



An
Bord
Pleanála

Inspector's Report ABP-313080-22

Development	To construct 6 no. dwellings together with individual waste water treatment systems, public roadways, lighting, footpaths, main site entrance and all associated works.
Location	Burgess & Knockannapisha, Ballylooby, Cahir, Co Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	211586
Applicant(s)	Howick O'Brien & Co. Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Michael Wilkinson
Observer(s)	None.
Date of Site Inspection	24 th April 2023

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 1.3ha, is located in the townland of Burgess and Knockannapisha, c.280m north east of the centre of the village of Ballylooby in County Tipperary. The site is located off the northern side of the R668, between Cahir and Mitchelstown and is c.4km south of the M8 Dublin to Cork motorway.
- 1.2. The appeal site itself is currently in use for agricultural purposes and forms part of a larger field. As a result there is no defined northern and western boundary. The field adjoining the appeal site immediately to the south, with a mature hedgerow boundary, is outside the applicant's ownership and adjoins the R668. A narrow stretch of the appeal site adjoins the R668 to give an access to the lands and is located between two dwellings one of which is a two storey dwelling and the other is a bungalow. It would appear this access point previously formed part of the garden area of the bungalow. The access route extends north and around the rear garden of the two storey dwelling. There is a hedgerow between this eastern portion of the site and the larger western portion.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of six dwellings together with individual waste water treatment systems, public roadways, lighting, footpaths, main site entrance, and all associated site works.
 - The development is to be constructed on phased basis.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of a response to a request for further information, with Significant Further Information received on 04th February 2022, Tipperary County Council issued a notification of a decision to grant permission on 25th February 2022 subject to twenty one conditions, the following of which are noted:

C2: Section 96 Social and Affordable Housing provisions.

C3: Phasing schedule to be submitted.

C7: Wastewater.

C8: Roadside boundary to be set back for sightlines.

C21: Section 47 condition.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- Significant FI was received in relation to FI on sightlines; pedestrian crossing at R668; surface water; part v proposal; and boundary treatment along entrance road adjoining existing dwellings.
- Lands closer to the village centre have not come up for development over the life time of the plan.
- The site is in the main within the settlement boundary and meets the requirements of the Design and Best Practice Guidelines for Cluster Housing Scheme in Rural Villages.
- Satisfied that scale and character of development proposed is appropriate to the scale and character of Ballylooby.
- District engineer is undertaking to develop a footpath link from the existing 6 houses at Galhover to the village along the southern side of the R668, with a safe pedestrian crossing from the application site to the footpath required.
- Use of individual wastewater systems is in line with Policy TI7 of the South Tipperary County Development Plan as Ballylooby does not have a municipal wastewater system.
- Trial holes were dug to 3m with no rock or water encountered.
- The site overlays a regionally important aquifer with high vulnerability. This presents no restrictions to the development.

- The wastewater disposal aspects of the development are acceptable and meet EPA 2021 Code of Practice.
- Surface water – a surface infiltration test was undertaken which demonstrates the site has favourable characteristics for on-site surface water disposal at the volumes proposed.
- Timber post and panel along the entrance road is not acceptable. A block wall plastered and capped is preferable due to durability.
- AA and EIAR are not required.

3.2.2. Other Technical Reports

District Executive Engineer Report – report dated 14.12.21 - FI request to show sightlines set back 2.4m as per DMURS; 2 additional gullies to be installed in the yard area of the dwellings so that ACO drain at the dwelling entrance is not taking all the surface water, particularly if yards are resurfaced with tarmac; further details in relation to BMS infiltration units to ensure no issues over long term maintenance of the proposed stormwater system; 2 gullies to be provided at main entrance; plans for TCC to install a new footpath at the opposite site of the regional road from Galhover Housing Development, therefore a link required from this development and future path on southern side of the road, and design for a crossing and costs to be paid by the developer.

District Executive Engineer Report – report dated 17.02.22 - Following receipt of Further information, no further comments.

3.3. Prescribed Bodies

No responses.

