



An
Bord
Pleanála

Inspector's Report ABP-313771-22

Development	85 houses with associated site development works.
Location	Kilminchy, Portlaoise, Co. Laois.
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	21543
Applicants	Garryduff Properties Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	John Cowhig.
Date of Site Inspection	19 December 2022
Inspector	Dolores McCague

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1.0 Site Location and Description

- 1.1.1. The site is located at the eastern edge of Kilminchy, at the north-eastern end of Portlaoise, Co. Laois. Kilminchy, is a large area of recent low rise residential development of detached, semi-detached and terraced dwellings and apartments: areas where there is established development, areas under construction, and undeveloped lands. The site is roughly rectangular in shape having its long axis running north south, to the east of the existing residential road, Lime Tree Avenue; which the proposed development proposes to access at three points.
- 1.1.2. Residential development, both established and under construction, is found to the west, south and north. To the east agricultural land forms the boundary, at the eastern extent of the town development area.
- 1.1.3. Land in the area is generally flat.
- 1.1.4. The Board has before it appeals against the planning authority's decision to grant permission for 30 houses on a site west of Lime Tree Avenue, opposite the subject site, ref 313709.

2.0 Proposed Development

- 2.1.1. It is proposed to construct an 85 Unit Residential Development consisting of 66 no. two storey semi detached, 3 bedroom houses, 6 no. two storey end of terrace 3 bedroom houses, 3 no. two storey mid terrace 3 bedroom houses and 10 no. two storey detached 3 bedroom houses. The subject lands formed part of a partially commenced, previously granted permission under Reg. Ref. 08/293, which was extended under Ref 14/46 and 19/94 (to 31 August 2023). The proposed development will have access via the Holdbrook Scheme to the south onto Lime Tree Avenue, an additional access to the west onto Lime Tree Avenue, and a connection into the 43 Unit Scheme currently under construction to the North, also accessing onto Lime Tree Avenue. The proposed development will also include estate roads, footpaths, public open space, foul and surface water drainage, landscaping and all associated infrastructure works and services.
- 2.1.2. The site is given 2.761ha.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided, 31st May 2022, to grant permission subject to 24 conditions, including:

7 a) developer is required to consult with ESB regarding any overhead power line prior to the commencement of any work on this development.

b) any external lighting shall be cowled and directed away from the public roadway and adjoining properties.

8) boundary screening shall be in accordance with the boundary screening indicated on the plans and particulars received by the Planning Authority on 30/07/2021 and as amended by the revised plans and particulars received on 23/12/2021 and 25/03/2022.

Reason: In the interests of visual and residential amenity.

10 a) no part of the proposed development shall encroach, oversail or otherwise physically impinge upon any adjoining property save with the prior written agreement of the owner(s) thereof.

b) all public and private property shall be adequately protected at all times particularly during demolition and construction works.

c) any damage caused to the adjoining public thoroughfare shall be made good at the developer's expense to the satisfaction of the planning authority.

Reason: In the interests of public safety, residential amenity and proper planning.

11 a phasing plan.

12 a) site works standards.

b) the tie-in of the proposed access road and footpaths serving the proposed development and the adjoining infrastructure shall be to the satisfaction of the planning authority and Road Design Section, precise details to be submitted and agreed in writing prior to commencement of development.

14 a) a security of €6,500 per house.

b) bond to remain in place until taken in charge.

c) the development shall be completed in accordance with the requirements of Laois County Council's Taking in Charge document.

Reason: To ensure the satisfactory completion of this development and in the interests of residential amenity and proper planning.

15 naming and numbering.

16 a) details of site boundary treatment including in relation to type, extent, finish, height and colour shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

b) concrete block screen walls shall be suitably capped and plastered on their external public facades.

c) boundary screening and mature hedgerows and trees shall be retained and not removed save with the prior written consent of the planning authority.

d) only native trees and shrubs shall be planted in the proposed landscaping scheme.

e) planting shall be carried out in the first planting season following date of grant of this permission.

f) in the event of tree/hedge failures, these shall be replaced to the satisfaction of the planning authority.

g) a landscaping schedule in this regard, prepared by a suitably qualified person, shall be submitted for the written agreement of the planning authority prior to commencement of development. the schedule shall make provision for placing of berms and semi-mature trees and hedgerows at suitable locations within the development site and along the site boundaries.

