



An  
Bord  
Pleanála

## Inspector's Report ABP-320686-24

|                                     |                                                                                                                                                          |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Development</b>                  | Retention of the existing static mobile home and permission for the installation of a new domestic wastewater treatment system and all associated works. |
| <b>Location</b>                     | Rathclarish, Carrick-on-Suir, Co. Tipperary.                                                                                                             |
| <b>Planning Authority</b>           | Tipperary County Council                                                                                                                                 |
| <b>Planning Authority Reg. Ref.</b> | 2460471                                                                                                                                                  |
| <b>Applicant(s)</b>                 | Thomas Lanigan                                                                                                                                           |
| <b>Type of Application</b>          | Permission                                                                                                                                               |
| <b>Planning Authority Decision</b>  | Grant Permission                                                                                                                                         |
| <b>Type of Appeal</b>               | First Party                                                                                                                                              |
| <b>Appellant(s)</b>                 | Thomas Lanigan                                                                                                                                           |
| <b>Observer(s)</b>                  | None                                                                                                                                                     |
| <b>Date of Site Inspection</b>      | 14 <sup>th</sup> November 2024                                                                                                                           |

**Inspector**

Emer Doyle

## **1.0 Site Location and Description**

- 1.1. The subject site with a stated area of 0.414 hectares is located on a minor road L-6421 c. 8km north of Carrick-on-Suir in Co. Tipperary.
- 1.2. The application site is located within an existing large agricultural complex with numerous farm buildings and storage sheds.
- 1.3. The application site is irregular in shape and includes an existing access from the L-6421. A dwelling stated to be in the ownership of the applicant is located adjacent to the site. There is a recorded monument (enclosure TS03139) to the north of the site.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the installation of a new domestic wastewater treatment system and the retention of an existing mobile home. The mobile home provides for 3 bedrooms and has a stated area of 42.7m<sup>2</sup>.
- 2.2. A cover letter submitted with the application provides the following details:
  - The applicant has a large dairy farm and as such he needs to employ labour throughout the year.
  - In order to attract and retain labourers for the farm, it is necessary to provide accommodation on the farm, as there is no availability of suitable accommodation in the area and this accommodation situation is not predicted to change for the foreseeable future.
  - It is also important for security, safety, and efficiency purposes that the labourers reside on the farm.
  - The fact that the labourers would live on the farm, their place of work, would reduce the amount of traffic movements on the public road and would also be a more sustainable and environmentally friendly solution than having the labourers travelling to and from the farm on a daily basis.
  - The Static Mobile Home will be used exclusively to house labourers that are employed on the farm and will not be used for any other purposes.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The Planning Authority refused permission for two reasons as follows:

1. This proposal is for a unit of residential accommodation in the “Open Countryside” as designated in the Tipperary County Development Plan 2022. Policy 5-11 of the Tipperary County Development Plan 2022 allows for consideration to be given to applications for residential units in the open countryside subject to a number of criteria, including (part ii) that the applicant does not, or has never owned a house in the open countryside, and (part iii) that the application be made in the name of the person for whom it is intended. Based on the information presented, the Planning Authority notes that the applicant already owns a dwelling in the rural area and is not the intended occupant of the accommodation to be retained which is to be used for labourers working on the adjoining farm complex. The proposal is therefore contrary to a stated objective of the Tipperary County Development Plan (5-11) and to the proper planning and sustainable development of the area.

2. The subject site is located in a designated Secondary Amenity Area. It is an objective of the Tipperary County Development Plan 2022(11-17) that buildings and structures in these areas integrate with the landscape through careful use of scale, form and finishes. Having regard to the nature of the structure, the poor aesthetic value of the structure and the likelihood of it deteriorating over time by virtue of the materials used in its construction it is considered that the development for which retention permission is sought: a) would form a haphazard and substandard form of residential accommodation and generally have poor aesthetic value and can detract from the overall appearance of the area; b) would result in a substandard living environment for the residents of the structure; c) would fail to accord with the ‘Development and Design Standards’ for residential structures as set out in Rural Design Guide, of the Tipperary County Development Plan 2022, by reason of the overall design and construction of such structure; d) would injure the amenities and depreciate the value of property in the vicinity; e) would set an undesirable precedent for similar type proposals in the area. The development is therefore contrary to a

stated objective of the Tipperary County Development Plan (11-17) and to the proper planning and sustainable development of the area.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

- The planner's report considers that the proposed development conflicts with Policy 5-11 (Rural Housing Policy) and Section 6.5.2 (Seasonal Employees) of the Development Plan and should be refused. It is also considered that the development is not in keeping with the requirements of the Rural Housing Design Guide.

