- 7.3.5. In this regard while noted the appellants request that An Coimisiún include a condition that lands outside of the new boundary be retained for agricultural purposes only and not for the building of further dwellings it would not be appropriate

to include such a condition which in effect would sterilise the area which is no longer proposed to be retained within the existing dwelling house site. The future use of the non-retained site area is a matter for a separate assessment to be determined in accordance with the provisions of the statutory development plan and the provisions of the Planning and Development Acts.

8.0 Appropriate Assessment Screening

- 8.1. I have considered the proposal for alterations to the northern and western site boundaries of an existing permitted development which has been in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is not within or in proximity to a Natura site.
- 8.3. The proposed development comprises in effect an relatively minor alteration of boundaries with no construction works as outlined in section 2 in the Inspectors report. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows; the nature of the development and the absence of any construction works relating to the development under consideration and distance from these site and absence of identifiable pathways to these sites.
- 8.4. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects and 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

- 9.1. I recommend that permission be granted.

10.0 Reasons and Considerations

Having regard to the nature of the proposed development, the pattern of development in the area and the existing residential use on site it is considered that

the proposed development complies with the policies and objectives of the Tipperary County Development Plan 2022-2028, would not have an adverse impact upon the character of the area, would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development as permitted shall be in accordance with the plans and particulars received by the planning authority on the 14th day of February 2025.</p> <p>Reason: In the interest of clarity.</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.

Derek Daly
Planning Inspector

3rd July 2025

Appendix 1 - Form 1 EIA Pre-Screening

Case Reference	322417-25
Proposed Development Summary	Retention of alterations to the northern and western site boundaries from those permitted under planning reference number 15/600912.
Development Address	Oldgrange, Clonmel, County Tipperary.
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input checked="" type="checkbox"/> No , No further action required.
<p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) 	
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1 . EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in <u>Part 2</u>, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No , the development is not of a Class Specified	X

<p>in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

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Inspector: Derek Daly_____ **Date:** 3rd July 2025