

Planning and Development Acts 2000 to 2022

Planning Authority: Laois County Council

Planning Register Reference Number: 2360366

Appeal by Shane and Karen Lawlor of Lawlor Clinic, Audville Terrace, Dublin road, Portlaoise, County Laois, and by Others, against the decision made on the 1st day of November, 2023 by Laois County Council to grant subject to conditions a permission to Marina Quarter Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Development of a large-scale residential development (LRD) comprising of the demolition and site clearance of a disused farmyard, the construction of 195 number residential units, one number creche, two number ESB kiosks and all associated site development works including footpaths, cycle paths, parking, fencing, drainage, bicycle and bin stores and landscaping/amenity areas at Dublin Road, Ballyroan (townland), Portlaoise, County Laois. Access to the proposed development will be provided via a new access road that will connect a new roundabout at the Dublin Road (R445) to the existing road at the Rath Gailine Estate. The site clearance works consist of the demolition of four number existing buildings, one of which includes a dwelling unit and the site clearance of a

ruinous agricultural building, at Dublin Road, Ballyroan (townland) Portlaoise, County Laois.

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

The Board had regard to the following:

- (a) the provisions and policies of the Laois County Development Plan 2021 - 2027,
- (b) the provisions and policies of the Portlaoise Local Area Plan 2018 – 2024,
- (c) the zoning objective Residential 2 – New Proposed Development with an objective 'To provide for new residential development, residential services and community facilities.'
- (d) the provisions of Housing for All – A New Housing Plan for Ireland 2021
- (e) the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage, January 2024,

- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing and Planning and Local Government, July 2023,
- (g) the availability in the area of a wide range of social and transport infrastructure,
- (h) to the pattern of existing and permitted development in the area,
- (i) the submissions received including grounds of appeal, and
- (j) the Planning Inspectors Report.

The Board agreed with the Inspector that provision should be made for future links to the adjoining lands to the east, but considered that this should be limited to pedestrian and cycle access only, as the provision of a vehicular link to adjoining lands would detract from the homezone, with the use of the road as a through route to adjoining lands.

The Board noted the Inspectors conclusion that the provision of open space is acceptable. The Board considered the Inspectors recommendation to increase the area of open space, identified as OS-06, is not necessary, as both the creche and the amenity of residents is adequately provided for.

The Board noted the proximity of the proposed entrance to the development with that of the adjoining commercial building and the residential property to the rear of same, accessed off a laneway. The Board concurred with both the planning authority and the Inspector that a person is not entitled solely by reason of permission to carry out any development, under Section 34(13) of the Planning and Development Act 2000 (as amended), and that this addresses the matter of entitlement to carry out the development.

The Board considered the main planning issue is maintaining access to the adjoining properties and noted the recommendation of the planning authority's Road Design Office to attach a condition (planning authority condition 11) requiring the design of the junction to be agreed with the planning authority. The Board considered it appropriate to apply this condition and to expand the matters that the design should serve to specifically include the access to these properties. The Board also considered it prudent that the new potential vehicular entrance to the existing dwelling, shown on drawing ref 23-PRI-017-P-410, received by the planning authority on the 8th day of September 2023 should be provided for in the design of the link road so that if required the design and layout of the link road accommodates a future connection, subject to the necessary permissions being in place.

Appropriate Assessment Screening:

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an established town centre location and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the application, the Inspector's Report, and submissions on file.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites. In consideration of the above conclusion, there is no requirement therefore for a Stage 2 Appropriate Assessment (and for the submission of a Natura Impact Statement - NIS).

Environmental Impact Assessment Screening:

The Board completed an Environmental Impact Assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out in Schedule 7A of the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (c) the location of the site on lands governed by zoning objective Residential 2 – New Development in the Laois County Development Plan 2021 – 2027 and the Portlaoise Local Area Plan 2018 – 2024, and the results of the Strategic Environmental Assessment (SEA) of these plans undertaken in accordance with the SEA Directive (2001/42/EC),
- (d) the existing use on the site and pattern of development in surrounding area,
- (e) the planning history relating to the site,

- (f) the availability of mains water and wastewater services to serve the proposed development, and
- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height, and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is compliant with the provisions of the Laois County Development Plan 2021 - 2027, and 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, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The number of residential units permitted by this grant of permission is 195 residential units in the form of 175 number houses and 20 number apartments/maisonettes.

Reason: In the interests of clarity.

3. The proposed development shall be amended as follows:
 - (a) Provision to be made for a future pedestrian and cycle access to the lands to the west of the site off the cul-de-sac adjacent to house numbers 101 and 102.
 - (b) Provision to be made for a future pedestrian and cycle connection to the lands to the east of OS-4.

Reason: In the interests of residential amenity and to ensure that future permeability be provided for.

4. Prior to the commencement of the development the developer shall submit for the written agreement of the planning authority design proposals for the access junction to serve the proposed development. The design shall have regard to the existing accesses arrangements to adjoining properties to the west of the proposed link road and how these properties will continue to be accessed. The revised proposal shall be accompanied by a Road Safety Audit Stage 1 and 2. The Road Safety Audit shall specifically address pedestrians, cyclists, vulnerable road users and motorist safety in the general proximity of the junction with the Dublin Road and within the development itself. The proposal shall comply with the following standards where applicable:

- (a) All controlled pedestrian crossing shall be in accordance with Transport Infrastructure Ireland standards.
- (b) Roundabouts on public roads shall be designed in accordance with the Active Travel National Transport Authority advice note, Roundabout Retrofit document, 2023. Details of the above designs shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of pedestrian, cyclist and vehicular safety.

5. The new potential vehicular entrance to the existing dwelling, shown on drawing reference number 23-PRI-017-P-410, received by the planning authority on the 8th day of September 2023, shall be provided for in the design of the link road so that the design and layout of the link road accommodates a future connection subject to the necessary permissions being in place. Please note this relates to works within the redline boundary only. Details of the above design shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

6. Details of the materials, colours, and textures of all the external finishes to the proposed building shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

7. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

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

Reason: In the interest of public health and surface water management.

9. The operating hours of the childcare facility shall be agreed in writing with the planning authority prior its first operation.

Reason: In the interest of clarity and to ensure the protection of residential amenity.

10. Proposals for an estate/street name, house/apartment 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 names 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.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartment unit and shall comply with the recommendations of the Ecological Impact Assessment (EclA) with reference to bats.

Reason: In the interests of amenity and public safety, and to ensure the protection of bats.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 13. A full architectural and photographic survey of all buildings and outhouses proposed for demolition shall be carried out, and drawings and photographs indicating details of these buildings, to a scale acceptable to the planning authority, shall be submitted to the planning authority prior to the commencement of development.

Reason: In order to facilitate the preservation by record and recording of the architectural heritage of the site.

14. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

15. The road network serving the proposed development, including turning bays, junction with the public road, connections to the adjoining Rath Gailine development, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

16. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

17. A minimum of 10% of all car parking spaces serving the apartments shall be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

18. The site shall be landscaped, and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

19. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

20. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment/house unit shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted, and shall also provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

21. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development.



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All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

22. 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:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

23. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, and 0800 to 1400 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.

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24. Prior to the commencement of 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 housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential 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.

25. 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.


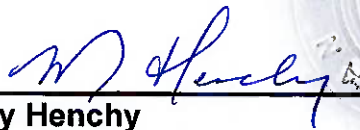
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

26. 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 provision and satisfactory completion and maintenance until taken in charge by the local authority 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 or maintenance 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.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

27. 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.



Mary Henchy

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

Dated this 25th day of March, 2024.