



An  
Bord  
Pleanála

## Inspector's Report ABP-300178-17.

### Development

Permission to construct nursing care centre of 116 beds, 40 assisted living units, 65 sheltered homes, 1 wardens gate lodge, ancillary support facilities comprising - medical consulting rooms, dispensary, gym/pool, bistro/restaurant, community meeting room, bored well surface water attenuation system, plant room and services, entrance, all associated site works.

### Location

Tierhogar, Killenard, Co. Laois

### Planning Authority

Laois Co. Council.

### Planning Authority Reg. Ref.

17/147.

### Applicant(s)

Mark Fox.

### Type of Application

Permission.

### Planning Authority Decision

Grant permission subject to conditions.

**Type of Appeal**

Multiple third party appeal:

**Appellant(s)**

1. Carriglea Residents Association
2. Joe & Anne Cunningham
3. Paddy Behan
4. Sheila Connell

**Observer(s)**

None.

**Date of Site Inspection**

06/02/2018.

**Inspector**

A. Considine.

## 1.0 Site Location and Description

- 1.1. The site the subject of this appeal is located to the northern area of the village of Killenard in Co. Laois. Killenard is located approximately 3km to the south east of the town of Portarlinton and the M7 Motorway is located approximately 4.5km to the south of the village. The site is generally flat, although there is a slope to the north and the northwest, with an elevation range of between +80.0 and +90.0 OD. The site is currently in agricultural use and is under grass and the site has a stated area of 15.5ha.
- 1.2. To the north of the site, lies the main Dublin to Cork railway line, and the local road, the L-3171, is located along the eastern boundary of the site. The site boundaries include mature hedgerow and a mixture of hedgerow and stone walls.
- 1.3. To the south of the site, lies an existing residential estate, Carriglea, a development of approximately 55 two storey detached houses. To the east, and across the public road, lie further housing developments and immediately along part of the eastern boundary, there are 4 detached houses which front onto the Killenard Road. To the south, beyond Carriglea, lies the Killenard Heritage Golf and Country Club development and associated houses and facilities.
- 1.4. The subject site includes a large field to the west of the main site area, which is identified as Phase 2 of the longer term development plan for the retirement village. To the west of this section of the site lies the Tirhogar Road, and it is indicated that the construction traffic will use this road.

## 2.0 Proposed Development

- 2.1. Permission is sought to construct nursing care centre of 116 beds, 40 assisted living units, 65 sheltered homes, 1 wardens gate lodge, ancillary support facilities comprising - medical consulting rooms, dispensary, gym/pool, bistro/restaurant, community meeting room, bored well surface water attenuation system, plant room and services, entrance, all associated site works all at Tierhogar, Killenard, Co. Laois.

2.1.1. The submitted application was accompanied by the following:

- Relevant plans and particulars
- Schematic Planning Report
- Report on Engineering Services

2.2. Following the request for further information, the following documents were submitted in support of the proposed development;

- Mobility Management Plan
- Report on Traffic Impact Assessment
- Updated Engineering Services Report
- Clarification on Surface Water issues, Haulage Routes, Structural Survey of haulage routes, a Preliminary Construction Management Plan and Public Lighting design

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant permission for the proposed development, subject to compliance with 19 conditions which:

2. seeks to restrict the use of the homes for residential care homes and the housing units shall remain in the ownership of the Management Company/Developer and shall not be sold to private individuals as habitable dwellings.

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

##### **3.2.1. Planning Reports**

Section 97 Certificate: The report notes that the approximately two thirds of the subject site, labelled 'phase 1' is zoned "Enterprise and Employment" in Volume 2, Settlement Strategy of the Laois County Development Plan, 2011 – 2017, while the final one third of the site, labelled 'phase 2' is not zoned.

The report concludes that ‘as the proposed development is not residential but commercial in nature, and located on lands a mixture of land not zoned and land zoned “Enterprise and Employment” ..... it is considered that Section 96(1) of the Act does not apply and the Planning Authority should issue the applicant with a Section 97 (certificate) of the Planning and Development Act 2000 as amended.

Planning Report:

3.2.2. The initial Planning Officers report considered the proposed development in terms of the 2011-2017 County Development Plan, and noted the fact that the site was zoned for Community / Institutional purposes in the draft CDP, 2017-2023. Overall, the report considered the proposed development acceptable in principle and requested further information and clarification in terms of the technical reports submitted.

3.2.3. The final planning officers report acknowledged the adoption of the new County Development Plan which came into effect on the 24<sup>th</sup> July, 2017 and concluded that the development was acceptable. The report recommended that planning permission be granted subject to 17 conditions. This recommendation formed the basis of the Planning Authoritys decision to grant and two additional conditions, were attached to the official decision, relating to the setting up of a Management Company and a bond to ensure the satisfactory completion of roads, footpaths, watermains, drains, open space and other services.

