



An  
Bord  
Pleanála

## Inspector's Report PL11.247723

### Development

Residential development of 39 units comprising 24 houses, 15 apartments, community facility, new access road, 80 parking spaces, community allotment garden and play area and associated site works.

### Location

Abbeyleix Road, Portlaoise, Co. Laois.

### Planning Authority

Laois County Council

### Planning Authority Reg. Ref.

16/92

### Applicant(s)

Respond Housing Association

### Type of Application

Permission

### Planning Authority Decision

Grant Permission

### Type of Appeal

Third Party

### Appellant(s)

Alan and Anna Reddin

### Observer(s)

None on file

### Date of Site Inspection

9<sup>th</sup> February 2017

### Inspector

Sarah Moran

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## 1.0 Site Location and Description

- 1.1. The site is located on the southern outskirts of Portlaoise, Co. Laois, off the Abbeyleix Road / N77 (also referred to as the R445), within the 50 kph zone. This area has an 'edge of town' character with some residential development interspersed with undeveloped lands and other uses such as the ESB training school and Portlaoise golf club, both to the east of the N77, and O'Moore Park stadium nearby to the north west. Portlaoise town centre is c. 1.3 km to the north of the site and the N77 meets the M7 at junction 17 Togher interchange c. 1km to the south, after which it continues southwards towards Abbeyleix and on to Kilkenny. The area is served by the public sewer and water supply. The site is undeveloped lands to the rear of a row of individual houses along the western side of the N77. There is also an existing small housing development, Abbey Court, to the immediate north of the site. There are open fields to the west and south.
- 1.2. The site has a stated area of 1.385 ha. It comprises a strip of land providing access to the N77 and two fields divided by a hedgerow and a stream running east to west across the site. The site is generally flat. There were reeds and rushes present and some evidence of waterlogging in the vicinity of the stream at site inspection.

## 2.0 Proposed Development

- 2.1. Permission is sought for a residential development of 39 units comprising:
- 24 no. 2 storey houses (14 no semi-detached and 10 no. terraced units).
  - 15 apartments (13 no. 2 bed units and 2 no. 1 bed units), within 4 no. 2 storey apartment blocks;
  - Community facility located within apartment block C (stated floor area 92.4 sq.m.), to be used for meetings / child care / educational purposes;
  - Central landscaped area including a play area, also community allotment area at the north western corner of the site;
  - New access to the N77 Abbeyleix Road;
  - 80 no. car parking spaces, 2 covered shelters for 16 no. cycle parking spaces;

- Culverting of existing stream, connection to existing services and all associated site works.

The application is submitted by the Respond! Housing Association. The entire development is to provide social housing including accommodation for older people.

- 2.2. The applicant submitted further information to the planning authority on 15<sup>th</sup> July 2016, comprising a revised scheme which replaces 3 no. terraced units with 2 no. semi-detached units, i.e. a reduction to a total of 38 no. residential units; details of landscaping and boundary treatments; refuse storage proposals; engineering services report and detailed drainage proposals; site survey and flooding assessment; traffic impact assessment (TIA) and traffic management plan; outdoor lighting proposals. The applicant made an additional submission to the planning authority on August 2<sup>nd</sup> 2016 addressing concerns raised in the third party submissions.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. The planning authority requested further information on 20<sup>th</sup> April 2016, as per the recommendations of the planning report and other technical reports on file. Permission was granted on 22<sup>nd</sup> November 2016 for the revised proposal submitted as further information, subject to 20 no. conditions. Of note, condition no. 2 requires the omission of dwelling no. 5 and relocation of dwellings nos. 1, 2, 3 and 4. I note a discrepancy in condition no. 2, which states that these amendments will result in a total of 38 no. dwellings. However, since the proposal submitted as further information had a total of 38 no. dwellings, then condition no. 2 would result in a final total of 37 no. permitted dwellings.

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

- 3.2.1. Assistant Chief Fire Officer 15<sup>th</sup> March 2016, no objection.
- 3.2.2. Waste Enforcement, Environment Section, Laois County Council 22<sup>nd</sup> March 2016. Requires further information in relation to waste management and bin storage.

Second report on foot of further information 2<sup>nd</sup> November 2016, recommends permission subject to conditions.

- 3.2.3. Environmental Protection, Water Services 4<sup>th</sup> April 2016. No objection subject to requirements. Applicant to liaise with IFI regarding culverting of the stream.
- 3.2.4. Road design report by email dated 13<sup>th</sup> April 2016. The site is located on the N77, a strategic national secondary road. Concerns about flooding at the site. Requires further information about the proposed culverting of the stream at the site, also a traffic and transport assessment of the scheme and details of public lighting.
- 3.2.5. Planning report, 18<sup>th</sup> April 2016. The development is considered acceptable in principle. Requires further information for a revised design to address concerns about impacts on residential amenities of adjoining properties; details of landscaping, boundary treatment, road access; analysis of the stream and measures to address concerns of IFI; roads requirements; waste management details. Second planning report, 17<sup>th</sup> November 2016, recommends permission subject to conditions.

### **3.3. Prescribed Bodies**

- 3.3.1. Irish Water, 15<sup>th</sup> March 2016. No objection.
- 3.3.2. Inland Fisheries Ireland, 22<sup>nd</sup> March 2016. No objection in principle. The stream crossing the site is seriously polluted, potential public health hazard in relation to same, particularly potential gaseous emissions due to increased biological / biochemical activity and the accumulation of same in a confined culvert. Further site investigations recommended. Further requirements in the event of permission being granted. Second submission on foot of further information, 16<sup>th</sup> August 2016, no additional comment.
- 3.3.3. Health Service Executive, 1<sup>st</sup> April 2016. No objections subject to requirements.
- 3.3.4. Transport Infrastructure Ireland, 22<sup>nd</sup> March 2016. Council to have regard to national policy on development affecting national roads as set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012). Second submission on foot of further information, 10<sup>th</sup> August 2016. No further comment.

