



An
Coimisiún
Pleanála

Inspector's Report PL-501510-TY-26

Development	Construction of 6no. detached houses for 5 dwellings which had commenced on foot of planning file 05/623, and all associated site development works and underground services.
Location	Goatenbridge, Ardfinnan, Clonmel, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2561095
Applicant(s)	Goatenbridge Developments Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	First Party Normal Planning Appeal
Appellant(s)	Goatenbridge Developments Ltd
Observer(s)	Uisce Eireann
Date of Site Inspection	Not Required
Inspector	Caryn Coogan

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1.0 Site Location and Description

1.1. The site area is 0.445ha, and is located at Goatenbridge Ardfinnan, Clonmel Co. Tipperary.

1.2. The site comprises of an undeveloped portion of a small residential estate located within the development boundary of the village of Goatenbridge. The footpath and the access road within the existing estate extend up to the site boundary.

1.3. The site is relatively flat. It is bound to the east and south by a band of hedging.

The site, while within the development boundary for the settlement, is not zoned for a specific use in the Tipperary County Development Plan 2022.

2.0 Proposed Development

2.1. To construct 6no.detached, two-storey dwelling houses comprising 4no. four bedroom and 2no.three bedroom, including the removal of the rising walls for 5 dwellings which had commenced on foot of planning file 05/623, and all associated site development works and underground services at Goatenbridge, Clonmel, Co. Tipperary.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Tipperary Co. Co. granted planning permission for the proposed development subject 21No. Conditions. The conditions relevant to this appeal are as follows:

4. No unit permitted under this permission shall be sold or occupied until all supporting water, surface water and wastewater services, roads, footpaths

and public lighting etc, within the estate are completed to the written satisfaction of the Planning Authority.

REASON: In the interests of orderly development.

8. No development shall commence on site until such time as the developer has obtained a Connection Agreement from Uisce Eireann-Irish Water for the provision of water services necessary to service the proposed development.

REASON: In the interests of public health and for the wellbeing of the occupant(s) of the development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning permission was granted on a larger site within the village of Goatenbridge, Co. Tipperary, of which the subject site forms part, for 20 residential units (05/623). This permission was partly implemented with 15 of the 20 units provided. Permission is now sought to replace 5 units permitted under 05/623 but not constructed with 6 detached units.
- The site lies within the development boundary of the settlement node of Goatenbridge and is not zoned for a specific use.
- The proposal is for 6 units which is in accordance with the provisions of the Design and Best Practice for Cluster Housing Schemes in Rural Villages' as set out in Volume 3 Appendix 5 of the Tipperary County Development Plan 2022.
- The layout proposed is reflective of that permitted under the parent permission. There is no objection the units proposed from a design perspective.
- The proposal presents no roads related issues.
- The site is served by public water mains. The submission from Irish Water is noted. The outcome of the PCE is to be submitted by way of further information.

- Items of further information were requested in particular 2. The applicant is requested to submit the confirmation of the feasibility from Uisce Eireann demonstrating that a connection to public water network is possible without substantive upgrades required. Following receipt of the further information requested on the 20th of March 2026, the only outstanding item remained was the confirmation of feasibility from Uisce Eireann. The applicant replied on the 17th of April 2026. The information received was not deemed to be significant.

3.2.2. **Other Technical Reports**

Housing: 1 No. housing unit is transferrable to the planning authority under Part V.

3.3. **Prescribed Bodies**

3.3.1 The planning application was referred to An Uisce Eireann, An Taisce, The Heritage Council and DAU

3.3.2 ***An Taisce***

We note that the subject site is approximately 160m south of the River Tar, which is part of the Lower River Suir SAC (site code: 002137). There is a tributary of the Tar approximately 240m to the west of the site. As such we considered that the application should be screened for Appropriate Assessment. If any hydrological links are identified between the site and the river or its tributary (including field drains), we recommend that any grant of permission be conditioned to require a Construction Environmental Management Plan including measures to protect water quality from pollutants and contamination.

3.3.3 ***Uisce Eireann***

The applicant shall engage with Uisce Éireann by submitting a pre-Connection Enquiry (PCE) to assess feasibility of connection to the public water / wastewater infrastructure. The outcome of the PCE shall be submitted to the Planning Authority as a response to Further Information Request.

3.4. **Third Party Observations**

None.

4.0 Planning History

4.1 PL Ref 23/60600 (ACP 319346-24)

To construct 14no. semi-detached, two-storey dwelling houses comprising 10no. three bedroom and 4no. two bedroom, including the removal of the rising walls for 5 dwellings which had commenced on foot of planning file 05/623, including all associated site development works and underground services – Refused By both the planning authority and An Bord Pleanala.