19 public lighting in the development shall be LED technology luminaries with minimum 10 year warranty. Design and specifications shall be in accordance with IS EN 13201 for public lighting.

21 section 47 agreement to limit first occupation to individual purchasers.

22 archaeologist to carry out an archaeological assessment.

23 'Prior to the commencement of development, a contribution of €15,000 shall be payable to Laois Co Co, (LCC) for the Local Authority to complete a survey and report of the existing surface water drainage system in Kilminchy to ensure that this

additional proposed development does not cause an exceedance into the capacity of the lake or the existing drainage network. This is to confirm that this development does not overload or negatively impact the existing drainage system. This survey and report shall be carried out prior to any development works commencing on this development. To this end, the applicant must receive approval from the Road Design Section of Laois County Council prior to commencing development works on site.

Reason: It is considered reasonable that the developer should contribute towards the expenditure incurred or proposed to be incurred by Laois County Council in respect of the provision/improvement of public services/infrastructure benefitting development in the area of the planning authority'.

3.2. Planning Authority Reports

3.3. Planning Reports

3.3.1. There are three planning reports on the file. The first:

noting compliance with development management standards.

amendments requested – brick finish and amendments to the west elevation of dwelling M4 on site no. 29, to have opes similar to the west elevation of dwelling C5, on site no. 30.

Some dwellings are proposed to have soak pits.

FI in relation to proportion of storm water to be disposed of, pit sizes/construction details and soak away test results. Preference for all surface water to be discharged to the surface water sewer network rather than to soak pits.

AA screening – stage 2 not required.

3.4. Other Technical Reports

3.4.1. CFO – conditions.

3.4.2. Municipal Engineer – further information.

3.4.3. Housing Section – no objection.

3.4.4. Road Design - further information.

3.4.5. Water Services Department - further information.

3.5. Prescribed Bodies

- 3.5.1. IFI - conditions including given that there are pre-existing issues in Kilminchy with untreated sewage discharging through storm water overflows and entering the semi-natural lakes in adjacent housing developments, particular care should be taken to ensure the complete separation of the foul sewage and storm water networks.

DAU – archaeology – condition.

3.6. Further Information

- 3.6.1. A FI request issued, 22/09/2021 – 7 points

- 1) Design and layout,
- 2) Third party submission,
- 3) Road design requirements,
- 4) Road Safety Audit,
- 5) Line marking,
- 6) Water sewerage infrastructure,
- 7) Housing mix (part V).

- 3.6.2. FI Response includes

The application is for a reconfiguration of a portion of the approved and permitted scheme (of 146 residential units). This scheme should have / could be constructed with the original permitted development which did not include for onsite attenuation, as they understand it, but would drain unattenuated stormwater to the Kilminchy Lakes, which was designed originally as the overall attenuation facility for the entire Kilminchy development.

In terms of downstream issues, this application, if permitted, should be seen as a planning gain in that a new separate drainage system, up to the current LCC and Irish Water Standards will be installed ensuring no crossover of drainage, in addition, the installation of hydrocarbon interceptors and a new modern on-site attenuation system will have the effect of throttling stormwater to predevelopment levels, reducing the current permitted flow significantly. They understand that LCC have

undertaken works around the Kilminchy Lakes to improve the situation and that there is an ongoing programme in this regard.

Water/Sewerage Infrastructure – the foul sewer serving the proposed development will discharge via gravity to an existing 225mm dia sewer constructed as part of a development on an adjacent site. From the connection location the sewer will fall by gravity in a northerly direction to an existing pump station. The existing pump station is currently being upgraded to meet Irish Water requirements as part of construction works on the adjacent site.