### 3.4. Third Party Observations

3.4.1. The planning authority received a total of 12 no. third party submissions by local residents, including the above named appellants, which objected to the proposed development on grounds generally relating to:

- Impacts on the residential amenities of adjacent properties by way of overlooking, overshadowing, noise levels. Proposed boundary treatments are inadequate and should be enhanced.
- The scheme would result in overdevelopment of the site.
- Road safety at proposed entrance, traffic impacts due to increased traffic generated by the scheme.
- Concern about potential flooding of the site. The area is poorly drained. Existing flooding and drainage difficulties on the Abbeyleix Road will be exacerbated by the scheme.
- Existing public sewer has inadequate capacity to cater for the development.
- Visual impacts in the context of existing development in the vicinity.

3.4.2. A submission by Ms. Catherine Fitzgerald, Member of Laois County Council, objected to the development on grounds relating to scale relative to existing dwellings on the Abbeyleix Road; concerns about flooding; traffic issues.

3.4.3. The planning authority received a total of 3 no. additional third party submissions on foot of the further information. These generally consider that the revised proposal submitted as further information does not address the original concerns.

## 4.0 Planning History

### 4.1. 99/870

4.1.1. Permission granted to Wesley Curran and Lane Pedersen to construct 38 no. dwellings (20 no. 2 storey houses, 6 ground floor apartments and 12 no. duplex apartments above).

#### 4.2. **02/1239**

4.2.1. Permission granted to Respond! Housing Association for changes to the development permitted under reg. ref. 99/870, to provide 10 additional dwellings to the 35 dwellings already approved (45 dwellings in total), comprising 25 no. houses of varying types and a community building with a multi-functional room and ancillary spaces/offices

#### 4.3. **08/619**

4.3.1. Permission refused to Respond! Housing Association for a community building with multi-function space for use as meeting or training rooms, childcare facilities with some office space for ancillary uses and 47 no. residential units (all houses of varying types) for 3 no. reasons relating to the following:

- Development would materially contravene section 6.2 of the Portlaoise LAP 2006-2012, which seeks to ensure a high standard in design, layout and provision of private and public open space and landscaping etc. in new residential developments. The development, by reason of its design and character and the inadequacy of the private open space provided, would represent a considerable and unacceptable overdevelopment of the site.
- Development would set a precedent for other substandard developments in the vicinity.
- Development would materially contravene section 6.12 of the Portlaoise LAP 2006-2012, due to inadequate parking provision. Traffic hazard due to lack of safe car parking provision.

#### 4.4. **08/1152**

4.4.1. Permission granted to Respond! Housing Association to construct 42 no. residential units (31 no. houses and 11 no. apartments) and a community building on the subject site.

#### 4.5. **Property of Appellants 14/158**

4.5.1. Permission granted for demolition of existing rear extension and construction of a new single storey extension to the rear of the appellants' bungalow, located to the immediate east of the development site.

## **5.0 Policy Context**

### **5.1. Midlands Regional Planning Guidelines 2010 - 2022**

5.1.1. Portlaoise is within the Southern Development Area (SDA) of the Midlands region, which includes the bulk of Co. Laois excluding Portarlington. The MRPGs set out a regional settlement strategy including population targets for 2016 and 2022.

Portlaoise is designated as a principal town and is to act as a significant focus for future population growth. The population targets for Portlaoise are 17,481 in 2016 and 19,356 in 2022. Based on these targets, table 4.3 indicates a projected requirement of 1,302 no. housing units for Portlaoise in 2016, to be developed at a density of 35 units per ha, with a housing land requirement of 56 ha (incorporating 50% headroom).

5.1.2. MPRG section 4.5 sets out a policy framework for land use zoning, which is referred to in the Laois County Development Plan and the Portlaoise LAP. This includes a key objective to ensure that over provision of zoned lands is avoided. Development plans are to be consistent with population targets, projected unit requirement, housing demand and projected housing land requirements as defined in the regional settlement strategy. The MRPGs also state a key priority to resist further large scale residential development and to avoid over development of towns.

### **5.2. Laois County Development Plan 2011-2017**

5.2.1. The Core Strategy of the development plan recognises the strategic importance of Portlaoise as a major transport hub and distribution centre, which is recognised in the National Spatial Strategy (NSS) and the Midland Regional Planning Guidelines (MRPGs). There is a core aim to facilitate the provision of housing at a range of locations to meet the needs of the county's population, with particular emphasis on facilitating access to housing to suit different household and tenure needs in a sustainable manner and in appropriate locations. Portlaoise is the principal town at the top tier of the county settlement strategy. The consistent, appropriate, sequential growth and population development of Portlaoise is to remain the focus and the priority for the SDA in order to ensure that its role as a principal town is fully



maximised and can therefore strongly support and contribute to the delivery of a successful urban core, and in particular, a successful Midland linked gateway.