3.4. Third Party Observations

One observation was received. The issues raised are largely as set out in the grounds of appeal (see Section 6 hereunder).

4.0 Planning History

ABP Ref PL23.238130 (PA ref 10423) – Permission refused on 27th May 2011 for the construction of 15 no. dwelling houses, garages, district heating plant, treatment system, access, roadways and all associated site development works, on a site of 1.538ha.

[Note: Site larger than current appeal site, extending further west to western field boundary/laneway]

R1: Having regard to the deficiencies in the existing foul sewerage system serving the site and serving the area, to the location of the proposed wastewater treatment system serving the proposed development and potentially the village, to its location upgradient of the village and to the necessity to pump effluent to the system, it is considered that the proposed development would result in a substandard long term solution to serve the village, would constitute disorderly development, would be premature pending adequate overall resolution of the existing deficiencies in the system and would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

PA Ref. 08/984 – Permission refused on 18th November 2008 for 14 residential dwellings for the following reasons:

R1: The site is located approximately 250m from the centre of Ballylooby with no footpath linking the site with the village centre and it is considered that the development would not be in accordance with the orderly development of settlement. The proposed development constitutes sporadic and piecemeal development and would set an undesirable precedent for other similar developments.

R2: Notwithstanding the proposal for an on site waste water treatment system the development would be premature pending the outcome of a prospective sewage facility within the village of Ballylooby. The EPA have recommended that local authorities adopt the 'precautionary approach' when permitting large individual waste water treatment systems; large scale percolation areas

should only be considered where there is no other option for the discharge of treated wastewater from residential housing and should be limited to existing residential population centres. It is considered, due to the location of the development away from existing population centres and future plans for a waste Water Treatment Plan for the village of Ballylooby the proposed development would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007)

5.2. Tipperary County Development Plan 2022-2028

Volume 1 – Written Statement

Chapter 4 Settlement Strategy

- Section 4.6 Living in Rural Places - The rural settlements of the county have been identified in the settlement strategy as ‘Service Centres’, ‘Local Service Centres’ and ‘Settlement Nodes’.
- Ballylooby is a Level 4 Settlement Node.
- Section 4.6.3 Settlement Nodes: New residential developments in settlements will be limited to cluster type residential schemes, of a character suitable to settlements of this size, with a focus on infill development and reuse of existing buildings. A Settlement Statement for each Settlement Node is set out in Volume 2...

Chapter 5 Housing

- Table 5.1 Residential Development in Rural Settlements – Settlements Nodes:
 - Applications for appropriately scaled village housing, infill sites and ‘Housing Clusters’ in line with the Cluster Guidelines, will be considered within, or adjacent to, the village boundary.

Chapter 15 Water and Energy Utilities

Policy 15-5...The Council may consider, on a site-specific basis, on-site waste water treatment proposals in cases where a connection to a municipal treatment plant has been demonstrated to be unfeasible or in settlements which are not served by treatment plants. Developments shall be subject to the criteria set out below:

(a) Small Business, Community and Public Developments... or

(b) Private Residential Developments: the development shall be served by individual treatment plants in compliance with the Code of Practice: Waste Water Treatment Systems for Single Houses, (EPA, 2021) (or any amendment thereof).

In both cases as above

i. the development shall connect to the municipal treatment plant, where and when such facilities become available [Footnote 65: Full design details, plans and specification of further connections to be submitted at planning application stage].

ii. the development will not have an adverse human health, environmental or ecological impact on the receiving environment, including groundwater or surface water courses [Footnote 66: The Council must be satisfied that the receiving environment has the capacity to cater for the development and will require, as necessary, the submission of appropriate environmental reports at planning application stage].

iii. the development shall demonstrate compliance with the Development Management Standards set out in Volume 3.

Volume 2 – Settlement Guide and Settlement Plans

- Table 1.1 Settlement Plan Hierarchy – Ballylooby is a Level 4 Settlement Node.