Revised site layout to include a block of duplex units 5 x 1 bed and 5 x 2 bed units over three storeys.

3.7. Further Reports

- 3.7.1. Municipal Engineer – clarification of further information / conditions.
- 3.7.2. Water Services Department - no comments.
- 3.7.3. Roads Design – recommending clarification of further information, including: The applicant to undertake a survey and report of the existing surface water drainage system in Kilminchy to ensure that this additional proposed development does not cause an exceedance into the capacity of the lake or the existing drainage network. This is to ensure that this development does not overload or negatively effect the existing drainage system. A suitably qualified company with professional indemnity insurance shall carry out the survey and sign off on this report. This survey and report shall take into account any and all developments that may be going into the existing drainage system and the lake. The reference point for this report, to quantify discharge to the lakes, is the original grant of permission (08/293) for the Kilminchy development area and the design and specification of the drainage system (including the lakes) permitted therein. In support of the above it is necessary for a CCTV survey of existing infrastructure to be undertaken and included as part of the survey and report.
- 3.7.4. Planning – number of units increased from 85 to 89. Recommending clarification of further information.

3.8. Clarification of Further Information

3.8.1. A Clarification of further information request issued 27th January 2022, on 4 points:

- 1) Design and layout,
- 2) Road design requirements, (including regarding surface water).
- 3) Road Safety Audit,
- 4) Line marking.

3.8.2. A Clarification of further information response was received, 25th March 2022.

Including:

The current extant permission for development does not include for attenuation, however this current application includes for attenuation up to the current Laois Co Co standards. The current application provides a planning gain in respect of the proposed surface water discharge. They offer to contribute €15,000 towards the cost of a CCTV drainage survey, which they understand would have to be paid prior to commencement of development.

3.9. Further Reports

3.9.1. Roads - conditions.

3.9.2. Planning – recommending permission, which issued; report includes – satisfied with responses.

3.10. Third Party Observations

3.10.1. Third party observations on the file have been read and noted.

4.0 Planning History

313709 PA Reg Reg 21/561 – two current appeals against the PA’s decision to grant permission for 30 houses on the opposite side of Lime Tree Avenue.

230302, (file attached) PA Reg Reg 08/293 - Construction of 150 units comprising 149 no. one-and-a-half and two-storey dwellings (9 no. two bed, 136 no. three bed and 4 no. four bed), 1 crèche, estate roads, footpaths and cycleways, garages,

parking spaces and new vehicular accesses onto existing road, granted, 24th March 2009, subject to conditions, including:

Conditions nos. 20 & 21 are particularly relevant:

20. On completion of the development, a full set of “as constructed” drawings shall be lodged with the planning authority.

Reason: To ensure the satisfactory completion of the development.

21. Prior to commencement of development a full detailed ‘as constructed’ drawings, design and specification of the stormwater system for the overall Kilminchy housing estate (planning register reference number 98/542) shall be submitted to and agreed with the planning authority. The details shall identify deviations, if any, from the stormwater system permitted under planning register reference number 98/542, including:

- area and configuration of attenuation ponds,
- piped network,
- stream piping and culverting, and
- flow control systems of the attenuation ponds.

The details shall demonstrate that any deviations will not impair the efficiency of the system. Otherwise the system shall be brought to the required standard permitted under planning register reference number 98/542.

Reason: To ensure adequacy of the stormwater disposal system.

Extended under ref 14/46. Further extended under 19/94 to expire 31st August 2023. The subject site is part of that site.

Reg. **07/1202** - 150 no. houses refused.

224051 PA Reg. Ref. 07/636 permission for change of house type and increase the number of houses no. in the northern part of the overall Kilminchy scheme (98 / 542) granted.

Reg. Ref: **06/299** permission refused, reason zoning.

211880, Reg. Ref: 04/1574 – on foot of a decision to refuse changes to previous approved ref. no. 98 / 542, refused by the Board, based on zoning.