5.2.2. The following development plan policies and objectives are considered particularly relevant to the subject case:

- Settlement strategy objectives DPS3 /O01, DPS2 / O05
- Settlement hierarchy policies DPS 3 / P01, DPS 3 / P02, DPS 3 /P16 – 18.
- Housing strategy policies HS 4 / P02, HS 4/ P04, HS4 / P07, HS 4 / P09 - 12, HS4 / P14, HS 4 / P20, HS4 / P23, HS4 / P24, HS4 / P31, HS4 / P32, HS4 / P37.
- Childcare policies S15 / P12, S15 / P14, S15 / P15.
- Open space provision policies RA6 / P09 – 11, RA6 / P14.
- Roads policies TT10 / P14, TT10 / P24, TT10 / P74.
- Chapter 16 design and development standards, objectives DDS 16 / 001-004, policies DDDS 16 / P01 and P02, development control standards set out in Table 33.

### 5.3. **Portlaoise Local Area Plan 2012-2018**

5.3.1. The site is within the development boundary of the Portlaoise LAP. Aside from the strip of land between the site and the N77, the remainder of the lands are unzoned. The houses facing the N77 to the east of the site and the Abbey Court estate to the north of the site are zoned as 'Residential 1: Established', with an objective to protect the established residential amenity and enhance with associated open space, community uses and where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area.

5.3.2. The following LAP policies are considered particularly relevant in this instance:

- Flood risk policies and objectives set out in chapter 6.
- Housing policies set out in chapter 8.
- Urban design and development management policy set out in chapter 11.
- Chapter 12: Land use zoning.

## 5.4. Natural Heritage Designations

5.4.1. The site is not located within or immediately adjacent to any designated sites. The following Natura 2000 sites are located within c. 15km of the development:

<b>Site Name (site code)</b>	<b>Distance from development site</b>
Slieve Bloom Mountains SPA (004160)	c. 7.5km
River Nore SPA (004233)	c. 13 km
Slieve Bloom Mountains SAC (000412)	c. 9 km
River Barrow and River Nore SAC (002162)	c. 9 km
Ballyprior Grassland SAC (002256)	c. 13 km
Knockacoller Bog SAC (002333)	c. 15 km
Mountmellick SAC (002141)	c. 12 km

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The appeal has been submitted by residents of a property on the Abbeyleix Road, to the immediate east of the subject site. The grounds of the appeal may be summarised as follows:

- The appellants have no objection in principle to the proposed development.
- The appellants' property is currently adjoined by 2 other dwellings. It would be bound by 7 no. houses and an apartment block containing 4 apartments, i.e. a total of 11 no. residential units, within the proposed scheme. The appellants are primarily concerned with potential impacts of houses nos. 1-5 on the residential amenities of their property. They request that these units be omitted from the scheme and that public open space be provided in this part of the site instead. It is submitted that this measure would result in a pattern of residential development that is more in keeping with the surrounding area.
- The site was zoned for residential development under the previous Portlaoise Local Area Plan 2006-2012. It has since been de-zoned and is now not subject to any LAP designations or objectives. It is likely that the lands were considered surplus to requirements. There are ample residentially zoned lands elsewhere

within the LAP area. The development is designed in isolation of adjoining unzoned lands and it precludes any synergies or connections with such lands should they be designated for development in the future.

- The site is located in an area characterised by low density residential development, with low rise building forms and generous rear gardens. This is reflective of its location at the edge of the urban area of Portlaoise and adjacent open countryside. The development would be out of character with the area.
- The proposed density of development is far too high for unzoned lands. The *DoEHLG Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (2009) acknowledge the importance of respecting the context for residential developments, ref. paragraphs 5.1 and 6.3. The initial proposal of 39 no. dwellings represented a density of 28 dwellings per ha, the permitted scheme of 37 no. dwellings represents a density of 27.4 dwellings per ha. By comparison, the residential density of adjoining developments is estimated as follows (map provided with appeal):
  - Abbey Court c. 23.5 dwellings per ha.
  - Kyle Brook c. 12 dwellings per ha.
  - Charrygarth c. 13.8 dwellings per ha.

In addition, the area of land to the east of the site facing the Abbeyleix Road and containing linear housing is calculated as a density of c. 5.7 dwellings per ha. There are ample sites zoned for residential development nearer to the town centre, where the proposed density would be appropriate. The omission of houses nos. 1-5 would be a notable contribution to reducing the residential density and would bring the scheme more in line with surrounding established residential developments.

- The appellants were granted planning permission to extend their dwelling, reg. ref. 14/158, in order to accommodate their growing family. They currently make extensive use of the extension and their rear garden as these areas receive good levels of sunlight throughout the day. The development would encroach significantly on the extension and would fundamentally affect its outlook. The appellants decided to extend their property after the adjoining site was de-zoned.

They had a legitimate expectation that the lands would not be intensively developed.

- Condition no. 2 of the permission omits house no. 5 north of the appellants' boundary. It does not adequately address the adverse impacts to their property. Condition no. 2 is incorrectly worded, referring to a total of 38 rather than 37 no. residential units.
- The development generally has inadequate provision of public open space and a complete lack of communal open space for apartment block A. The scheme would result in overdevelopment of the site. The omission of houses nos. 1-5 would address this issue. The proposed layout provides inadequate separation distances between residential units resulting in overlooking and inadequate private open space.
- Units nos. 1-5 in particular would result in 'cramming' and overdevelopment of the site. They have rear gardens below the required depth of 15m specified in the Portlaoise LAP. Their layout is unorthodox and is unlike the 'back to back' layout typically used for greenfield developments. A layout of this nature could be appropriate for a town centre setting, where land is at a premium, however there is no justification for it on a greenfield site. The layout would not result in a good standard of development, would be contrary to the established character of the area and would contravene urban design guidance provided in the Portlaoise LAP.
- The design of house type C1 is unsatisfactory as first floor bedrooms would have north facing windows only. There would be a significant expanse of slate roof facing the appellants' property. The height remains that of a two storey dwelling. There is no similar house design in the surrounding area.
- Adverse impacts on the residential amenities of the appellants by way of noise, visual obtrusion. Potential future extensions to the adjacent dwellings would exacerbate these issues. The appellants are more affected by the proposed development than any other adjoining property.