3.2.4. Other Technical Reports:

Internal:

**Road Design:** Further information required in relation to surface water disposal, road safety and public lighting. Following the submission of the response to the further information and clarification requests, a number of conditions are indicated.

**Waste Enforcement:** No objection to grant of planning permission subject to two waste management conditions being included.

**A/Chief Fire Officer:** No objection to the proposed development. Fire hydrants to be round thread outlet type and shall have a minimum flow of 20 litres per second. Fire safety certs will be required.

**Principal E.H.O.:** No objections subject to a number of recommendations relating to the provision of water services.

Prescribed Bodies:

**S.T.S.E. Irish Rail:** Requests that a number of issues be taken into consideration during deliberations, including the erection and maintenance of boundary treatments adjacent to the existing Dublin – Cork railway line, and that development works will not impact, or have a negative effect, on the railway line. It is further submitted that the railway line has the capacity to operate 24 hours a day, 7 days a week and 365 days a year. A Noise Assessment should be undertaken to ensure noise levels at the proposed residential units do not equal or exceed undesirable noise levels.

Following receipt of the response to further information, the submission considered that the applicant had not responded to the issues raised.

**Transport Infrastructure Ireland:** No observations.

**Irish Water:** Further information initially sought

**Inland Fisheries Ireland:** No objection in principle to the proposed development subject to a number of conditions, including that the development shall not be occupied or operated until such upgrading works as necessary at the Irish Water Sewerage Treatment Plant at Portarlinton are completed such that discharges comply in full over a three-month period following commissioning.

**DoAHRRGA, Development Applications Unit:** Recommends conditions be attached should permission be granted.

3.2.5. Third Party Submissions:

There are 16 third parties noted on the planning authority file with a total of 27 submissions in the course of the overall assessment. These parties are as follows:

- |                     |                  |                           |
|---------------------|------------------|---------------------------|
| - Donal O’Sullivan  | - Anne Hogan     | - Joe & Anne              |
| - Niall Behan       | - Sheila Connell | Cunningham                |
| - Paddy Behan (Snr) | - Peter Smyth    | - Michael Geraghty        |
|                     |                  | - Sarah Purfield Stafford |

- |                        |                       |                 |
|------------------------|-----------------------|-----------------|
| - Juan Pablo Gutierrez | - Ann Dolan           | - Cormac Smith  |
| - Lucy Kelly           | - Elizabeth Heagney / | - Malcolm Allen |
| - Sean Fleming         | Carriglea Residents   |                 |

The issues raised in the above third party submissions are summarised collectively as follows:

- Phase 2 of the development is outside the zoned area. The development should be within zoned lands and it is noted that there is a current permission for a retirement home in the village already, opposite the site. The need for, and viability of, the development is questioned.
- Roads and traffic issues existing in the village already. The infrastructure is not capable of accommodating the proposed development, including construction traffic. The development will accommodate approximately 400 people and 200 staff.
- No assessment of risk or impact presented by the development and no workplace travel plan or mobility management plan has been provided.
- Issues with water supply in terms of E-coli and pressure. The Killenard aquifer is not a demonstrably safe and reliable source of raw water and there are no mains alternative available.
- Inadequate sewerage infrastructure and the Portarlington WWTP requires upgrading.
- The development will impact on the village atmosphere and the two old bridges, neither of which are made for the amount of traffic the development will bring.
- The size and scale of the development contravenes the Laois County Development Plan. The development will accommodate approximately 400 people while the population of Killenard was 622 in 2011.
- Lack of consultation with the local community and no community facilities audit or open space needs have been produced.
- Noise impacts have not been considered and the development should be required to fully comply with Council policy.

- Light pollution impacts.
- The layout, scale and design of the development is damaging to existing Carriglea properties to the south, and the development materials are not appropriate.
- Should permission be granted, it should be for a smaller bed capacity, scaled down and located to the west end of the site

## 4.0 Planning History

### 4.1. Subject site

**PA ref 04/1021:** Permission refused for the construction of a mixed use development comprising a crèche, 9 no detached dormer bungalow dwelling houses and 80 no detached 2-storey dwelling houses together with associated roads, drainage infrastructure, fencing, general site works and landscaping. There were two reasons for refusal relating to the provision of a connection to the public sewer and the proposed water supply from a well.

**PA ref 01/163:** Permission sought for the construction of three dwelling houses and ancillary services. Further information sought and not responded to.