Reg. Ref. **04/1564** at south-west corner of overall estate for 68 houses and 82 no. apartments.

208245 PA Reg. Ref. 03/1308 refusal for 121 no. houses on the site, reason - zoning.

Reg.Ref: **03/1050** permission granted for modifications to the parent permission to replace 2 no. semi-detached 4 bed houses with 4 no.2-bed townhouses.

Reg. Ref: **00/764** Change of type and layout of selected houses from previously approved permission at Kilminchy, Portlaoise; change of house type and layout and an increase of 20 units granted; appeal PL11.123561 related solely to contributions.

Reg.Ref: **98/542** Commercial & housing development including 806 houses, 50 retirement apartments, 82 bedroom nursing home and 100 bedroom hotel. This is the parent permission for the overall development at Kilminchy Village.

In vicinity, to the north:

307411 SHD 262 no. residential units (206 no. houses, 56 no. apartments), childcare facility and associated site works. Thomas Kelly & Sons Group Ltd, Applicant, withdrawn, 7/9/2020

313173, PA Reg Ref 21/496 - first and third party appeals - Construction of 99 residential units and 1 creche. Thomas Kelly & Sons Group Ltd (Applicant), A Natura Impact Statement (NIS) was lodged with this application.

304689 SHD 262 no. residential units (44 no. apartments and 218 no. houses), creche and associated site works. Requires further consideration/amendment, 09/08/2019 Thomas Kelly & Sons Group Ltd (Applicant).

5.0 Policy Context

5.1. Development Plan

5.2. Laois County Development Plan 2021-2027 applies:

Zoned residential 2

Residential 2 – New Proposed Residential - Objective: To provide for new residential development, residential services and community facilities. Purpose: This zone is intended primarily for housing development but may include a range of other uses particularly those that have the potential to foster the development of new residential

communities such as schools, crèches, small shops, doctor's surgeries, playing fields etc.

It is an objective on land zoned for residential 2 to promote development mainly for housing, 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. Within this zoning category the improved quality of residential areas and the servicing of orderly development will be the Council's priority. New housing and infill developments should be of sensitive design, which are complementary to their surroundings. No piecemeal development can take place unless it does not conflict with the possible future development of the reserved development areas of the town. Adequate undeveloped lands have been zoned in the Plan for residential use to meet the requirements for both public and private house building over the Plan period.

Under the core strategy, Portlaoise is designated as a Principal Town and it is anticipated that the population of the town will reach 25,832 persons by 2023. The housing land requirement to meet projected growth is 78ha.

5.3. Portlaoise local area plan 2018-2024.

5.3.1. Relevant provisions include:

Zoned residential 2

The development boundary for the town forms the eastern site boundary.

Portlaoise is constrained to the east and northeast by the Portlaoise Aquifer Protection Zone, which provides the public water supply for the greater Portlaoise and Mountmellick area. The motorway provides a physical boundary to the south east and south. The Dublin/Cork Railway line intersects the town in a North/East-South/West direction.

The site is located within the source outer protection zone.

5.4. Laois County Council Development Contribution Scheme 2017-2023

5.4.1. Includes - residential €4,000 per unit.

5.5. Natural Heritage Designations

- 5.5.1. The nearest Natura sites are the River Barrow and River Nore SAC (site code 002162) located c 9km, straight line distance, to the north and 9 km to the east , and the Slieve Bloom Mountains SPA (site code 004160) and Slieve Bloom Mountains SAC (000412) located in excess of 11km, straight line distance, to the west.

5.6. EIA Screening

- 5.6.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal against the decision to grant permission, has been received from John Cowhig, 16 Lake Edge, Kilminchy, Portlaoise, Co Laois.
- 6.1.2. The grounds include:
- He appealed 230302 (08/293) and conditions were added, specifically condition 21.
 - 313709 (21/561) is a current appeal for a development of 30 homes.
 - Surface water – Laois Co Co (LCC) have ignored condition 21 of 08/293 and allowed building work to take place on 08/293. They have claimed that the developer building on 08/293 had no control over the lands associated with condition 21. However in file 08/293 there is no response from LCC which states this planning departments claim.
 - After appellant made a complaint to LCC, more than 12 months ago, he was told that he would be furnished with a response from the building control section. He awaits a response.