- Ballylooby 'Settlement Node' Settlement Plan:
 - Infrastructure: Waste water is treated by discharge to ground – Individual treatment systems; Public water supply available.
 - Key Community Facilities: There is a school, community hall, church and graveyard, 2 pubs, shop and fuel pumps. GAA facilities are located outside the village to the west.
 - Objective GO1: To facilitate low density development proposals to meet local housing demands together with the provision of local and community services / facilities and local employment opportunities within the village/settlement boundary in accordance with the principles of proper planning and sustainable development, and the Council's 'Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages'.

Volume 3 - Appendices

- Design & Best Practice for Cluster Housing in Rural Villages
 - A Cluster Development is defined as “a low density housing scheme comprising up to 6 no. detached dwellings on individual sites on lands in or adjacent to a village”.
 - Plot areas, site subdivision and location of the treatment plant will be informed by whether the site is to be serviced by public services (e.g. connection to waste or water network) or individual on-site services (e.g. private well or waste water treatment system).
 - 5 steps to enhance and develop a cluster scheme – Integrating the development with the village and site characteristics:...Enhance and develop existing connections to and from the village such as river paths, footpaths, links to existing residential schemes/ developments etc.
 - Integrating the development with infrastructure and service requirements:...Link footpaths provision from the site to the village.
 - Waste water treatment: ...may involve connection to the public treatment plant or discharging to individual on-site treatment systems.

- Where a village is not serviced by a public treatment plant, on-site waste water treatment systems will be required to be designed, constructed and maintained in accordance with the 'EPA Code of Practice Wastewater Treatment and Disposal Systems for Single Houses' in place at the time of the application.
- Worked Example 2, pg 34-29 : An Un-serviced Village - Ballylooby
- Development Management Standards

Section 4.5 Cluster Housing Schemes / Serviced Sites:

- Proposals for cluster housing schemes will be required to demonstrate compliance with the Council's 'Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages' (2018) set out in Appendix 3 of the Plan. The following minimum standards apply to planning applications for serviced sites in addition to the General Residential Design Standards: a) The site shall be laid out with single shared access onto the public road and shared public open space. b) The design brief shall identify house and boundary design standards including style, heights, layouts, materials and finishes and landscaping details of entire site. c) Public open space shall be capable of passive supervision.

Section 4.6 General Residential Design Standards:

- Applications for residential development will be assessed against the design criteria set out in the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, (DHLGH, 2009) and the Urban Design Manual: A Best Practice Guide, (DHLGH, 2009). This section applies to all new residential development in settlements, including serviced sites.
- Table 4.1: Minimum Design Standards for Residential Schemes (pg 20).

5.3. Natural Heritage Designations

The Thonoge River is located c. 180 south of the application site. This river flows southeast, connecting with the Lower River Suir SAC (002137) at a distance of c. 8km from Ballylooby.

The Galtee Mountains SAC (000646) and pNHA is located 5km to the northwest. Scaragh Wood pNHA is located c. 4.7km to the northeast.

5.4. EIA Screening

Under Item 10(b)(i) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2022, where more than 500 dwelling units would be constructed, the need for a mandatory EIA arises. The proposal is for the development of six dwellings. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall well below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

One appeal has been lodged by Michael Wilkinson, who states that his family own a farm close to the village of Ballylooby and the proposed development. The grounds of appeal are summarised as follows:

- Proposed development is on land previously rezoned 14 years ago at the request of the applicant.
- There was already sufficient residential zoned land available in the village, upon which construction has not taken place in the intervening period.
- There is sufficient and more suitable land for development on both sides of the R668 road.
- Other lands closer to the centre of the village would be sequentially preferable than the subject development site.
- The proposed entrance to the site and one of the proposed dwellings are outside of the residential zoned area. This is contrary to the settlement plan.

- Land in the village is owned by a developer and has not been developed yet.
- Concern over impact of individual wastewater treatment systems, which is not in accordance with the proposal planning procedures.
- Risk from wastewater treatment systems on water quality and safety of private water supplies.
- Precedent for future developments.