### 4.2. Other Relevant Planning History

**ABP ref PL11.225563 (PA ref 07/286):** Permission was granted for a Retirement complex, associated landscaping and boundary treatment. The decision to grant was upheld on appeal and the Board granted permission for the construction of a large guest house, a 40 bed nursing home consisting of 60 beds, 18 House Retirement Village, 7 no. 3 Bedroom Bungalows, 18 Semi Detached 4 Bedroom Houses and 15 Detached 4 Bedroom Houses.

**PA ref P13/185:** The above grant of planning permission was extended and will expire in September, 2018. The site is current for sale, and is essentially located across the road from the current appeal site.



## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Laois County Development Plan, 2017-2023 came into effect on the 24th July, 2017 and is the relevant policy document pertaining to the subject site. The Core Strategy identifies the subject site as being located within Zone B which comprises of the M7 and M9 Strategic Transportation Corridor Environs and key development area that encompasses Vicarstown, Killenard Emo, Ballyfin as this is the natural hinterland for the main towns. The CDP identifies that each of these areas have potential to add to the tourism economy of the county by way of providing quality accommodation and /or tourist experience such as the Barrow Blueway, Emo Court and Demesne and Ballyfin House. The Core Strategy further provides that 'residential development will be controlled so as to ensure that housing requirements will be in character with the scale of existing development. This can be achieved through adequate zoning of lands, provision of services and a facilitatory approach to appropriately scaled urban development.'

5.1.2. Killenard is identified as a village with a population greater than 400 population which has experienced significant growth during the last census period. The Plan states that 'these villages provide opportunities for future expansion/provision of services such as community centres, local shop, pub, petrol outlet and have the potential to attract a population seeking to live in a rural environment. Development growth should be low density, relative to the scale of the settlement, located as near as is practicable to the core area.' The following Core Strategy policy objectives are considered relevant:

CS35: Encourage social and community uses within villages > 400 population that sustain the population;

CS36: Promote densities, relative to the scale of the settlement, located as near as is practicable to the village centre area having regard to Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas (DEHLG, 2009) and ensure that any plan or project associated with the provision of new housing is subject to Appropriate Assessment Screening in compliance with the Habitats Directive, and subsequent assessment as required.

5.1.3. Section 3 of the CDP deals with Housing Policy, including Housing for the Elderly as follows:

HP8: Promote and support the development of housing for older people and those with disabilities, including the concept of independent living and the development of 'lifecycle housing' i.e. housing that is adaptable for people's needs as they change over their lifetime;

HP9: Meet the needs of the elderly by providing accommodation in central, convenient and easily accessible locations to facilitate independent living where possible;

HP10: Encourage nursing homes and sheltered housing accommodation to be located within settlements to provide for easy access both for staff and visitors in order to enhance overall quality of life, increase their links with, and accessibility to, local amenities and to adopt a presumption against rural locations;

HP11: Provide for the housing needs of those with disabilities through the provision or adaptation of appropriate accommodation.

5.1.4. Section 6 of the Development Plan deals with Infrastructure and includes details relating to public water and wastewater objectives. The following objectives are relevant in this instance:

Public Water Supply:

OBJ8: Network Model to be completed (which will include the Killenard and Ballybrittas areas) to advance the design and planning of necessary network improvements

Public Wastewater:

OBJ5: Complete the Advanced Contract for Portarlington Wastewater Treatment Works WWTWs;

OBJ6: Complete the review of the Portarlington Network Model and plan for improvements as required.

5.1.5. Volume 2 of the CDP deals with Settlement Plans, including Killenard. The site is zoned Community, Educational and Institutional where it is the stated objective of this zoning 'to protect and provide for local neighbourhood, community, ecclesiastical, recreational and educational facilities.'

5.1.6. The purpose of this zoning is to protect and improve existing community, educational and institutional facilities and to safeguard their future provision. The land use will provide for local civic, religious, community, educational and other facilities ancillary to neighbourhood uses and services.

## 5.2. Natural Heritage Designations

The subject site is not located within a designated European site, being approximately 1.5km to the south of the River Barrow and Nore SAC, Site Code 002162.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. This is a multiple third party appeal against the decision of the Planning Authority to grant permission for the proposed development. The third party appellants are:

1. Joe & Anne Cunningham
2. Carriglea Residents Association
3. Sheila Connell
4. Paddy Behan, Anne Hogan, Ann Dolan & Families

6.1.2. The grounds of appeal are summarised as follows:

- The proposed large scale development adjoins existing residential properties will severely damage the amenity and enjoyment of these homes and will result in overlooking.
- The scale of the development is excessive in the context of the village of Killenard, where the existing population is 671 (CSO 2016). The proposed development, phase 1 of a two phased development, could accommodate between 222 and 329 residents, plus an additional 200 employees.