- The first floor apartment no. G2 in block A would directly face the rear gardens of houses nos. 4 and 5 (as per the further information layout). There would be a separation distance of approximately 10m from the windows of habitable rooms within the apartment to the middle of the rear garden of proposed house no. 5 and a separation distance of 15m to the rear garden of house no. 4. The private gardens of these houses would be overlooked at all times. There would also be direct lines of sight between habitable rooms within apartment G2 to habitable rooms within houses nos. 4 and 5. This would be seriously injurious to the occupants of all dwellings concerned. Condition no. 2 would not resolve this problem. In addition, no communal open space has been provided for apartment block A and the refuse storage area is very close to the apartments, creating potential for problems associated with vermin and odours. The omission of houses nos. 1-5 would allow for the provision of ample space to resolve these issues.

## **6.2. Planning Authority Response to Appeal**

6.2.1. The main points made may be summarised as follows:

- The planning authority sought several changes to the design and layout of the scheme in the course of the application, in order to reduce the potential impact of the development on neighbouring properties.
- The applicant changed the design and layout of the development and reduced the overall no. of units within the scheme. The changes were focused on the area of the site closest to the appellants' property. The boundary treatment and landscaping will also assist in the safeguarding of adjoining residential amenities, including those of the appellants.
- The planning history of the site dates back to 1999, including several previous permissions for similar residential and community developments. The current proposal is for a lower number of dwellings than that permitted at the site under 08/1152. A multiple housing development has already taken place to the immediate north.

- The planning authority considered that the development complies with a key objective of the Portlaoise LAP, ref. O/HCSI 03, which states in respect of housing:

*“To promote high standard of architecture in the design of new housing developments and to encourage a variety of house types, sizes and tenure in individual schemes and variety, interest and social mix in private and social housing developments.”*

### **6.3. Applicant Response to Appeal**

6.3.1. The main points made may be summarised as follows:

- It is assumed that the reference to 38 no. dwellings in condition no. 2 of the planning authority permission is a typographical error.
- The applicant was drawn to Portlaoise in Co. Laois as the primary urban settlement at the top of the settlement hierarchy. Of the total no. of houses completed in Co. Laois in 2015, only 1.74% were social tenure housing (14 no. units). There is currently severe under provision of social housing in Co. Laois. Urgent and coordinated action is necessary to remedy this unsatisfactory situation. There is also currently a severe deficiency in private rented accommodation in Portlaoise. The proposed development is intended to address some of this identified need.
- The applicant chose this location close to the town centre, currently dominated by single tenure private housing. The lands are owned by the Housing Agency. The development seeks to promote and provide balanced communities and integration.
- The core strategy of the forthcoming Draft Laois County Development Plan 2017-2023 has a target of over 1,800 units (>50%) of targeted growth to Portlaoise, to enable the development plan to be in line with county and regional level planning policy and to sustain state spending on infrastructure and services. The development is in line with draft development plan policies designating Portlaoise as a significant focus for population growth in the county settlement hierarchy.

Policy DPS3/P17 is to apply increased residential densities up to 35 per hectare where appropriate.

- The development will have a transformative effect as it would provide much needed social housing, would create a positive market perception of the residential development climate in Co. Laois and would encourage other developers into the area and free up 37 housing units which are currently rented.
- The site has a strong history of planning permissions for residential development, the most recent being reg. ref. 08/1152 in 2009, which permitted 42 no. residential units. Also reg. ref. 99/870 and reg. ref. 07/2138.
- The scheme permitted under 08/1152 was not constructed due to poor economic circumstances. The current proposal essentially constitutes a change of layout and mix to the social housing scheme previously permitted at the site. It was carefully considered at pre-planning and design stages. The subject permission represents the culmination of a lengthy planning process over 15 months between the applicant and Laois County Council. There is now a clear and consistent vision for the site, which has been driven by the objective to provide a site specific housing solution to meet an identified social housing need.
- The scheme is backland development on an infill site. The density of existing residential development in the area is low to medium. The proposed overall density of the scheme, at 28 units per ha, has already been lowered significantly to take account of contextual considerations. It respects the existing residential nature of the area and would not result in overdevelopment of the site. It is appropriate for this residential location c. 15 minutes walk from the town centre and served by public transport and is in accordance with the range of densities in the development plan for urban locations. The development contributes to the increased urban population necessary to sustain key town centres such as Portlaoise. The development of the subject site at a lower density would result in an unsustainable settlement pattern. The Regional Planning Guidelines, County Development Plan and Local Area Plan all state that 35 units per hectare should be applied within Portlaoise, the principal town in the region.
- The proposed development has been concerned with formulating a site specific housing solution for the site which provides much needed housing units for those

who are most vulnerable in our society, whilst ensuring that it contributes to a balanced community by ensuring that there is no over concentration of social housing in this particular area.