6.2. Applicant Response

The applicant's response to the first party appeal is summarised as follows:

- The site is zoned for low density residential development in the current development plan and no changes to the settlement plan are shown in the Draft Development Plan 2022-2028, currently at amendment stage.
- One of the dwellings and the entrance is located outside the settlement plan boundary, but this was indicated as being acceptable at pre-planning advice stage.
- A Development Impact Assessment against the policies and objectives of the plan has been submitted, which shows the development can link effectively with and contribute to the village form.
- Specific sustainable and alternative transport links with separate proposed pedestrian enhancements in the village have been incorporated into the design, with landscaping.
- No other land has come forward for development since 2009. Development of the site will not preclude development of land closer to the village. The settlement boundary has not changed since 2009.
- Settlement plan for Ballylooby allows for waste water to be treated by discharge to ground – individual treatment systems and is as per the Draft Plan 2022-2028.
- Parameters set out in table 4.2 of the EPA's 2021 Code of Practice for Domestic Waste Water Treatment Systems are being met. To address potential for cumulative impact, the treatment systems will go beyond the

required minimum levels and there will be no unacceptable risk to the quality of groundwater, private or public water supply. Condition 7 of the permission addresses this issue.

- This is an appropriate small scale residential alternative to multiple individual houses in the rural vicinity.
- Proposal through contemporary design, together with sensitive landscaping treatment, will contribute positively to the character and sustainability of the village of Ballylooby.

6.3. Planning Authority Response

The PA submission is summarised as follows:

- The site is, for the main, located within the settlement boundary for Ballylooby and while there are closer sites to the village, these have not come up for development over the lifetime of the South Tipperary County Development Plan 2009.
- Proposals meets requirement of Tipperary County Councils Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages and requirements of the development plan, as varied for development within rural settlements.
- The proposed development does not extend or alter the settlement boundary of Ballylooby.
- The proposal to permit a dwelling and entrance outside the settlement boundary of Ballylooby does not contravene the settlement boundary of Ballylooby. Reference to Policy SC4 of the development plan, as varied.
- Percolation testing shows favourable drainage characteristics. Ballylooby does not have a municipal wastewater system. Reference to Policy TI7 which allows for on-site treatment systems in such a case, as supported by the Best Practice Guidelines for Cluster Housing Schemes in Rural Villages.

- The development will provide for choice for family sized dwellings located within and in proximity to the services of Ballylooby and would strengthen and consolidate the settlement.

7.0 Assessment

7.1. Introduction

7.1.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development and Zoning
- Waste Water Treatment
- Residential Amenity
- Appropriate Assessment Screening

7.1.2. The Tipperary County Development Plan 2022-2028 came into effect on 22nd August 2022. I note the Planning Authority's report on this application, as well as the appeal submissions, were assessed against the previous North Tipperary County Development Plan 2010, which was the operative plan at the time, with the draft plan in place at the time of the appeal. I assess hereunder the application against the current operative development plan, Tipperary County Development Plan 2022-2028.

7.2. Principle of Development

7.2.1. Ballylooby is a Level 4 Settlement Node as set out in the settlement hierarchy of the Tipperary County Development Plan 2022-2028. In Volume 2 of the development plan, a settlement plan is set out for Ballylooby, which indicates a settlement boundary and a zoning covering a small portion of lands relating to social and public, and amenity. The remainder of the lands within the settlement boundary are unzoned/indicated in white. Objective GO1 of the settlement plan for Ballylooby seeks 'To facilitate low density development proposals to meet local housing

demands together with the provision of local and community services / facilities and local employment opportunities within the village/settlement boundary in accordance with the principles of proper planning and sustainable development, and the Council's 'Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages'.