#### 3.2.2. Other Technical Reports

- **Area Engineer:** Notes that no alterations are proposed to the existing entrance and recommends permission subject to conditions.

### 3.3. **Prescribed Bodies**

- No reports.

### 3.4. **Third Party Observations**

#### 3.4.1. None submitted.

## 4.0 **Planning History**

### **PA Reg. Ref. 01/927**

Permission granted for calving boxes, loose sheds and all associated works.

**PA Reg. Ref. 06/1221**

Permission granted for a roofed livestock feed yard with fixed cattle crush, slatted tank, extension of milking parlour, new dairy, and all associated works.

**PA Reg. Ref. 12/426**

Permission granted for loose straw bedded shed.

**PA Reg. Ref. 15/600480/ ABP PL 92.245897**

Permission granted for erection of slatted cubicle shed and for retention and completion of slatted shed and all associated works by PA. The Board granted permission for retention and completion of slatted shed and refused permission for slatted shed for one reason relating to archaeology.

**PA Reg. Ref. 17/600660**

Permission granted for slatted cubicle shed, collection yard, access from collection yard to slatted cubicle shed and all associated works.

**Enforcement**

**TUD 23-175**

Current file in relation to alleged unauthorised mobile home.

**5.0 Policy Context**

**5.1. Development Plan**

- 5.1.1. The operative plan for the area is the Tipperary County Development Plan 2022 – 2028.

**5.1.2. Policies**

**10-3** Support and facilitate the development of a sustainable and economically efficient agricultural and food sector and bioeconomy, balanced with the importance

of maintaining and protecting the natural services of the environment, including landscape, water quality and biodiversity.

**11-1** In assessing proposals for new development to balance the need for new development with the protection and enhancement of the natural environment and human health. In line with the provisions of Article 6(3) and Article 6 (4) of the Habitats Directive, no plans, programmes, etc. or projects giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan (either individually or in combination with other plans, programmes, etc. or projects).

**11-17** Ensure the protection of the visual amenity, landscape quality and character of designated 'Primary' and 'Secondary' amenity areas. Developments which would have a significant adverse material impact on the visual amenities of the area will not be supported. New development shall have regard to the following:

a) Developments should avoid visually prominent locations and be designed to use existing topography to minimise adverse visual impact on the character of primary and secondary amenity areas.

b) Buildings and structures shall integrate with the landscape through careful use of scale, form and finishes.

c) Existing landscape features, including trees, hedgerows and distinctive boundary treatment shall be protected and integrated into the design proposal.

**13-4** Safeguard sites, features and objects of archaeological interest, including Recorded Monuments, National Monuments and Monuments on the Register of Historic Monuments, and archaeological remains found within Zones of Archaeological Potential located in historic towns and other urban and rural areas.

**Appendix 1** of the Development Plan (County Housing Strategy) identifies a category of specialist housing provision for Seasonal Employees as follows:

#### **6.5.2 Seasonal Employees**

As a rural economy, Tipperary has a demand for employees to respond to seasons in the horticultural or animal processing sectors on a seasonal or on a temporary basis. It is expected that such employees would be accommodated in suitable accommodation in adjoining settlements centres where they can access appropriate services and amenities for quality of life.

**Appendix 3** of the Development Plan (Landscape Character Assessment) identifies that the site is located in a Secondary Amentiy Area. (Figure 1: Location of Scenic Routes and Views.)

**Appendix 4** of the Development Plan provides a Rural Design Guide.

## **5.2. Natural Heritage Designations**

- 5.2.1. The appeal site is not located on or within proximity to any designated Natura 2000 site(s) or Natural Heritage Area(s). The Lower River Suir SAC Site Code (002137) being the nearest European site is approximately 2km to the North of the subject site.