- The roadway and service areas of the Nursing Care Centre kitchens, plant room, laundries, parking, staff and commercial service vehicles access area are located directly beside existing residential properties.
- The development will be a full time day and night operation and services will impact on the amenity and privacy of residents.
- There was no consultation on the altered zoning of the site. The zoning changed during the application process despite objections. The change in the zoning of the site was done without appropriate consultation and the Planning Authority did not send a notice under S20(3)(a)(i) of the Planning & Development Act 2000 to the residents' association.
- Should permission be granted, the nursing home should be located to the north of the site and away from existing residences.
- The development will impact on flora and fauna.
- The development will impact on the visual amenities of the area and the scale is excessive.
- Roads & traffic issues including inadequate public transport services in the area and the capacity of the existing road network, including bridges, to accommodate the increased traffic associated with the proposed development.
- Permission was granted for a retirement village at the Ballycarroll side of Killenard which has not progressed. This demonstrates the absence of need for the development.
- Inadequate water services to accommodate the development and the proposed upgrading of the Killenard pump station is not sufficient to cope with the development.
- The planning authority has failed to comply with the requirements of the P&D Act having failed to consider waste water issues. The development appears to require access to third party lands in terms of the provision of water services and surface water runoff, and it is not clear if permission has been given.

- The development will not fit in well and will unbalance the social demographic of the small village of Killenard.
- Inadequate supply of suitably qualified work force to support the development in the local area, as evidenced in the difficulties experienced by existing nursing homes in Portarlinton.
- It is considered that an EIS is warranted having regard to the scale, location and history of flooding and contamination at the site.
- Killenard is not an appropriate location for the proposed development for a number of reasons.
- The construction traffic proposal through Tierhogar will severely damage that neighbourhood.
- The Killenard & District Development Association, referred to by the applicants, was wound up in 2012. When in existence, the association made recommendations that the development site should have a minimum density housing, and provide sports and recreational facilities as part of their development.
- Inadequate car parking provision for the scale of the development proposed.
- The Residents of Tirhogar submit that local road network is not maintained by the county council and are inadequate to accommodate the proposed development. The roads also flood.

## 6.2. Applicant Response

The applicant has responded to these third party appeals and the response is summarised as follows:

- The applicant engaged in proper due process and procedure and held pre-planning.
- The development accords with the zoning for the site.
- The proposed haul routes during construction are the same as those used for the development of the Heritage and the impact on the area was negligible.

- A construction stage traffic management plan will be prepared and implemented.
- There are no weight restrictions on either of the two existing railway bridges and they are in good structural order.
- The site is within the speed limit for the village.
- The Traffic & Transport Assessment Report addresses all aspects of access, safety etc.
- Wastewater will discharge to an existing foul sewer in the public road.
- The upgrading of the pumping station will be carried out by Irish Water under agreement with the applicant.
- The development will connect to the public water network where sufficient capacity exists.
- The design of the surface water system and associated attenuation ensures that the development will not increase the rate of surface water discharge to the existing watercourse and meets the requirements for SuDS.
- The pipeline was constructed on lands now owned by the applicant who maintains the right to connect to the pipeline as part of the wayleave agreement.
- It is not accepted that the development will have a negative impact on residential or visual amenities.

### **6.3. Planning Authority Response**

The Planning Authority did not respond to these third party appeals.

### **6.4. Observations**

None.

## 7.0 Assessment

7.1. Having considered all of the information submitted with the planning application, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development and compliance with current County Development Plan.
2. Design & Residential Amenity Issues
3. Water Services Issues
4. Roads & Traffic Issues
5. Other Issues
6. Appropriate Assessment

### 7.2. **The principle of the development and compliance with current County Development Plan.**

7.2.1. The subject site is located in the northern reaches of the zoned area of the village of Killenard, Co. Laois. The site the subject of this appeal covers two large fields, currently under grass. The development works proposed are restricted to the eastern field while the western field will accommodate the detention basin for storage of attenuated surface water together with the proposed well to service the development. The Board will note that the well has been replaced with a proposed connection to the public main. The eastern part of the site is zoned, under the current County Development Plan, 2017-2023, for Community, Educational and Institutional purposes, while the western field lies outside the zoning boundaries of the village of Killenard. The proposed use as a nursing home, with assisted and sheltered housing, is a use which is open for consideration on such zoned lands. In addition, the other uses indicated in the submitted proposal, medical and related consultants, recreational building, restaurant and sport/leisure uses, are also open for consideration on such zoned lands. In this regard, it can be considered that the proposed development complies in principle with the zoning objectives afforded to the site.