- 7.2.2. Chapter 5 of the operative development plan states that in relation to residential development in Settlement Nodes that applications for appropriately scaled village housing, infill sites and 'Housing Clusters' in line with the Cluster Guidelines, will be considered within, or adjacent to, the village boundary. The document accompanying volume 3 of the development plan titled 'Design & Best Practice for Cluster Housing in Rural Villages' defines a Cluster Development as 'a low density housing scheme comprising up to 6 no. detached dwellings on individual sites on lands in or adjacent to a village'.
- 7.2.3. Concerns are raised in the grounds of appeal that a portion of the site, where the site entrance and the proposed dwelling north of that site entrance are located, are both outside the settlement boundary for Ballylooby and therefore should not be developed. Concern is raised that the lands are not the most appropriate in terms of sequential development.
- 7.2.4. The PA are of the view that lands adjacent to a village can be utilised for a cluster, as per the development plan policy and that the site is appropriate for development.
- 7.2.5. I note that the text within chapter 5 of the development plan, in addition to Objective GO1, and associated volume 3 guidelines in relation to cluster development, states that a cluster development of six houses on individual sites is acceptable in or adjacent to a village. I would consider the location of the entrance and one dwelling adjacent to the defined settlement boundary as complying with the objective of the development plan and that the principle of the proposed development is acceptable, subject to assessment of other planning criteria, as examined further in this report hereunder.
- 7.2.6. While there are lands closer to the village centre open for development, I note the site is c.280m from the village centre and while not the closest lands to the centre, there is no phasing proposal in place for lands within the settlement boundary and

the development plan does not preclude the development of such lands over others. I therefore consider the proposal is acceptable in principle.

- 7.2.7. The applicant has submitted a Development Impact Assessment report which states on page 3-4 that the total area of land for development within the settlement boundary is 7.5 hectares, with the appeal site comprising 1.37 hectares of this, of which 1.1 hectare is situated within the settlement boundary. This equates to 14.66% of the total undeveloped land in the village boundary.
- 7.2.8. The density of the proposed scheme is 4.6 units per hectare. In terms of density, the development plan does not define low density, stating only that a cluster relates to up to six dwellings and clusters present options for low density housing and serviced site schemes to facilitate those who wish to build and design their own homes in existing rural communities. The guidelines on Sustainable Residential Development in Urban Areas states that 'in order to offer an effective alternative to the provision of single houses in surrounding unserviced rural areas, it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15 - 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question'. As stated previously, the land area in question relates to 14.66% of the total undeveloped land in the village boundary.
- 7.2.9. Given the location of the site predominantly within the settlement boundary of Ballylooby, the position of Ballylooby within the settlement hierarchy, the development plan policy for Settlement Nodes and guidance within the Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages, as well as guidance within the Sustainable Residential Development Guidelines to support alternatives for rural dwellings, I am satisfied that the density of the development as proposed is acceptable for this site. In terms of concern raised in relation to precedent, I note each application is assessed on its merits, as supported by guidance at a national and local level.

7.3. Surface Water

- 7.3.1. A Flood Risk Assessment Report has been submitted with the application which examines the geology and hydrology of the site and includes on-site filtration testing. The report notes that while the site is classified as having poorly drained Surface Water Gley soil, this does not match the soil infiltration tests which show the soil type is well drained from mainly non-calcareous parent materials. The subsoil is stated to derive from Devonian Sandstone. The Site Suitability Assessment Desk Study Report includes photos of trial holes dug showing the soil.
- 7.3.2. All surface water from roofs, driveways and paved areas are to be disposed of within the curtilage of each site via soakaways with a gully and ACO in the yard areas of each house. Road drainage is to be addressed via installation of BMS infiltration units along the street within the scheme, with two road gullies at the entrance to the development.
- 7.3.3. Following receipt of FI, the PA is satisfied with the proposals in terms of surface water.
- 7.3.4. Based on the information submitted, I am satisfied that surface water generated can be managed on the site.

Flood Risk Assessment

- 7.3.5. Tipperary County Council flood maps indicated a localised section to the north east boundary of the site as possibly being at risk from pluvial flooding.
- 7.3.6. A Flood Risk Assessment has been submitted with the application, addressing potential pluvial as well as fluvial flooding. The site is indicated to have favourable drainage characteristics and there was no evidence of the collection of surface water on the site with soil testing indicating free draining soil. All soakaways and attenuation areas are to be designed in accordance with best practices to ensure surface water is managed appropriately.
- 7.3.7. I am satisfied that flood risk issues have been adequately addressed.