## **5.3. EIA Screening**

- 5.3.1. See completed Appendix 1 - Form 1 on file. Having regard to the nature and type of development proposed, it is not considered that it 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. The grounds of appeal can be summarised as follows:
- The Planning Authority have asserted that the unit is in open countryside, when in fact it is located within a farm complex where there are many large structures.



- The Planning Application states that the accommodation unit is for farm labourers. As such Policy 5-11 of the Tipperary County Council Plan is not relevant. This policy is wrongly referred to in the reason for refusal. This is not for a development in the open countryside. It is to provide accommodation for an existing farm business for an on farm worker, who does not have his own means of transport within the confines of the existing farmyard.
- The Planning Authority have asserted that the unit is substandard- however no opportunity was afforded to the application to make any proposals for the improvement of the aesthetic of the building.
- It is largely screened from public view by existing trees and buildings.
- The applicant is disappointed that instead of helping a farm business to provide necessary accommodation for farm workers, has taken a very aggressive and confrontational approach.
- The applicant would prefer to see a Planning Authority that is pro-business and pro-growth.
- The applicant needs to employ labour throughout the year for his large dairy farm.
- There is no availability of suitable accommodation in the area and the applicant needs to provide accommodation to attract and retain labourers for the farm.
- It is also important for security, safety and efficiency purposes.
- The static mobile home is exclusively for farm workers.
- Details and a photograph of the current farm labourer- Prem Kumar Khimding have been included in the appeal documentation.

## **6.2. Planning Authority Response**

- None.

## **6.3. Observations**

- None.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal submission received in relation to the appeal, the reports of the planning authority, having inspected the site and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal to be considered are as follows:

- Principle of Development
- Design and Impact on the Character of the Area
- Site Suitability Assessment
- Screening for Appropriate Assessment

### **7.2. Principle of Development**

- 7.2.1. The main issue raised by the appellant in the appeal submission that the first reason for refusal is based on an incorrect assumption- 'that the unit is in the open countryside, when in fact it is located within the confines of the existing farmyard.' Of particular importance is that the Planning Authority refer to Policy 5-11 of the Tipperary County Development Plan. It is stated that this is not an application for a development in the open countryside, rather it is an application for an existing farm business to be allowed to provide accommodation for an on-farm worker who does not have his own means of transport within the confines of the existing farmyard.
- 7.2.2. I accept that the applicant has stated in both the cover letter submitted with the application and the appeal documentation that the retention of the mobile home is not for his own use. It is intended to provide accommodation for a farm labourer- named in the appeal documentation as Prem Kumar Khimding, a full time employee of the farm. It is stated that the mobile home will be used exclusively to house farm workers.
- 7.2.3. I am not satisfied that the rural housing policy is applicable in this case. Table 5.2 requires that 'an applicant seeking a new rural dwelling must be building their first home for their permanent occupation, demonstrate a housing need, and must not already own a dwelling in a rural area. An application for a dwelling in the rural area

must be made in the name of the person for whom it is intended.’ I note that the applicant did not submit Part B of the application form to the Planning Authority which requires applicants for rural housing to demonstrate details in relation to housing need. In this case, the applicant is Thomas Lanigan and it is indicated that he already owns a home adjacent to the site.