7.2.2. The Board will note that the County Development Plan identifies Killenard as being located within Zone B in the context of the Core Strategy, and in an area which the potential to add to the tourism economy of the County. The Core Strategy provides that 'residential development will be controlled so as to ensure that housing requirements will be in character with the scale of existing development. This can be achieved through adequate zoning of lands, provision of services and a facilitatory approach to appropriately scaled urban development.'

7.2.3. Killenard is identified as a village with a population greater than 400 and the 2016 census for the area indicates that the population is 671, up from 622 in 2011 with 101 people aged 60+. The proposed development, while providing for a use which complies with the zoning objective for the site, includes the proposed construction of 65 sheltered houses which will be privately owned, but leased back by the nursing home, in addition to the 40 proposed assisted living units. A warden's lodge house is also proposed. This development will result in the largest 'residential' development in the village without accounting for the stated intention to provide a further 60 sheltered housing units as part of phase 2 of the overall development.

7.2.4. If permitted, the development will provide for a minimum population of 222 people and up to a possible 328 (excluding phase 2). In this instance, the development would potentially increase the population of Killenard by almost a half. While I accept that the development of a nursing home is not technically a 'residential' development, I have a real concern that the scale of the assisted and sheltered housing proposed, which I consider to be 'residential', is very excessive in the context of the village of Killenard. I would note that the proposed health care / management suite, community and recreational building and restaurant / bistro are all uses which are compliant with the zoning objective for the village. I note that while there are a number of amenities in the village of Killenard, following my site inspection, I would advise that a number of existing commercial units appeared unoccupied.

7.2.5. In this regard, and while I accept that the principle of the proposed development, including all elements, generally accord with the principles of the County Development Plan and its core strategy, I consider that the residential element of the overall development is not in character with the scale of existing



development in the village of Killenard and as such, does not conform with the Core Strategy of the Laois County Development Plan.

### **7.3. Design & Residential Amenity Issues:**

7.3.1. The proposed site layout provides for access from the east where a wardens gate lodge is proposed as well as immediate access to 11 sheltered housing units to the south. The internal road runs towards the north west where a cross junction provides access to the nursing home, car parking area and service entrance to the south, 54 sheltered houses and 40 assisted living units to the north and nursing home, medical dispensary / consulting rooms, gym and pool and bistro café to the west. The layout of the site provides for an access road and 25 car parking spaces along the southern boundary of the site, within 10 metres and 5 metres of the northern boundaries of properties in the Carriglea estate. The closest part of the nursing home building is to be located at 33m from the rear boundary of Carriglea properties while the sheltered houses are approximately 16m from the boundary. The development proposes screen planting along the boundaries of the site.

7.3.2. A number of third parties have raised concerns in relation to the potential impact of the development on residential amenity, and in particular, the residents of Carriglea to the south of the site. In particular, concerns have been raised in terms of potential noise has been raised as the proposed service road and the primary services area for the nursing home, are located to the south of the building, and within 10m of the boundary of adjoining properties. It is submitted that the development will be a 24 x 7 development which could give rise to noise nuisance.

7.3.3. Having regard to the separation distances involved, together with the orientation of the site, I am satisfied that the development, if permitted, will not result in a significant impact on the existing residential amenities of the existing residents. While there will be a visual impact associated with the proposed development, the lands are zoned for development, are located within the development boundary of Killenard and therefore, it is reasonable to accept that development is permissible in principle. Third parties have raised issues in relation to the loss of rural views but in light of the zoning of the site, I am generally satisfied that the proposed development will not give rise to visual impacts, noise or disturbance over or above what might be expected in any other permissible development.

7.3.4. In terms of the proposed development, the proposed nursing home, which proposes 116 single bedrooms with en-suites, will rise to two floors with ridge heights ranging from 5.2m to 11.8m. The nursing home is laid out over two floors with single storey elements towards the southern elevation. The proposed finishes include painted smooth rendered finishes, metal and zinc cladding, brick and stone work, natural slate and double glazed windows. I have no objection to the proposed design or materials of the nursing home. The orientation of the building however, is essentially north facing, with the proposed kitchen, laundry and plant room located to the south west of the building. The Dementia Unit is to be located with a southern aspect, within the single storey element of the building which is positive, but I would have reservations regarding the location of the service element. In addition, the largest area of open space is to be located in this area of the site, with minimal overlooking opportunities for future residents.

7.3.5. At the entrance to the nursing home, the development proposes a community meeting room. This building will rise to 12m in height at the entrance hall and to 9m within the hall itself. The building will provide for a single floor use with double and triple height ceilings and will have a stated floor area of 159m<sup>2</sup>. The proposed finishes will reflect those of the nursing home and will include extensive glazing to the east and west elevations.