- Flooding of Kilminchy Lake was mentioned in a FI request on 21/561 but not on 21/543 (the subject appeal), which the appellant queries.
- Appellant queries reference in the FI clarification request to the original grant of permission as 08/293 rather than 98/542.
- In the condition attached to 21/543 accepting money towards CCTV survey reporting, LCC waters down what they are going to undertake, reference to 'any and all developments that may be going into the existing drainage system', has been taken out.
- The developers of 21/561 will also need to fund this survey and report, under condition 19. This condition has been appealed by the developer.
- The surface water network in Kilminchy was not built following the original 98/542 plans. The lakes were designed to be the attenuation system for the Kilminchy development only.
- Building work commenced in 1999. Right from the start a massive shortcut was taken.
- There is reference to piping the natural stream which ran through the land. It should have been piped in two 900mm pipes per the original plans. Instead one 1200mm was constructed and the stream was dumped into the second lake, instead of being piped through the site. No information of flow calculations took place at the time of this massive change in the surface water network. Development lands upstream are now included in the discharge to Kilminchy.
- On 24th February 2020 the second lake in Kilminchy flooded, not for the first time. Photographs are provided.
- Appellant refers to information on planning file 03/1308 relating to surface water calculations regarding the whole Kilminchy residential development; which he alleges may be more than twice, or more than four times, the design capacity.
- Sewerage – the 225mm pipe installed in 2000, carries all of the sewage from the whole Kilminchy development. One of the foul pumping stations is in place

on the 08/293 lands. Appellant can not find any planning permission for this pumping station built on 08/293 lands. The only reference is 03/1308, refused.

- No development should be permitted until the problems with the surface water and foul networks are addressed.
- The Owners Management Company (OMC) - in 2020 there were 718 members. His submissions with regard to the OMC have been ignored. The 98/542 file had 7.51ha (LS 31449F) of common areas owned and maintained by the homeowners in Kilminchy.
- Conditions for 03/639, copy provided, are those which should be included: condition no. 2 and 38. Some residents being tied to pay management fees to the OMC, and others paying nothing, is an issue.
- The creche, proposed in 08/293 is no longer proposed in 21/543. The appellant refers to media reports of the lack of childcare facilities, and queries why non-provision is accepted.

6.2. Applicant Response

- 6.2.1. A response from the applicant was out of time.

6.3. Planning Authority Response

- 6.3.1. The planning authority have not responded to the appeal.

7.0 Assessment

- 7.1.1. I consider that the main issues which arise in relation to this appeal are screening for appropriate assessment, the principle of the development, drainage and other issues, and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.3. Principle of Development

- 7.3.1. The subject site is zoned Z2, to provide for new residential development, residential services and community facilities. The site is within the lands in respect of which planning permission for housing development was permitted under reg ref 08/293 for the overall Kilminchy development and subsequently under Board reference PL230302 for an area at the eastern side of the overall Kilminchy development, covering an area including the subject site. Development is taking place in the northern portion of PL230302.
- 7.3.2. Subject to detailed considerations, including adequate servicing arrangements, the proposed development is acceptable in principle.

7.4. Drainage

- 7.4.1. The plans for servicing the development at Kilminchy were laid out in the '98 permission. Subsequent permissions relate back to that permission. The subject site is at the eastern side of the original site.