- 7.2.4. The stated purpose of the static mobile home is to provide accommodation for farm workers. I note that Appendix 1 of the Development Plan (County Housing Strategy) identifies a category of specialist housing provision for Seasonal Employees as follows: - 6.5.2 Seasonal Employees – *‘As a rural economy, Tipperary has a demand for employees to respond to seasons in the horticultural or animal processing sectors on a seasonal or on a temporary basis. It is expected that such employees would be accommodated in suitable accommodation in adjoining settlements centres where they can access appropriate services and amenities for quality of life.’*
- 7.2.5. There is no evidence that the applicant has sought to provide accommodation for employees in any adjoining settlement where they can access appropriate services and amenities for quality of life. Whilst it is stated that there is no availability of suitable accommodation in the area, there is no evidence on the file of the efforts made by the applicant to provide accommodation in suitable accommodation in an adjoining settlement.
- 7.2.6. I am of the view that the type of accommodation proposed provides a poor form of residential amenity for the intended occupant, having regard to the location in the countryside without a means of transport and where access to services and amenities for quality of life would be compromised, without any form of private amenity space and with limited room sizes and overall space.
- 7.2.7. As such, I do not consider that the applicant has adequately demonstrated compliance with Section 6.5.2 of Volume 3, Appendix 1 County Housing Strategy.
- 7.2.8. I therefore consider that the principle of development is not acceptable at this location and would set a poor precedent for similar development in rural areas and the retention of the mobile home at this location does not demonstrate compliance with the requirements of the Tipperary County Council Development Plan 2022-2028.

### **7.3. Design and Impact on the Character of the Area**

- 7.3.1. The site is located in a secondary amenity area in the Tipperary County Council Development Plan identified in the Landscape Character Assessment in Appendix 3 of the Plan. There are intermittent views of the mobile home from the public road at this location and I was able to see the mobile home both on approach to the site and whilst driving away from the site. It is noted that the mobile home is located c. 150m from the public road at the edge of a cluster of farm buildings and whilst the distance from the road and the location with other buildings do offer some reduction in the negative visual impact of the building, I have concerns that the development has eroded part of the character of this area.
- 7.3.2. The mobile home itself is unattractive, dating possibly to the 1980's and does not appear to have been maintained to a high standard externally. I did not carry out an internal inspection however the exterior of the mobile home was covered in algae and there was an old microwave which appeared to have been dumped outside the unit. The appeal submitted on behalf of the applicant states that 'the Planning Authority did not give any opportunity to the applicant, through the further information process, to make any proposal for the improvement of the aesthetic of the building.' I note that the applicant has not taken the opportunity to address this issue through the appeal response submitted to the Board.
- 7.3.3. Objective 11-17 of the Tipperary County Development Plan 2022 requires that buildings and structures in secondary amenity areas integrate with the landscape through careful use of scale, form and finishes.
- 7.3.4. Having regard to the nature of the structure, the poor aesthetic value of the structure and the likelihood of it deteriorating over time by virtue of the materials used in its construction, it is considered that the development for which retention permission is sought would form a discordant and substandard form of residential accommodation and generally have poor aesthetic value and would fail to accord with the 'Development and Design Standards' for residential structures as set out in Rural Design Guide of the Development Plan.
- 7.3.5. Overall, I consider the development has eroded the character of the area, detracts from the rural landscape in a Secondary Amenity Area and the design and siting is contrary to Objective 11-17 of the Plan.

#### **7.4. Site Suitability Assessment**

- 7.4.1. The applicant has completed a Site Characterisation Form that concludes the site is suitable for a wastewater treatment system and percolation area. A trial hole was dug to a depth of 2.4m where bedrock was encountered. The aquifer category is poor. The soil profile as described as silt/clay with frequent cobbles. It is stated that a T test was conducted, resulting in a value of 55.33. Additionally, a P test yielded a value of 15.33. Both results are within the parameters specified in the EPA Code of Practice for Domestic Wastewater Treatment Systems (EPA 2021).
- 7.4.2. Based on the submitted information it has been demonstrated that the proposed wastewater treatment system, complies with EPA Code of Practice guidance in terms of ground conditions and separation distance. I note the Planning Authority raised no concerns in relation to the proposed wastewater treatment system and percolation area. However, it is pointed out in the planner's report that the current method of dealing with effluent is not clear. No additional information has been submitted with the application in relation to this, however the proposal to install a wastewater treatment system and percolation area would address this should the Board be minded to grant permission.
- 7.4.3. I consider the proposal to install a wastewater treatment system and percolation area in this instance to be acceptable and accords with Section 4.3.1 of the Tipperary County Council Development Plan.

#### **7.5. Screening for Appropriate Assessment**

- 7.5.1. I have considered the proposed dwelling in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is c. 2km from the Lower River Suir Special Area of Conservation. The proposed development comprises of the retention of a mobile home and the provision of a wastewater treatment system and percolation area. No nature conservation concerns were raised in the planning appeal.