7.3.6. The proposed medical dispensary & consultation rooms, leisure facilities and bistro café building is to be located to the north of the entrance to the proposed nursing home. Access to this series of buildings will be over the proposed square. The proposed consultation rooms will provide for podiatrist, dental and treatment rooms with associated reception room. The proposed leisure facility will include a 15m swimming pool with therapy pool and associated reception and male / female changing rooms. The first floor area of the leisure building, including a void over the swimming pool, will provide for a gym and exercise room with three therapy suites. Additional changing rooms are to be provided at first floor level.

7.3.7. The buildings will rise to 9m at its highest point and the proposed finishes reflect those of the nursing home. The floor areas of these proposed uses are indicated as follows:

- Medical Dispensary: 85.4m<sup>2</sup>

- Consultation Rooms: 199m<sup>2</sup>
- Leisure Facility: 983m<sup>2</sup> which includes the swimming pool.
- Bistro / Café: 669m<sup>2</sup>

The proposed development will result in a significant development within the site for the use of the proposed residents.

7.3.8. In terms of the assisted living units, these are to be located within three blocks, two of which will have internal courtyards. The third block is provided in a terrace which will run from east to west. The units will provide for 1 and 2 bedrooms and each will have a kitchen and living room as well as a sun lounge. All will have access to an internal communal courtyard garden which will provide lawns and seating as well as a central bin storage area. The sheltered houses propose two bedrooms, one en-suite, with a large kitchen / dining area and living area. These single storey buildings will rise to 7m in height due to their design and all will have private open space provided. A bin store is also proposed for each building. The gate lodge will provide for accommodation over two floors and will rise to 7.5m in height.

7.3.9. I am generally satisfied that if permitted, the residents of the nursing home and the retirement village would be provided with adequate levels of amenity. However, the assisted living units do not appear to be provided with private amenity space and having regard to the layout proposed, I would be concerned that there is potential for overlooking. In addition, I have raised concerns regarding the orientation and location of the proposed service areas for the nursing home. Should the Board be minded to grant permission for the proposed development, I would consider that these elements would require to be addressed.

#### 7.4. **Water Services Issues:**

Potable Water Supply:

7.4.1. The Board will note the original intention of the applicant to provide a potable water supply via a new well which was intended to be drilled on the lands to the west of the main development site. The applicant notes that the development will have a daily demand of 125,890 litres.

7.4.2. The response to the request for further information was presented in the form of a cover letter and a report on Engineering Services, both received by Laois County Council on the 25<sup>th</sup> August, 2017. It is advised that a public water supply is available to service the development without the necessity to provide a well. I am satisfied that an adequate potable water supply is available to accommodate the proposed development.

Waste Water:

7.4.3. More significant issues arise in relation to waste water. It has been established that existing waste water system servicing Killenard does not have the capacity to accommodate the proposed development at present. The proposed development will generate an average daily hydraulic flow of 125,890 litres with a BoD loading of 399mg/lit advised. It is proposed that the development will discharge to the public sewer and an Irish Water review identified the capital needs to upgrade the existing Killenard foul pumping station. A Public Works Service Agreement (PWSA) has been entered into with Irish Water to assess the existing infrastructure, prepare a conceptual design of upgrades to cater for customer discharges, define planning / wayleaves / land purchase requirements and to provide a report. The PWSS also identified the following deliverable under follow up agreements:

- Defined capital need to cater for customer demand with cost estimate for the works
- Connection agreement to include tender and construction of the project.

7.4.4. Irish Water has identified that the Killenard pumping station, which pumps wastewater to the Portarlinton network, has capacity constraints and no overflows are permissible. The requirements to accommodate the proposed development are identified within the Report on Engineering Services where it is noted that planning permission will be required for the necessary works, as will a preliminary Flood Risk Assessment and Appropriate Assessment. There is no doubt that if permitted, and the works are carried out as described, the upgrading of the Killenard Pumping Station will be to the benefit of the wider Killenard community. I remain concerned however, regarding the scale of the proposed development and also in relation to the potential timeframe for the delivery of the improvement works to the pumping station. Should the Board be minded to grant permission in this instance, I would

recommend that a condition is included requiring that the upgrade works to the pumping station are completed in the first instance, and prior to the commencement of any development on the site.

#### Surface Water:

7.4.5. Surface water arising from the proposed development will discharge to the existing outfall pipe, constructed as part of the Carriglea Estate. The existing attenuation system lies in the field to the west of the Tirhogan Road on third party lands. This attenuation tank has a control valve which restricts discharge to the watercourse to the north, adjacent to the railway line, to the maximum permissible rate of 21.6litres per second. It is acknowledged that the existing attenuation system was designed to store attenuated surface water from Carriglea only. As such, it is advised that the surface water system for the proposed development has been designed to ensure that the rate of discharge in the outfall pipe will not be increased.