7.5. Surface Water

- 7.5.1. The surface water system for the overall development included attenuation ponds. A stream flowed through the lands which formed the original site, close to the western boundary. The general direction of natural drainage is north-westwards. As part of the development, the culverting of the stream was required. The third party states that the stream was to be piped through the lands, and kept separate from the site drainage rather than integrated into the drainage/attenuation of the development. This was contested, in the previous appeal (230302) by the then developers.
- 7.5.2. The main surface water attenuation is provided by ponds in the south western part of the overall ('98) development. These attenuation ponds have a role in the drainage of the general area, ie. extending beyond the original site.
- 7.5.3. Evidence of flooding in the vicinity of the ponds is given by the third party. Surface water is shown extending out from the ponds, into adjoining green space.
- 7.5.4. The local authority has responsibility for surface water drainage. The third party has serious concerns regarding the information available to him, from LCC on this aspect of the development. Based on the information provided in relation to the subject appeal it can be inferred that the information available to the local authority, in

relation to drainage of the overall lands, is also deficient. The contribution required under condition 23, for the Local Authority to complete a survey and report of the existing surface water drainage system in Kilminchy, in order to ensure that this additional proposed development does not cause an exceedance into the capacity of the lake or the existing drainage network, is a clear indication that this is the case.

7.5.5. The Board must consider whether or not it is reasonable to permit further development, in the absence of information which satisfies the planning authority as to the adequacy of the existing surface water drainage system.

7.5.6. The applicants, in their response to the clarification of further information request, argue that planning permission is extant for the development of this land. This is the case, but it is conditional on 'full detailed 'as constructed' drawings, design and specification of the stormwater system for the overall Kilminchy housing estate (planning register reference number 98/542)' being submitted to and agreed with the planning authority prior to commencement of development. The non-provision of the as constructed drawings is referred to in the appeal and therefore, based on the information on this file, it was not provided in compliance with condition no. 21 of 230302.

7.6. Foul Sewerage

7.6.1. It is alleged in the appeals that foul sewage finds its way into the surface water system. This is referred to in the IFI submission.

7.7. As-constructed Drawings

7.7.1. The development at Kilminchy, which was the subject of a permission in 1998, was subsequently developed in numerous sections by different developers.

7.7.2. The Board has previously considered issues, similar to those raised by the third party, in 2009, in relation to a development which included this site.

7.7.3. A condition of the permission, then granted by the Board, (Ref 230302), required: 'a full detailed "as constructed" drawings, design and specification of the stormwater system for the overall Kilminchy housing estate (planning register reference number 98/542) shall be submitted to and agreed with the planning authority. The details shall identify deviations, if any, from the stormwater system permitted under planning register reference number 98/542, including:

- area and configuration of attenuation ponds,

- piped network,
- stream piping and culverting, and
- flow control systems of the attenuation ponds.

The details shall demonstrate that any deviations will not impair the efficiency of the system. Otherwise the system shall be brought to the required standard permitted under planning register reference number 98/542.

This was required, 'to ensure adequacy of the stormwater disposal system'.

- 7.7.4. The 'as-constructed' drawings have not been submitted, and the issue remains unresolved.
- 7.7.5. The first matter to be determined is whether or not it is appropriate to permit any further development, until this issue has been resolved.
- 7.7.6. The Board may consider that a similar condition, to that previously applied, would adequately address the issue. This would impose a significant burden on a smaller development than granted in 2009.
- 7.7.7. Other lands yet to be developed, remain in Kilminchy, in the ownership / control of various developers. The solution adopted in the planning decision is for the local authority to carry out review / remediation of the surface water system and, towards the cost, with the agreement of this applicant, they have imposed a contribution, in the nature of a special contribution, in their decision.
- 7.7.8. It could be considered premature to grant permission pending the outcome of such a survey / report. However, the local authority have responsibility for surface water drainage, some or all of the surface water drainage has been taken in charge, and since the planning authority are satisfied to allow the development to progress subject to the payment of a contribution, to which the applicant has agreed, I consider that the proposed development should be permitted.

7.8. Other Issues

- 7.8.1. The appellant argues that there should be a condition requiring membership of an owner's management company (OMC). No such condition was attached to the previous permission, reg ref 230302. It is open to residents to seek to have the

development taken in charge. I do not consider it appropriate to make membership of an owner's management company a condition of any permission in this case.