The proposed development is for the construction of 14 semi-detached, two storey dwelling houses within the development boundary of Goatenbridge, Co. Tipperary which is designated as a settlement node in the Tipperary County Development Plan 2022-2028. As per Objective GO-1 of Volume 2 of the plan, which relates to Goatenbridge, it is an objective of the plan to facilitate low density development proposals to meet local housing demands in accordance with the principles of proper planning and sustainable development and in compliance with the 'Design and Best Practice for Cluster Housing Schemes in Rural Villages' as set Out in Volume 3 Appendix 5 Of the Plan.

The proposed development of 14 units, is not in accordance with the guidelines as set out in Volume 3 Appendix 5 Of the Plan, which defines a cluster housing scheme as a low density housing scheme comprising up to 6 no. detached dwellings on individual sites on lands in or adjacent to a village.

5.0 Policy Context

5.1 Development Plan

Tipperary County Development Plan 2022-2028

Volume 1 Written Statement

Policy 4.1 (c) New development in towns and villages shall be proportionate to the scale and capacity of the receiving settlement in terms of size, use-type and design.

Table 5.1

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.

5-2 Facilitate residential development, in accordance with the policy and objectives for residential development for towns and villages, as set out in Volume 2, in the relevant LAPs (and any review thereof) and as set out in the relevant Development Plan for each town (and any review thereof⁴²) and the Development Management Standards set out in Volume 3.

5-6 Support and facilitate cluster housing developments and serviced sites in rural settlements, in line with land zoning provisions, and immediately adjacent to the boundary, where it is demonstrated to the satisfaction of the Council that the development is of a high quality and can link effectively with and contribute positively to the village form. Proposals for cluster housing schemes will need to comply with Tipperary County Councils 'Design and Best Practice Guidelines for Cluster Housing Schemes in Rural Villages, 2018' (as may be amended).

Volume 2 of the Tipperary County Development Plan 2022

In terms of Goatenbridge specifically, Volume 2 of the Tipperary County Development Plan 2022 sets out the planning policy for the settlement. These policies are set out below;

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'.

SO1: To facilitate the carrying out of streetscape enhancement works subject to resources being available.

SO2: To seek to protect and enhance the riverside amenity space in the village subject to resources being available.

SO3: To maintain the integrity of the Natura 2000 site and to carry out Appropriate Assessments where necessary and appropriate.

SO4: To require the submission of Flood Impact Statements, as appropriate, in respect of lands which are liable to flood.

5.2 Natural Heritage Designations

The site is situated 140m south of the Lower River Suir Special Area of Conservation (SCA) and in this regard the proposed development site is not located within or immediately adjacent to any site designated as a European Site.

6.0 EIA Screening

This appeal relates to conditions only.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1 This appeal has been made on behalf of the First Party in respect of two conditions attached to the decision on Planning Reference 2561095. The planning application is for 6 detached two storey dwellings and the removal of rising walls of 5No. dwellings which had commenced on foot of planning reference 05/623. The appeal relates to two conditions of the Decision to Grant planning permission only.

7.1.2 Condition No. 4

No unit permitted under this permission shall be sold or occupied until all supporting water, surface water and waste water services, roads, footpaths and public lighting etc, within the estate are completed to the written satisfaction of the Planning Authority.

REASON: In the interests of orderly development.

The Coimisiun is requested to amend the condition to read as follows:

No unit permitted under this permission shall be occupied until all supporting water, surface water and waste water services, roads, footpaths and public lighting, within

the estate are completed to the written satisfaction of the Planning Authority or in default of agreement with An Coimisiun Pleanala.

- 7.1.3 The Development Management Guidelines (2008) provided guidance in respect of conditions:

The proposed amendments are requested following the proper planning and development of the area, having regard to national planning guidelines to which planning authorities must have regard. The condition as imposed by Tipperary Co. Co. requires that specified and unspecified infrastructure be completed to the satisfaction of the Council prior to the sale or occupation of any unit. The Coimisiun is requested to omit the term 'sold' on the basis it does not meet the requirements of the state Guidelines to be *necessary and reasonable*. It is standard a condition that specified matters relating to completion of infrastructure are agreed prior to occupation, but not sale.

The inclusion of the term 'or sold' is unnecessary and unreasonable and is highly onerous. It is common practice that units are sold off the plans or during the construction phase and prior to the completion of the units for the purpose of funding the permitted scheme. By precluding the sale of units prior to completion of the entirety of the infrastructure is so onerous and unreasonable that it may render the permitted development unviable.