7.4.6. It is proposed that the surface water system for the nursing home and retirement village, will be located within the western field indicated on the submitted plans and particulars. The development proposes to store attenuated surface water arising from the proposed development within a detention basin. The detention basin was relocated from a central location within this western field originally, to the south western corner of the site, adjacent to the existing access gate to this field from Tirhogan Road. The proposed basin lies immediately adjacent to an existing residential property to the south.

7.4.7. The proposed detention basin will be fitted with a control valve which will restrict discharge to the outfall pipeline to a rate that is equal to the rate of discharge from the existing control valve located within the existing surface water management system. This system comprises part of the overall development and is located on lands which lie outside the development boundary of the village of Killenard. The development further proposes that surfaces to paved areas within the curtilage of the sheltered housing units will be permeable, as will footpaths through and adjoining green areas.

7.4.8. While I acknowledge the above, I am concerned that the application clearly indicates the intention to develop a phase 2 to the retirement village. This extension

would be into the lands, constituting part of the subject appeal site, and which currently propose the detention basin, and into the lands which are located outside the current development boundaries of Killenard. The submitted Report on Engineering Services note the low soil permeability in the area which has resulted in the proposal to discharge run-off directly to the surface water sewers and the proposal to utilise the existing attenuation tank associated with Carriglea.

7.4.9. In terms of SuDS, I am not satisfied that this is acceptable. The development as proposed, would appear to be unable to accommodate all necessary measures to deal with surface water within zoned lands, my concerns regarding the scale of the development are further compounded. Should the Board be minded to grant permission in this instance, I would suggest that the scale of the development would be required to be significantly reduced, and that all surface water requirements should be provided for within the zoned lands only. No development should be permitted outside zoned lands, and in terms of zoning, The Board will note that the Laois County Development Plan, which includes the zoning plan for the village of Killenard, was adopted on June 26<sup>th</sup> 2017, coming into effect on the 24<sup>th</sup> July, 2017.

## **7.5. Roads & Traffic Issues**

7.5.1. The development site is accessed via the Killenard Road, which is a local road, with a railway bridge to the north and the village of Killenard to the south. The road network connects with the R445 and then the M7 to the south. The landholding also has access to the local road to the west, the Tirhogar Road. The road network comprises roads which vary in width of between 4.8m and 5.5m. the Tierhogar Road has a width of 3.2m. The collision history within the study area noted one minor collision on the Ballybritas – Portarlinton Road and one serious collision – single vehicle, one serious injury – on the Tirhogar Road in 2008.

7.5.2. The construction traffic is proposed to use the Tirhogar Road in order to mitigate potential impacts in the village. The Report on Traffic Impact Assessment notes that the construction period will be 30 months. Movement of HGVs will be concentrated in the first 18 month period. The Assessment submits that during the construction phase, there will be a total of 9.8 HGV and 102 personal daily trips per day. It is submitted that the Tirhogar Road is lightly trafficked and the road width is between 3.2m-3.5m with verge widths of between 0.5m-1.5m and it is noted that

existing road users will likely encounter HGVs during the construction phase. It is also noted that no assessment has been undertaken in relation to the condition of the Tirhogar Road bridge.

7.5.3. In terms of mitigation, the applicant has presented measures including the implementation of a one-way system for HGVs with all deliveries arriving to the site from the south, passing bays to be constructed at regular intervals along Tirhogar Road, the use of a convoy vehicle, flag men, signs and the restriction of HGV movements to a specific period every day to overcome the sections of the road where forward visibility is limited. The report notes that such sections of the Tirhogar Road would mean it is not possible for HGV drivers to see oncoming traffic in sufficient time to use the passing bays. The initial report also noted that while the pavement on the Tirhogar Road is generally in good condition, there is evidence of localised failure which are recommended to be reconstructed. Following a request for further information, the applicant submitted details of proposed haulage routes which include indicative locations for passing bays. It is further proposed to carry out a condition survey of the pavement before work commence and at intervals during the construction phase.

7.5.4. In terms of traffic movements generated by construction personnel during the construction phase through the village of Killenard, the average daily traffic flow will result in an increase of 3.2% including an increase of 44 trips from north of the railway line and 58 through the village from the south. The report concludes that the residual impact of the development will have a moderate temporary negative impact on the Tirhogar Road and a slight temporary impact on Killenard Road.