- The revised proposal submitted as further information omits all overlooking from houses nos. 1, 2 and 3 over the adjoining 37m long rear garden of the appellants. The development includes tree planting to the rear gardens of houses adjoining the appellants' boundary, to provide visual screening above the proposed 2.1m high boundary wall.
- The appeal fails to take account that condition no. 2 would result in the reduction of the overall scheme by 1 no. unit and move the remaining units nos. 1-4 a further 7m away from the appellant's dwelling. The permitted development of 37 no. units strikes an appropriate balance between providing sustainable residential development and protecting the amenity of existing residents, including the appellants. The applicant submits a proposed layout to address the requirements of condition no. 2, along with sections indicating the relationship with the appellants' property.
- The applicant does not consider that it is necessary to remove a further 4 no. houses from the scheme in order to protect residential amenities. It is submitted that the changes already proposed as further information and required by condition no. 2 address any potential loss of residential amenity to the appellants' dwelling.

## 7.0 **Assessment**

7.1. The following are considered to be the principal issues for consideration in this case:

- Principle of development;
- Density, design and layout;
- Impacts on residential amenities;
- Traffic and parking;
- Site services;



- Appropriate assessment;
- Conclusion.

These matters may be considered separately as follows.

## 7.2. Principle of Development

7.2.1. As noted above, Portlaoise is designated as the principal town at the top of the settlement strategy of Co. Laois under the Laois County Development Plan 2011-2017. There is a target population growth for Co. Laois of up to 77,059 by 2018, which is to be structured in a balanced manner between Portlaoise (up to 18,106) and the remainder of the county (up to 58,963). Development plan section 3.12 states:

*At present there are 347 Ha of land zoned for residential development in the principal town of Portlaoise and 1,239 Ha of land similarly zoned in the County balance, resulting in an excess of 1,313 ha over the Regional Planning Guidelines 2010 Housing Land requirement.*

Development plan tables 9, 10, 11 and 12 set out the following parameters for Portlaoise in the context of Co. Laois:

Portlaoise pop. 2006 (CSO)	14,356 (+ 20.5% since 2002)
Projected pop. 2018	18,106 (+ 3,750 2006 - 2018)
Density per ha. for Portlaoise	35 units / ha
Area of undeveloped residentially zoned land 2006-2012	347 ha
Strategic housing land requirement to 2017 (including 50% headroom)	67 ha
Area to be zoned for residential development 2012-2018	67 ha
Area proposed for strategic reserve	0 ha
Existing sewage treatment plant capacity (PE)	39,000

7.2.2. Section 2.3 and table 5 of the Draft Laois County Development Plan 2017-2023 identify the following figures / targets for Portlaoise:

Portlaoise pop. 2011 (CSO)	20,145 (+ 38% since 2006)
Projected pop. 2023	25,382 (+ 5,237 2017-2023)
Available undeveloped residentially zoned land.	125.9 ha
Requirement for residentially zoned land 2017-2033	78 ha
Area zoned for residential development for 2017-2023	78 ha
Residential density for Portlaoise	35 units / ha

7.2.3. The site is within the development boundary of the current Portlaoise Local Area Plan 2012-2018. LAP map 7 indicates areas of land zoned for new residential development 'Residential 2', as well as lands zoned as 'Strategic Reserve 2018-2024'. The subject site is unzoned. It was zoned for residential development under the previous Portlaoise LAP 2006-2012 and residential development was permitted under 08/1152 on that basis. However, the land use zoning of the current LAP was set out in the context of the Midland Regional Planning Guidelines 2010, which included a new policy framework for land use zoning. Following on from the targets in the MRPGs and the 2012 County Development Plan, the current LAP dezoned areas of land from the previous LAP, including the subject site. The current LAP specifies a housing land provision of 67 ha in accordance with the County Development Plan, to be developed at a density of 35 units per ha. LAP chapter 2 states:

*The Local Area Plan for Portlaoise 2006-2012 had excessive amounts of land zoned for residential use.*

*The approach for residential development in Portlaoise over this plan period is as follows:*

- 1. Prioritise the completion of ongoing developments;*
- 2. In conjunction with achieving no. 1 above, address lands with planning permission adjacent to developments where works are ongoing;*
- 3. Consider Key Strategic Sites for future development.*

A sequential approach is to be applied to development proposals, with development to take place from the centre out in order to consolidate existing areas and to avoid

'leapfrogging' of more appropriate lands. The planning authority will have regard to the following in determining the suitability of applications for residential development:

1. *Population and housing unit requirements for the plan period - the Planning Authority will also consider whether the number of resultant units shall contribute to cumulatively exceeding the required amount of housing units and population for Portlaoise.*
2. *Land use zoning.*
3. *Progression of the following:*
  - a. *The completion of developments which are ongoing.*
  - b. *Unzoned lands with planning permission.*
  - c. *New residential development proposals.*
4. *Existing development on lands adjacent.*
5. *Current no. of unoccupied units within the plan boundary, where information is available.*

Housing policy HCSI 07 is to encourage residential development within the town's development envelope and to discourage ad hoc ribbon development on the outskirts of the town. LAP map 7 indicates areas of land zoned for new residential development 'Residential 2', as well as lands zoned as 'Strategic Reserve 2018-2024'.