- 7.1.4 The developer has no issue with the remainder of the condition that no unit can be occupied prior to the completion of specified infrastructure and is not appealing that part of the condition. The also request to omit the term 'etc' as it does not meet the criteria of being necessary, enforceable, precise or reasonable. It affords a wide discretion to the planning authority to include unspecified infrastructure after the development is completed and adds an unnecessary element of uncertainty to the condition.

- 7.1.5 The Coimisiun is requested to amend the condition to facilitate the specific matters being agreed with the Coimisiun in default of an agreement with the Council. This is

requested because of the concerns raised above in respect of the manner in which the condition was drafted and applied.

7.1.6 Condition No. 8

No development shall commence on site until such time as the developer has obtained a Connection Agreement from Uisce Eireann-Irish Water for the provision of water services necessary to service the proposed development.

REASON: In the interests of public health and for the wellbeing of the occupant(s) of the development.

The connections to the established infrastructure exist for the proposed units and that new connection agreements are not required. The Coimisiun is requested to remove the condition on this basis. Should the Coimisiun decide to include the condition, it is requested to amend the condition to state that 'no unit shall be occupied' rather than 'no development shall commence'. To preclude commencement of the development would be onerous, unreasonable and unnecessary.

7.2. Planning Authority Response

7.2.1 In response to the appeal the planning authority has stated the following:

- The access road is incomplete and no status of the balance of infrastructure has been provided. It is further noted that the relevant conditions attached to Pl. Ref. No. 05/623 were not complied with. The subject condition was attached to provide clarity that all services are completed to the satisfaction of the planning authority. prior to the units being sold or occupied. In relation to this specified site, it was considered appropriate to also limit the sale of the units.
- The applicant failed to engage with Uisce Eireann despite repeated requests to do so. The wording used in condition No. 8 aligns with that of the Office of the Planning Regulator.

7.3. Observations

- 7.3.1 Uisce Eireann has submitted an observation on appeal as summary of which is as follows.
- 7.3.2 It is noted that the applicant is seeking that a Connection Agreement be obtained from Uisce Eireann prior to the commencement of the development be omitted or alternatively be amended. Section 55 of the Water Services Act 2007 makes it a criminal offence for any person to amongst other things, cause or permit the connection of a premises to supply of Uisce Eireann either directly or indirectly, without the agreement of Uisce Eireann. On this basis a connection agreement is required for the proposed housing units.
- 7.3.3 It should be noted prior to issuing any Connection Agreement, Uisce Eireann must be satisfied capacity exists in the water supply infrastructure to supply the proposed development. The Connection Agreement will set out the relevant standards to which the water services infrastructure to be constructed as part of the proposed development, must adhered to.
- 7.3.4 Therefore it is a requirement for Uisce Eireann that a Connection Agreement shall be in place prior to the commencement of the development.
- 7.3.5 Uisce Eireann respectfully requests that Condition No. 8 which is the subject of the appeal, is attached to the conditions in its entirety.

8.0 Assessment

- 8.1. This appeal had been brought by the First Party regarding two conditions attached to a Decision to Grant Planning Permission by Tipperary Co. Co. to grant planning permission for 6No. dwellings in Ardfinnan village. Rather than assessing the entire case, having regard to the issues arising in both condition, I am satisfied the Coimisiun can deal with the two specific conditions rather than the core of the grant of planning permission, in line with Section 139 of the Planning and Development Act 2000 (as amended).
- 8.2. In terms of **Condition No. 4** which is :

No unit permitted under this permission shall be sold or occupied until all supporting water, surface water and wastewater services, roads, footpaths and public lighting etc, within the estate are completed to the written satisfaction of the Planning Authority.

REASON: In the interests of orderly development.

The applicant has accepted the condition but has asked the Commission to amend the wording of the condition. The applicant states the manner in which the condition is worded is onerous, unreasonable and unnecessary. The requirement that no unit can be sold until all supporting water, surface water and wastewater services, roads, footpaths and public lighting etc, within the estate are completed to the written satisfaction of the planning, could deem the proposal unviable. The applicant has submitted it is standard practice that specified matters relating to completion of infrastructure are agreed prior to occupation of dwellings, but not sale of the dwellings. The applicant has requested the word 'sold' be omitted from the condition.

