



An  
Bord  
Pleanála

## Board Order ABP-313080-22

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Tipperary County Council**

**Planning Register Reference Number: 21/1586**

**Appeal** by Michael Wilkinson of Clonmore, Cahir, County Tipperary against the decision made on the 25<sup>th</sup> day of February, 2022 by Tipperary County Council to grant subject to conditions a permission to Eamonn Hunter care of Howick O'Brien and Company Limited of 14 College Court, Cashel Road, Cahir, County Tipperary in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of six number dwellings together with individual wastewater treatment systems, public roadways, lighting, footpaths, main site entrance and all associated works. This development will be constructed on a phased basis, construction and completing one or more number of units at a time together with the services necessary for those houses, all at Burgess and Knockannapisha, Ballylooby, Cahir, County Tipperary as amended by the further public notice received by the planning authority on the 4<sup>th</sup> day of February, 2022.

### Decision

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## Reasons and Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028 and the associated Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 4<sup>th</sup> day of February, 2022 to the planning authority, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) the boundary between Points A to C and Points D to E as indicated on the site layout plan, drawing number H16-02 received by the planning authority on the 4<sup>th</sup> day of February, 2022, shall comprise a 1.8 metres high block wall, capped and plastered where open to public view, and

- (b) details of all site boundaries, including site entrance walls, and boundaries between individual sites, shall be submitted to the planning authority for written agreement prior to the commencement of development.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of residential amenity.

3. Prior to the commencement of development, the proposed footpath along the southern side of the R668 from Galhover to Ballylooby shall have commenced and prior to the making available for occupation of any house on the site, the proposed footpath and associated pedestrian crossing of the R668 shall be in place from the site to Ballylooby village.

**Reason:** In the interest of pedestrian safety and to ensure the timely and satisfactory provision of services for the benefit of the occupants of the proposed dwellings.

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. The developer shall comply with the requirements of the planning authority in relation to the design and construction of the section of footpath and crossing point at the entrance to the site on the R668 to the southern side of the R668.

**Reason:** In the interest of the proper planning and sustainable development of the area.

6. No entrance gates or barriers shall be erected across the vehicular or pedestrian entrance to the development from the R688.

**Reason:** In the interests of permeability and social inclusion.

7. 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) protection and enhancement measures for the existing hedgerow along the southern boundary of the site, the existing hedgerow to the east of site 03, and the existing hedgerow to the west of site 01, as shown on drawing number H16-02 received by the planning authority on the 4<sup>th</sup> day of February, 2022, which shall be retained,
- (b) construction methodology relating to hedgerows and trees, to ensure existing hedgerows and trees identified for retention are appropriately managed,
- (c) landscaping plans for the area of public open space, and
- (d) any clearance of vegetation from the development site shall only be carried out in the period between the 1<sup>st</sup> day of September and the end of February, that is, outside the main bird breeding season.

Any trees or hedging which die, are removed or become seriously damaged or diseased, within a period of three 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.

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

8. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

9. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** To ensure adequate servicing of the development and to prevent pollution.



10. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the standards set out in the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021.
- (b) Treated effluent from the treatment system shall be discharged to a percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021, with specific reference to the R2(2) response category.
- (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 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.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of the on-site wastewater treatment system, public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

12. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.

**Reason:** In the interest of public health.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

14. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

15. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including access arrangements for construction traffic, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.



16. All public service cables associated with the proposed development (such as electrical, television, telephone and broadband cables) shall be located underground within the site.

**Reason:** In the interest of visual and residential amenity, and of sustainable development.

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the Development Plan for the area.



18. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site and to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development until it may be taken in charge. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

20. 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.



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**Joe Boland**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

Dated this 4<sup>TH</sup> day of October 2023.