7.4. Waste Water Treatment

- 7.4.1. Concerns are raised in relation to potential pollution arising from the provision of individual waste water treatment systems for the proposed dwellings.
- 7.4.2. The suitability of the site for individual waste water treatment systems against the EPA Code of Practice (COP) 2021 has been assessed and deemed appropriate by the PA.
- 7.4.3. I note the village of Ballylooby is not serviced by a waste water treatment plant. The settlement plan for Ballylooby under the operative development plan states in this regard that waste water is currently treated by discharge to ground – Individual treatment systems. There is no proposal in the development plan for a waste water treatment plant to serve the village.
- 7.4.4. I note the lands are unzoned with an objective to support low density sustainable development. Policy 15-5 of the operative development plan states the council may consider, on a site-specific basis, on-site waste water treatment proposals in cases where a connection to a municipal treatment plant has been demonstrated to be unfeasible or in settlements which are not served by treatment plants, subject to no adverse impacts on human health, environmental or ecological impact and subject to compliance with the Code of Practice for Domestic Wastewater Treatment Systems (EPA, 2021) (and any amendment) and the development management criteria set out in Volume 3.
- 7.4.5. Having regard to the policy within the Tipperary County Development Plan 2022-2028, which has considered the issue of villages with no waste water treatment facilities and supports development of cluster housing in such villages as an alternative to rural based housing in accordance with the Cluster Guidelines and EPA guidance relating to Code of Practice for Domestic Wastewater Treatment Systems, I consider that the principle of individual waste water treatment systems to serve dwellings within/adjacent the settlement boundary is acceptable and supported by local policy. In relation to the issue of precedent raised in submissions, each application is assessed on its own merits having regard to site characteristics. The acceptability of the principle of individual waste water treatment systems on this site, where a lower density of development is acceptable, should not be considered as precedent for the development of all lands within the settlement boundary in such a

manner and any such applications will be assessed against national and local policy as well as EPA standards.

7.4.6. The applicant has submitted a Site Suitability Assessment in accordance with the EPA COP 2021. The groundwater body related to the site is Clonmel GWB, which has a good status. The aquifer type beneath the site is a Regional Important Aquifer with ground vulnerability stated to be High. There are no source protection areas within 4km of the site. The ground water flow it to the southwest, toward the Thonoge River. The soil type is indicated to be surface water gley and subsoil type is Devonian sandstone till. However, as indicated in the Flood Risk Assessment report and noted from the site infiltration tests, the soil is shown to be well drained. For the six sites, the soil type is described within the assessment as interface of acid brown earths and gley soil over subsoil of sandstone till. Six trial holes were dug relevant to the site of each house and pictures are included of each trial hole, soil within, and depth to bedrock where it was encountered. The T and P values for each site are listed as follows:

- Site 1: Percolation/T value of 11.75 and sub surface percolation/P value of 12.03
- Site 2: Percolation/T value of 17.42 and sub surface percolation/P value of 8.72
- Site 3: Percolation/T value of 7.72 and sub surface percolation/P value of 8.42
- Site 4: Percolation/T value of 11.44 and sub surface percolation/P value of 8.47
- Site 5: Percolation/T value of 16.36 and sub surface percolation/P value of 10.89
- Site 6: Percolation/T value of 12.72 and sub surface percolation/P value of 12.28

7.4.7. No water is stated to have been encountered in any of the trial holes. Three of the six trial holes were not dug to the minimum depth of 3m, which is required for over regionally important aquifers. The reason given for this was due to the presence of bedrock, however, for site 6, no indication is given as to why the depth stopped at 2.6m (ie if due to water table or bedrock). For site 2, rock was encountered at 1.9m. For site 3 there was loose rock at 2m. For site 6, this was dug to 2.6m. The other three trial holes were dug to the required 3m. The EPA CoP 2021 states that if bedrock is met within 3m of the surface in such cases, when the existing vulnerability classification is 'high', 'moderate' or 'low', this vulnerability classification must be

considered at a site level to be 'extreme' and this new local GWPR relating to 'extreme' groundwater vulnerability adhered to for the site.