7.2.4. The planning authority has granted permission for the proposed development on unzoned lands with regard to the following matters:

- The location of the site within the development boundary of Portlaoise under the current LAP and its proximity to the town centre;
- The location of the site adjacent to existing residential areas;
- The designation of Portlaoise as a 'principal town' under the MRPGs;
- The planning history of the site including permission for several residential developments;
- The development is considered to comply with LAP objective O / HCSI 03:

*“To promote high standard of architecture in the design of new housing developments and to encourage a variety of house types, sizes and tenure in individual schemes and variety, interest and social mix in private and social housing developments.”*

7.2.5. The development is entirely for the purpose of social housing. The applicant, the Respond! Housing Association, has highlighted the need for the development in the context of low numbers of housing completions and a lack of social housing provision / completions in Co. Laois and Portlaoise in recent years. However, I consider that the development would contravene the policies and objectives of the Laois County Development Plan 2011 – 2017 and the Portlaoise Local Area Plan 2012-2018 as it would involve the development of unzoned land. I note that the permission reg. ref. 08/1152 was granted when the previous LAP was in force and the subject site was zoned for residential development. While the sequential approach set out in the current LAP allows for the development of unzoned lands with planning permission, there is no evidence that all of the existing residentially zoned lands have been developed or are unavailable to meet the housing and population targets for Portlaoise during the plan period. In addition, while there is some provision for permitted developments on unzoned lands, the original permission has expired and the site is not part of a larger development where works are ongoing. The appellants submit that they have carried out works on their adjoining residential property since the lands were dezoned in the assumption that the subject site would not be developed. This point is considered reasonable. To conclude, it is considered that the development would materially contravene the provisions of the Laois County Development Plan 2011-2017 and the Portlaoise Local Area Plan 2012-2018, in particular housing policy HCSI 07.

### **7.3. Density, Design and Layout**

7.3.1. The density, design and layout of the scheme may be considered with regard to the guidance provided in the Laois County Development Plan 2011-2017, the Portlaoise Local Area Plan 2012-2018 and the DoEHLG documents *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (2009) and the accompanying *Urban Design Manual*, also the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities* (2015) and the requirements of the *Design Manual for Urban Roads and Streets* (DMURS), which

was jointly issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Planning and Local Government in 2013.

### 7.3.2. Density

The proposed development has a residential density of c. 28 dwellings per ha. The appellants submit that this density is excessive in the context of surrounding lower density developments. The DoELHLG guidelines on sustainable residential development in urban areas encourage higher densities on residentially zoned land close to city and town centres. Section 5.11 provides guidance for outer suburban or 'greenfield' sites, defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities. Such areas are to be developed with net residential densities in the range of 35-50 dwellings per ha. The County Development Plan and LAP provide for a density of 35 dwellings per ha on residentially zoned lands in Portlaoise on this basis. The proposed development is below this standard. However, as discussed above, the subject site is unzoned.

### 7.3.3. Layout and Open Space Provision

The site layout indicates a central open space that is subdivided into two landscaped areas, one of which includes a play area. There is an 'allotment area' at the north western corner of the site. There is also a 'community facility garden' and 'semi-private' gardens to the rear of the apartment blocks. Details of refuse storage spaces and public lighting have been submitted. The proposed public open space has a stated total area of 0.13 ha, which is c. 10% of the total site area. The 'community garden' (550 sq.m.) provides an additional 4% of the total site area. This is in accordance with development plan policy DCS1, which requires 10% of the site area as public open space in new residential development. The LAP states the following requirement:

*Public open space will be required at the rate of 10% of the gross site area with a minimum unit of open space of 200 sq. ms. and 10 ms. as a minimum dimension of any side. A minimum of 80sq.m of public open space per dwelling will be required in new residential developments.*

This entails a requirement of 3,040 sq.m. or 0.3 ha of public open space for 38 no. residential units. The DoECLG guidelines for sustainable residential development in urban areas recommend a minimum public open space provision of 15% of the total site area in greenfield sites or those for which an LAP is appropriate and a rate of 10% for large infill or brownfield sites. I am satisfied with the location and design of the central open space and the provision of allotments is a desirable aspect of the scheme. However, I note that the apartment design standards recommend the provision of well-designed, useable, accessible and secure communal amenity space for apartment schemes. I have concerns about the location of the 'community garden' to the rear of apartment block C at the north western corner of the site, due to lack of passive supervision, also about the 'semi private' spaces to the rear of the other apartment blocks, due to the lack of a clear definition between public and semi-private space. In addition, the communal space to the rear of block A is very limited (57 sq.m.). Due to these deficiencies, I consider that the proposed development does not achieve a satisfactory standard of public open space provision for the apartment element of the development.

The layout has a curving spine road combined with traffic calming measures (raised pedestrian crossings) and varied paving to reduce overall traffic speeds. The apartment blocks and house frontages have a high solid to void ratio and are close to the street with communal parking areas rather than front gardens. Footpaths are located between the landscaped area to the front of houses / apartment blocks and the shared parking. This achieves a strong, active frontage with frequent pedestrian entrances, creating a sense of enclosure and also encouraging lower traffic speeds. The landscaping includes street trees, which further strengthen the street edge. This layout is in accordance with the principles of DMURS, however the 6m carriageway width is wider than the 5.5m recommended for local roads in DMURS section 4.4.1. DMURS advocates a shift away from dendritic style housing layouts to highly connected networks which maximise permeability for pedestrians and cyclists. The proposed layout does not provide for any connections with the adjoining Abbey Court estate to the immediate north. There would be scope to connect to an adjacent open space within Abbey Court at the northern site boundary, however this would not significantly increase pedestrian or cyclist connectivity with the centre of Portlaoise.

The proposed roads layout is generally considered to be acceptable and, subject to some amendments which could be required by condition, compliant with DMURS.