7.5.5. In terms of the operational stage, the report submits that 'the restaurant, leisure facility, community centre, consulting rooms and medical dispensary are all intended to serve the nursing home, assisted living units and residential units, thus maximising the sustainability of the Retirement Village'. It is estimated that the demand for these facilities will originate primarily from within the development and that less than 20% will originate from outside the development. In this regard, a factor of 0.25 has been applied. In addition, a factor of 0.8 has been applied to the trip rates estimates for the Nursing Home. It is further indicated that trip generation is greatest between the hours of 11:00 and 15:00.

7.5.6. From the figures submitted, the Board will note that there is steady flow of traffic from 7am to 9pm, with a total of 592.74 trips over the full day. The existing two way daily traffic flows submitted is indicate at 1835 trips in the vicinity of the entrance to the site. The Assessment submits that the average daily increases on the local road network arising from the development will range from 1.3% on the R420 west of Junction with Killenard Road to 17.5% in the village of Killenard. The figures affecting the village and the immediate roads are indicated from 13.9%. The report concludes that the development will lead to a noticeable increase in traffic flows on the Killenard Road from the Mount Henry Crossroads to the south, to the North of the railway line and through the village of Killenard, and will have a moderate and permanent impact on these roads. It is recommended that the existing traffic management scheme in Killenard Village be extended to the Railway line north of the site and that the development will have no discernible impact on existing vulnerable road users.

7.5.7. The Board will note that the Local Authority has advised no objection to the proposed development subject to a number of conditions and that a Stage 1 / 2 Road Safety Audit was carried out by the applicant. I would, however, have real concerns in terms of the proposed development and the potential impacts associated with the number of residences proposed within the scheme. Having regard to the proposed site layout, I am not satisfied that the development, and in particular the proposed sheltered housing units to the north of the site, have had adequate regard to the requirements of DMURS. In particular, the Board will note that the proposed internal roads will have a width of 6m which is very excessive in my opinion for the nature of the development proposed and does not prioritise the pedestrian. I have already advised my concerns in terms of the scale of the proposed development in the context of the village of Killenard and it is notable that the figures provided by the applicant would suggest that traffic movements will increase by +35% as a result of the development. Overall, I consider that the scale of the development as proposed remains a concern and would, if permitted as proposed, have a significant negative impact on the roads and traffic in the vicinity of the site.



## **7.6. Other issues**

7.6.1. Appellants have raised concerns in terms of the perceived re-zoning of the site without adequate consultation. The Board will note that the zoning afforded to the site changed during the Planning Authority's assessment of the proposed development and the appellants consider that this occurred without appropriate consultation with the residents' association. I would note that the preparation of the County Development Plan was in train before the application was lodged with the Planning Authority and it would appear that all necessary public notices were prepared and published by the planning authority. I would also note that objecting to a proposed development does not amount to appropriate submissions to the preparation of a development plan. I am satisfied that there is no issue in this regard.

## **7.7. Appropriate Assessment**

7.7.1. The closest European Site to the subject appeal site is the River Barrow and Nore SAC (Site Code 002162), which lies approximately 1.5km to the north. The Planning Authority carried out an AA screening which concluded that there would be no risk of significant negative effects on any European Site as a result of the proposed development, either alone or in combination with other plans or projects. The planning report on file concludes that appropriate assessment is not required.

7.7.2. The Board will note the intentions of the proposed development to convey surface waters arising within the proposed development site via the existing surface water pipe network for final discharge to a watercourse which flows parallel to the railway line. I have discussed the issues associated with the proposed surface water system above but would note that the watercourse is not hydraulically connected to the River Barrow and Nore SAC.

7.7.3. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 8.0 Recommendation

It is recommended that planning permission be **refused** for the proposed development for the following stated reasons.

## 9.0 Reasons and Considerations

1. Notwithstanding the zoning afforded to the eastern part of the subject development site, where the proposed use as a nursing home with assisted and sheltered housing is a use which is open for consideration, the Board is not satisfied that the development complies with the Core Strategy of the Laois County Development Plan which provides that 'residential development will be controlled so as to ensure that housing requirements will be in character with the scale of existing development'.

The development, if permitted in its current form which includes 65 residential units as well as 40 assisted living units, would result in a significant development in the context of the village of Killenard and would not be in character with the scale of existing development in the vicinity. As such, the Board is satisfied that the development would be contrary to the aims of the core strategy and would be contrary to the proper planning and sustainable development of the area.

2. The Board considers that the proposed development, by reason of its layout, scale and design would not accord with the requirements of the Design Manual for Urban Roads and Streets (DMURS), issued in March, 2013 as the layout is not conducive to pedestrian safety. In addition, it is considered that the traffic generated by the proposed development due to the scale proposed, would result in a significant traffic hazard for existing road users. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

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A. Considine

Planning Inspector

27<sup>th</sup> February, 2018