- 7.4.8. The CoP indicates that the site, with an extreme vulnerability rating, falls with the R2(2) response category, whereas the submitted documentation states it is R2(1). For R2(1), an on-site domestic waste water treatment system is 'acceptable subject to normal good practice. Where domestic water supplies are located Nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised.' For R2(2), the COP states an on-site domestic waste water treatment system is Acceptable subject to normal good practice and the following additional condition: 1. There is a minimum thickness of 2 m unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system OR 2. A secondary treatment system as described in Chapters 8 and 9 is installed, with a minimum thickness of 0.3 m unsaturated soil/subsoil with percolation values from 3 to 75 (in addition to the polishing filter, which should be a minimum depth of 0.9 m), beneath the invert of the polishing filter (i.e. 1.2 m in total for a soil polishing filter).
- 7.4.9. Dwelling 1 is proposed to drain to a septic tank with percolation area and the remaining houses are to have packaged wastewater treatment systems draining to polishing filters. While cross sections are not submitted to demonstrate what the depth of subsoil will be for the systems proposed with polishing filters, I note that given the soil types and results of the trial holes, there does not appear to be any limit to complying with the requirements of the R2(2) response category. This issue can be addressed by way of condition.
- 7.4.10. Minimum separation distances from DWWTs as per table 6.2 of the CoP are met.

7.5. Footpath Links to Ballylooby

- 7.5.1. There are no footpaths linking the application site to the village. The distance from the entrance of the appeal site to the nearest footpath in Ballylooby is c. 211m.
- 7.5.2. The applicant has stated in their submitted Development Impact Assessment (pg 6) that pedestrians from the development will be able to walk to the village via a footpath which may be constructed by the local authority some time in the future.

- 7.5.3. The PA requested further information from the applicant requesting the provision of a pedestrian crossing at the entrance of the site to the other side of the R668. The FI request from the roads section states that 'Tipperary County Council intend to develop a footpath linking the houses at Galhover to existing footpaths in Ballylooby on the south side of the public road'. I note Galhover is a development of six number houses, located on the opposite side of the R668, c. 178m east of the proposed entrance to the appeal site, with no footpath connecting this development to the village, and only a short section of footpath along the roadside boundary of the site built as part of that development. Following receipt of FI, the PA reports notes the applicant has proposed a drop kerb to support a pedestrian crossing to the other side of the road and is willing to contribute towards the cost of developing a pedestrian crossing on the R668.
- 7.5.4. While the PA in their report notes that this future linkage is to be developed by the Cashel-Tipp-Cahir Municipal District on the south side of the R668, no defined plans with a timeline have been set out by the PA and as a result I am not clear as to when such a footpath would be provided. I consider the lack of a pedestrian footpath from the appeal site to Ballylooby village a serious impediment to development at present. The road network is substandard in light of the lack of public footpaths along the R668 and would, therefore, endanger public safety by reason of a traffic hazard and would result in the development being entirely car dependant. However, given the FI request from the PA, it would appear that the plan is to provide for a footpath in the short term, therefore, I consider it appropriate to attach a condition that no development commence on site until the proposed footpath from Galhover to Ballylooby village has commenced and no house shall be occupied or sold until the footpath and crossing point is in place.

8.0 Appropriate Assessment Screening

- 8.1.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 8.1.2. The proposed development comprises the construction of six dwellings and associated individual waste water treatment systems and all associated site works.

- 8.1.3. A screening report for Appropriate Assessment was not submitted with this appeal case. However, in their assessment of the proposed development, Appropriate Assessment Screening was undertaken by Tipperary County Council as part of their planning assessment and they determined that Appropriate Assessment was not required.
- 8.1.4. The proposed development site is on a greenfield site within a rural area with a small village, Ballylooby, located c. 280m to the west of the site. There are a small number of detached rural dwellings in the vicinity of the site. The development comprises the construction of six detached dwellings, with individual waste water treatment systems disposing to the ground and a surface water treatment system comprising discharge within the curtilage of each house and to the ground via infiltration systems along the street serving the scheme.
- 8.1.5. There are no watercourses or other ecological features of note on the site that would connect it to European Sites in the wider area. The Thonoge River is located c. 180 west of the application site. There is no direct link from the site to this river.