- 8.3 On appeal the planning authority has stated the reasoning for the inclusion of the word sold is that, the access road within the estate, is incomplete and no status of the balance of infrastructure has been provided by the applicant. It is further noted that the relevant conditions attached to Pl. Ref. No. 05/623 were not complied with. The subject condition was attached to provide clarity that all services are completed to the satisfaction of the planning authority, prior to the units being sold or occupied. The planning authority considered it appropriate to also limit the sale of the units.
- 8.4 It is my opinion, the compliance of planning conditions relating to the parent permission, Pl. Ref. No. 05/623, is a planning enforcement matter. The planning authority has legislative powers to ensure any permitted development is carried out in accordance with the conditions of the permission.
- 8.5 A larger scale development was assessed by the Commission under reference ABP-319346-24. The previous development was refused for reasons related to development plan policy. However, I note the Inspectors Report on file, the issue of 'Completion of Services' was assessed. Under the previous appeal it was noted new drawings demonstrating the location of all existing services, including water,

wastewater, foul water, telecoms and electricity were submitted. The current surface levels of the unfinished access road were also illustrated on the site layout drawings received with the planning application. There was no information on the condition or timeline for providing the final wearing course of the access road. The Report recommended a condition could be applied to restrict the occupation of any new units until services are completed to the satisfaction of the planning authority.

- 8.6 The removal of the word sold is consistent with the Commission's previous assessment of the case. It is consistent with normal planning conditions. To impose a restriction such as sold could severely impact the cashflow associated with the entire project, because units are sold in a lot of cases, off the plans or during construction. In the majority of multiple residential schemes, monies from the sale, often times, fund the completion of the development. I recommend the Commission remove the word sold to facilitate the funding of the development and to support the delivery of homes and the completion of the estate.
- 8.7 The Commission is also requested to remove the word etc from the condition because it affords a wide discretion to the planning authority to include unspecified infrastructure after the development is completed and adds an unnecessary element of uncertainty to the condition. The condition specifies '*water, surface water and wastewater services, roads, footpaths and public lighting, etc*', within the estate are completed to the written satisfaction of the Planning Authority. I would remove the word 'etc' and insert, 'all existing services, including water, surface water, wastewater, foul water, telecoms, electricity, roads, footpaths and public lighting'.
- 8.8 Therefore, I recommend Condition No. 4 is reworded as follows:

No unit permitted under this permission shall be occupied until all existing services, including water, surface water, wastewater, foul water, telecoms, electricity, roads, footpaths and public lighting within the estate are completed to the written satisfaction of the Planning Authority.

REASON: In the interests of orderly development.

- 8.9 The second condition is No. 8 which reads:

No development shall commence on site until such time as the developer has obtained a Connection Agreement from Uisce Eireann-Irish Water for the provision of water services necessary to service the proposed development.

REASON: In the interests of public health and for the wellbeing of the occupant(s) of the development.

The First Party has requested this condition be removed, because there are existing connections to serve the proposed development, therefore a new connection is not required. The First Party has also requested, should the Coimisiun decide to include the condition, it is requested to amend the condition to state that 'no unit shall be occupied' rather than 'no development shall commence', to preclude commencement of the development would be onerous, unreasonable and unnecessary.

- 8.10 Uisce Eireann wrote to the planning authority on the 27th of November 2025 to assess feasibility of connection to the public water / wastewater infrastructure, the applicant is required to engage with Uisce Éireann through the Pre-Connection Enquiry (PCE) process by submitting Further Information to assess feasibility of connection to the public water / wastewater infrastructure. The planning authority requested this information from the applicant on two occasions. The applicant's response indicated they were willing to accept the standard condition that a connection agreement from Uisce Eireann be obtained for the development prior to the commencement of the development (20/03/2026). The planning authority had expressed concern to the applicant, that a connection to public water network to serve the proposal may require substantive upgrades. When the First Party did not submit the requested details, the planning authority requested the information again on the 14/04/2026. The applicant replied stating they would engage with Uisce Éireann on foot of a grant of permission.
- 8.11 The planning authority has stated on appeal, the applicant was requested on two occasions to engage with Uisce Eireann and to submit a Confirmation of Feasibility. After the applicant did not comply with both requests, a standard planning condition was attached to the permission, that no development should commence on site until the developer had obtained a Connection Agreement from Uisce Eireann for the provision of water services necessary to service the proposed development.

Furthermore, Uisce Eireann has made an observation on appeal requesting Condition No. 8 be retained because it must be satisfied that capacity exists in the water supply infrastructure to supply the proposed development. In addition, the Connection Agreement will set out the relevant standards to which any water services infrastructure must adhere to during the construction period. This is standard practice prior to the commencement of any development on site.

8.12 Therefore, I recommend The Commission retain Condition No. 8 as worded on the Decision to Grant Planning Permission by Tipperary Co. Co..

9.0 Recommendation

9.1. I recommend

Condition No. 4 be Retained and amended as follows:

No unit permitted under this permission shall be occupied until all existing services, including water, surface water, wastewater, foul water, telecoms, electricity, roads, footpaths and public lighting within the estate are completed to the written satisfaction of the Planning Authority.

REASON: In the interests of orderly development.

Condition No. 8: To be Retained unaltered.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way."

Caryn Coogan
Planning Inspector

21/09/2026