#### Standard of Residential Accommodation

The development (as amended by further information) includes 3 no. house types:

House type	No. of Units	Floor Area (sq.m.)	Private open space (sq.m.)	Details
A	4	116.8	187-221	4 bed semi-detached houses located at the southern end of the site.
B, B3	8	98.7	60 – 158	4 no. 3 bed semi-detached houses located at the eastern side of the site.  Row of 4 no. terraced units at the southern end of the site.
C C1	8 2	100.55 104.5	71 – 140	3 bed semi-detached units. Rooflights only to 1 <sup>st</sup> floor rear elevation.
H	1	54.89	70	1 bed bungalow

The houses all face the spine road and / or the central open space. The development also includes 4 no apartment blocks containing a total of 15 no apartments as follows:

Block	No. of Units	Details
A	4	2 x 1 bed units (G1, G2) 2 x 2 bed units (F1, F2)
B, D	4	4 x 2 bed units (type D and E)
C	3	3 x 2 bed units (type D, E, E1) Also community space / office at ground floor level.

A schedule of floor areas is provided. These are generally satisfactory and, in the case of the apartments, in compliance with the DoELHG apartment standards, including private open space provision in the form of balconies / terraces. It is considered that the apartment and house designs and layouts are generally satisfactory with regard to national and development plan guidance and that there is

a reasonable standard of residential accommodation for future residents of the development.

### Impacts on Residential Amenities

Potential for impacts on residential amenities arises at the northern end of the site, adjacent to Abbey Court and at the eastern end of the site, where the development abuts the side / rear of residential properties on the Abbeyleix Road, including the appellants' dwelling.

The development includes 2 no. 2 storey apartment blocks and 2 no. pairs of 'type C' semi-detached houses at the northern end of the site. The apartment blocks have been set at an angle to the boundary and their rear elevations do not include balconies. Having regard to the internal floor plans of the apartment blocks, a condition could be imposed requiring high level glazing only at first floor level, without any significant adverse impact on the standard of residential accommodation provided. In addition, house 'type C' has rooflights only to the rear elevation at first floor level. These measures obviate potential overlooking of rear gardens within Abbey Court. No shadow analysis of the development has been submitted and the application is considered deficient in this respect. However, a setback of c. 22m is generally achieved to the rear elevations of houses within Abbey Court, which is acceptable. In addition, the existing hedgerow along the northern site boundary is to be retained, which would ameliorate visual impacts. On this basis, it is considered that, while there would be some unavoidable impacts on the residential amenities of dwellings within Abbey Court, these impacts are within acceptable parameters.

The residential properties on the Abbeyleix Road to the east of the site are bungalows with large rear gardens. I consider that there is no significant potential for adverse impacts on the two properties to the north of the vehicular access, subject to the use of acceptable boundary treatments and the retention of the existing hedgerow, as proposed. Given the depths of the existing rear gardens and again subject to satisfactory boundary treatment, I consider that the proposed 2 storey houses would not have significant adverse impacts on the rear of the 3 southern most properties to the immediate east of the site.

This leaves the dwelling to the immediate south of the vehicular access and the appellants' property to the immediate south of same. Houses nos. 1 – 6 would



immediately about the rear of the property to the immediate east (units nos. 1 - 5 in the revised layout submitted as further information). This would in my view create significant potential for overshadowing and visual obtrusion, notwithstanding the single storey house no. 1. The proposed layout to the side / rear of the appellants' property is even more problematic. The side of their rear garden would be directly overlooked by the rear of houses no. 2 – 5 in the original layout (house no. 4 in the further information submission). In addition, while I accept that apartment block A has been designed to prevent overlooking, I consider that it would be visually obtrusive when viewed from the rear of the appellants' property. The grounds of appeal include proposals to redesign this part of the site, omitting another house as required by condition no. 2 of the permission, such that there is a 'type H' bungalow and are 2 no. 'type C1' houses to the side of the appellants property and no direct overlooking. This would reduce impacts somewhat and I note that a separation of over 11m has been achieved to the side boundary of the appellants' property. However, I consider that houses along this boundary would still have adverse impacts by way of overlooking and visual obtrusion on the appellants' property. The development would therefore have a significant adverse impact on residential amenities.

#### **7.4. Traffic and Parking**

7.4.1. The site is located within the 50 kph zone on the Abbeyleix Road / N77 between the centre of Portlaoise and M7 junction 17, c. 1 km to the south. The proposed vehicular access to the N77 is a simple, unsignalled priority junction. The junction layout indicates a carriageway width of 6m, with a junction corner radius of 6m, in accordance with the requirements of DMURS. The TIA states that sight visibility distances are to be provided to meet DMURS standards. The junction layout does not indicate sight distances and I note that the applicant has no ownership / control over the residential properties on the N77 to the immediate north and south of the site entrance. However, there is a wide footpath grass verge along the N77 frontage at this point. In addition, the N77 is wide and straight at this point and sight distances at the existing site access are not obstructed. I am therefore satisfied that this area could be used to achieve acceptable sight distances, subject to the agreement of the planning authority. The applicant is willing to carry out alterations to existing road

markings on the N77, i.e. the provision of a right turning lane, in accordance with any requirements of the planning authority.