7.5.2. 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 small scale and nature of the development.
- The location from the nearest European site and lack of connections.
- Taking into account screening report and determination by Planning Authority.

7.5.3. 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. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **8.0 Recommendation**

8.1. Having regard to the foregoing it is recommended that permission be refused for the following reasons and considerations below.

## **9.0 Reasons and Considerations**

1. The site is located in an area which is designated in the current Tipperary County Development Plan 2022-2028 as an 'Secondary Amenity Area'. Objective 11-17 of the Tipperary County Development Plan 2022-2028 requires that buildings and structures in secondary amenity areas integrate with the landscape through careful use of scale, form and finishes.

Having regard to the nature of the structure, the poor aesthetic value of the structure and the likelihood of it deteriorating over time by virtue of the materials used in its construction, it is considered that the development for which retention permission is sought would form a discordant and substandard form of residential accommodation and generally have poor aesthetic value and would fail to accord with the 'Development and Design Standards' for residential structures as set out in Rural Design Guide of the Development Plan. The development would detract to an undue degree from

the rural character and scenic amenities of the area. It is considered, therefore, that the retention of this development would contravene this policy and be contrary to the proper planning and sustainable development of the area.

2. The unit proposed for retention is intended to be for use by farm labourers employed at the existing farm complex at this location. The applicant has failed to demonstrate compliance with the Tipperary County Development 2022 – 2028 in terms of meeting the requirements of Volume 3 Appendix 1 County Housing Strategy Section 6.5.2 which requires seasonal employees to be accommodated in suitable accommodation in settlements where they can access appropriate services and amenities for quality of life. Furthermore, having regard to the absence of any form of private amenity space and the limited room sizes and overall space, it is considered that the static mobile home provides a poor form of residential amenity for the intended occupants. It is considered therefore that the retention of the development would be contrary to the Development Plan and to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Emer Doyle  
Planning Inspector

13<sup>th</sup> December 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

|                                                                                                                                                                                                                                                       |                                                                                                                                                           |                  |                                  |                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|----------------------------------|---------------------------------------------|
| <b>An Bord Pleanála<br/>Case Reference</b>                                                                                                                                                                                                            | ABP- 320686-24                                                                                                                                            |                  |                                  |                                             |
| <b>Proposed Development<br/>Summary</b>                                                                                                                                                                                                               | Retention of existing static mobile home and permission for the installation of a new domestic wastewater treatment system and all associated site works. |                  |                                  |                                             |
| <b>Development Address</b>                                                                                                                                                                                                                            | Rathclarish, Carrick On Suir, Co. Tipperary.                                                                                                              |                  |                                  |                                             |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)                                        |                                                                                                                                                           | <b>Yes</b>       | X                                |                                             |
|                                                                                                                                                                                                                                                       |                                                                                                                                                           | <b>No</b>        | No further action required       |                                             |
| <b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>   |                                                                                                                                                           |                  |                                  |                                             |
| Yes                                                                                                                                                                                                                                                   |                                                                                                                                                           |                  | EIA Mandatory<br>EIAR required   |                                             |
| No                                                                                                                                                                                                                                                    | X                                                                                                                                                         |                  | Proceed to Q.3                   |                                             |
| <b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b> |                                                                                                                                                           |                  |                                  |                                             |
|                                                                                                                                                                                                                                                       |                                                                                                                                                           | <b>Threshold</b> | <b>Comment<br/>(if relevant)</b> | <b>Conclusion</b>                           |
| No                                                                                                                                                                                                                                                    | X                                                                                                                                                         |                  |                                  | No EIAR or Preliminary Examination required |
| Yes                                                                                                                                                                                                                                                   |                                                                                                                                                           |                  |                                  | Proceed to Q.4                              |



| 4. Has Schedule 7A information been submitted? |   |                                  |
|------------------------------------------------|---|----------------------------------|
| No                                             | X | Preliminary Examination required |
| Yes                                            |   | Screening Determination required |

**Inspector:** Emer Doyle      **Date:** 13<sup>th</sup> December 2024