European Sites

- 8.1.6. The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA).
- 8.1.7. The boundary of the nearest European Site is c. 5km east of the site as the crow flies, the Lower River Suir SAC (002137).
- 8.1.8. The Thonoge River is located c. 180 west of the application site. This river flows southeast, connecting with the Lower River Suir SAC (002137) at a distance of c. 8km from Ballylooby. There is no direct hydrological link from the site to the Thonoge River to the west.

Likely impacts of the project (alone or in combination)

- 8.1.9. Due to the enclosed nature of the development site and the presence of greenfields between the site and the Thonoge River, I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.

- 8.1.10. The proposed development would not have direct impacts on any European site. Due to distance and lack of meaningful source-pathway-receptor connection to the Thonoge River, there will be no changes in ecological functions due to any construction related emissions or disturbance.
- 8.1.11. No mitigation measures are required to come to these conclusions.

Screening Determination

- 8.1.12. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on Lower River Suir SAC (002137) or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 8.1.13. This determination is based on:
- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site
 - Distance from European sites

9.0 Recommendation

- 9.1. I recommend that permission is granted as set out hereunder.

10.0 Reasons and Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028 and the associated Design & Best Practice for Cluster Housing in Rural Villages, the existing pattern of development in the area, in addition to 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.

11.0 Conditions

1.	<p>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 on 04th 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none">a) The boundary between Points A to C and Points D to E as indicated on the site layout plan, dwg no H16-02, shall comprise a 1.8m high block wall, capped and plastered where open to public view.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. <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity.</p>
3.	<p>Prior to the commencement of any 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</p>

	<p>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.</p> <p>Reason: In the interests of pedestrian safety and to ensure the timely and satisfactory provision of services for the benefit of the occupants of the proposed dwellings.</p>
4.	<p>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 any development.</p> <p>Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.</p>
5.	<p>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.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
6.	<p>No entrance gates or barriers shall be erected across the vehicular or pedestrian entrance to the development from the R688.</p> <p>Reason: In the interests of permeability and social inclusion.</p>
7.	<p>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:</p> <p>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 show on drwg no H16-02, which shall be retained.</p>

	<p>b) Construction methodology relating to hedgerows and trees, to ensure existing hedgerows and trees identified for retention are appropriately managed.</p> <p>c) Landscaping plans for the area of public open space.</p> <p>d) Any clearance of vegetation from the development site shall only be carried out in the period between the 1st of September and the end of February i.e. outside the main bird breeding season.</p> <p>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.</p> <p>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.</p>
8.	<p>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).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
9.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

10.	<p>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 ≤ 10) ” – Environmental Protection Agency, 2021.</p> <p>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 ≤ 10)” – Environmental Protection Agency, 2021, with specific reference to the R2(2) response category.</p> <p>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.</p> <p>Reason: In the interest of public health and to prevent water pollution.</p>
10.	<p>The applicant or developer shall enter into water connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p>Reason: In the interest of orderly development.</p>
11.	<p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

12.	<p>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.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.</p>
13.	<p>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, hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
14.	<p>All public service cables associated with the proposed development (such as electrical, television, telephone and broadband cables) shall be located underground within the site.</p> <p>Reason: In the interest of visual and residential amenity, and of sustainable development.</p>
15.	<p>Prior to commencement of development, the developer 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</p>

	<p>authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>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 of the area.</p>
16.	<p>Prior to the commencement of any house or duplex unit 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 or duplex unit), 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</p> <p>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 in accordance with the 'Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities', May 2021.</p>
17.	<p>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, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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. 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.</p>

	Reason: To ensure the satisfactory completion of the development.
18.	<p>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.</p> <p>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.</p>

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.

Una O'Neill
Senior Planning Inspector

1st June 2023