- 7.4.2. The submitted traffic and transport assessment is based on a completed total of 38 no. residential units and a community centre and using peak hour traffic counts carried out in June 2016. Projected traffic is based on an assumption of a childcare facility catering for 30 children, with 33% of children using the facility from outside the development. The TIA includes a junction appraisal for the site access to the Abbeyleix Road / N77, which indicates that the junction would operate within capacity. There are no significant impacts envisaged during the construction phase, subject to the implementation of proposed mitigation measures.
- 7.4.3. The development layout provides 80 no. car parking spaces, broken down as 67 no. street / visitor parking spaces, 5 no. disabled spaces and 8 no. parking spaces along the curtilage of the site. laid out perpendicular to the road carriageway. The perpendicular parking layout is broken at intervals with landscaped areas and is generally in accordance with the DMURS provisions for on-street parking, ref. section 4.4.9. The dimensions of the parking bays are satisfactory. The LAP states a car parking standard of 2 spaces per dwelling for suburban residential development. The proposed parking provision is therefore more than adequate to meet the requirements of the residential element of the development. However, there is no dedicated parking area or provision for the community facility. I note that the LAP requires a parking provision of 1 space / 5 seats for a 'community hall' use and a requirement of 1 space per staff member plus 1 space per 4 children for the use 'crèche / playschool'. The indicative layout for the community facility indicates a total of 20 seats, i.e. a requirement for 4 no. spaces. Given the small scale of the facility and the generous overall parking provision, it is considered that there is scope within the scheme to provide an acceptable level of parking for the community facility, however the layout would need to be amended such that there are additional spaces close to the facility, including disabled parking provision. The provision of a crèche at this location would require c. 10 parking spaces, again the overall layout would need to be revised to provide same. The proposed cycle parking provision of 16 no. spaces is satisfactory.
- 7.4.4. The proposed development is acceptable overall with regard to traffic and transport issues, subject to amendments to create adequate parking provision.

## 7.5. Site Services

7.5.1. The development is to connect to the existing public watermain on the Abbeyleix Road to east of the site. The development is to connect to the existing public foul sewer, also running along the N77. The existing sewage treatment plant in Portlaoise has a capacity of 39,000 population equivalent. Details of the proposed foul sewer design are submitted. The submission on file by Irish Water and the report of the water services section of Laois County Council state no objection.

7.5.2. With regard to surface water drainage, the site is flat and relatively lowlying. There were some rushes and waterlogging at site inspection, principally associated with the stream running along the field boundary at the centre of the site. Third parties refer to an issue of flooding associated with an existing open drain running along part of the eastern site boundary. The site is located outside the areas of flood potential identified in map 3 of the Portlaoise LAP and OPW records indicate no flooding history in the vicinity. The applicant submits that the flooding issue reported by third parties is likely to be localised and associated with silting / blockage of an existing open drain at the eastern side of the site, to the rear of the residential properties on the N77. It is submitted that the proposed surface water drainage measures would address the issue by eliminating most of the surface water run off to the eastern drain, by diverting the watercourse across the site away from this area and by providing a connection for the eastern drain to the proposed new surface water drainage system, creating additional outfall capacity. These points are accepted. It is proposed to culvert the existing watercourse across the site and to divert the flow to an outfall to Clonminam River to the north east of the site. Outflow is to be regulated via an attenuation tank located within the development site, under the main spine road. The existing public storm sewer on the N77 is to be upgraded as part of the development works, drainage calculations have been submitted. The drainage design includes SuDS measures. The submission on file from Inland Fisheries Ireland dated 22<sup>nd</sup> March 2016 states concerns in relation to the proposed culverting. IFI states that the stream at the site is 'seriously polluted' and refers to the possibility of gaseous emissions during periods of hot weather consequent on increased biological / biochemical activity, with the potential for such emissions to accumulate in the proposed confined culvert. The applicant submits that the stream has been polluted by sources outside the subject site. It is proposed address the issue by

installing a ventilation stack to the culvert at the north eastern corner of the site, the IFI does not object to this proposal.

7.5.3. I am satisfied with the proposed site services, notwithstanding the unzoned status of the site.

## 7.6. **Appropriate Assessment**

7.6.1. I note the location of the development adjoining an urban area, the lack of direct connections with designated sites with regard to the source-pathway-receptor model and the nature of the development. It is reasonable to conclude on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European sites, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 7.7. **Conclusion**

7.7.1. The development is unacceptable in principle as it is located on unzoned land and would therefore materially contravene the provisions of the Laois County Development Plan 2011-2017 and the Portlaoise Local Area Plan 2012-2018, in particular housing policy HCSI 07. In addition, it is considered that the development would have adverse impacts on residential properties to the immediate east by way of overlooking and visual obtrusion.

## 8.0 **Recommendation**

8.1. Having regard to the above assessment, I recommend that planning permission should be refused, for the reasons and considerations as set out below.

## 9.0 **Reasons and Considerations**

1)

The "Sustainable Residential Development In Urban Areas Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in May, 2009, recommends a sequential and co-ordinated approach to

residential development, whereby zoned lands should be developed so as to avoid a haphazard and costly approach to the provision of social and physical infrastructure and where undeveloped lands closest to the core and public transport routes be given preference. The subject site is not zoned for residential development under the current Portlaoise Local Area Plan 2012-2018. It is therefore considered that the development of the subject site would not be consistent with the orderly expansion of Portlaoise and would contravene the sequential policy for housing development set out in Local Area Plan Chapter 2. The development would also materially contravene Local Area Plan policy HCSI 07, which is to encourage residential development within the town's development envelope and to discourage ad hoc ribbon development on the outskirts of the town. The development would, therefore, be contrary to the Guidelines and to the proper planning and sustainable development of the area.

2)

The "Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas" published by the Department of the Environment, Heritage and Local Government in May, 2009, require a high quality approach to the design of new housing. It is considered that the development would have an adverse impact on the residential amenities of properties on the Abbeyleix Road to the immediate east of the site by way of overlooking, overshadowing and visual obtrusion. The proposed development would therefore seriously injure the amenities, or depreciate the value, of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

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Sarah Moran  
Senior Planning Inspector

27<sup>th</sup> March 2017