7.8.2. The appellant states that the creche, proposed in 08/293 is no longer proposed in this development, he refers to media reports of the lack of childcare facilities, and queries why non-provision is accepted.

7.8.3. A creche was previously permitted at the south eastern corner of the site. It's omission was not raised as an issue by the appellant in his observation to the planning authority and was not an issue in the planning authority's decision. In my opinion it should not be a reason to refuse or modify the proposed development.

8.0 Recommendation

8.1.1. In accordance with the foregoing I recommend that the proposed development be permitted, for the following reasons and considerations, in accordance with the following conditions.

9.0 Reasons and Considerations

The proposed development, in an area zoned for residential development, is part of the Kilminchy development impacted by servicing capacity constraints, which are being or are to be addressed by the local authority. The proposed development, would benefit from these works and should contribute to the exceptional costs. With the benefit of the remedial works the proposed development would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the documents submitted 23 rd December 2021 and 25 th March 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the
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	<p>development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
3.	<p>Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing development to use by persons of a</p>

	particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.
4.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
5.	<p>All surface water runoff shall be collected and disposed of within the site to the surface water sewer. No such surface water run-off shall be allowed to flow onto the public roadway, foul sewer or adjacent properties. The proposed development shall not interfere with existing land or road drainage. The rate of surface water discharge from the development to the public surface water network shall be regulated taking account of existing discharges from adjacent lands and provision made for such retention and throttling/flow restriction as necessary to regulate the discharge.</p> <p>Reason: In the interest of orderly development and public health.</p>
6.	<p>Roadways used by residents shall be maintained in a clean state during the construction phase.</p> <p>Reason: In the interest of orderly development.</p>
7.	<p>a) The site development works shall be carried out and completed at least to the construction standards set out in the ‘Recommendations for Site Development Works for Housing Areas’ issued by the Department of the Environment and Local Government in November 1998 or the Planning Authority’s code of practice. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.</p>

	<p>b) The tie-in of the proposed access road and footpaths serving the proposed development and the adjoining infrastructure shall be to the satisfaction of the planning authority and Road Design Section, precise details to be submitted and agreed in writing prior to commencement of development.</p> <p>Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.</p>
8.	<p>All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Details shall be agreed with the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
9.	<p>Public lighting in the development shall be LED technology luminaries with minimum 10 year warranty. Lighting levels in accordance with IS EN 13201.</p> <p>External lighting shall be cowled and directed away from the public roadway and adjoining properties.</p> <p>Reason: In the interests of residential amenity and traffic safety.</p>
10.	<p>a) No part of the proposed development shall encroach, oversail or otherwise physically impinge upon any adjoining property save with the prior written agreement of the owner(s) thereof.</p> <p>b) All public and private property shall be adequately protected at all times particularly during demolition and construction works.</p>

	<p>c) Any damage caused to the adjoining public thoroughfare shall be made good at the developer's expense to the satisfaction of the planning authority.</p> <p>Reason: In the interests of public safety, residential amenity and proper planning.</p>
11.	<p>At least 10% of communal parking spaces shall be provided with functioning electric vehicle charging stations / points. Ducting shall be provided for all remaining communal parking spaces.</p> <p>Reason: In the interest of orderly development.</p>
12.	<p>(a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the eastern boundary, consisting predominantly of trees, shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.</p> <p>(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development, in the interest of visual amenity.</p>

13.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
14.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
15.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site</p>

	<p>development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
16.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security to be lodged shall be as follows –</p> <p>(a) a cash sum of €6,500 (six thousand five hundred euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or</p> <p>(b) such other security as may be accepted in writing by the planning authority.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>

17.	<p>Prior to the commencement of development, the developer shall pay the agreed sum of €15,000 (fifteen thousand euro) to the planning authority, in respect of the completion of a survey and report of the existing surface water drainage system in Kilminchy, to establish any deficiencies in the network in order to ensure that the development does not overload or negatively impact the existing drainage system.</p> <p>Reason: It is considered reasonable that the developer should contribute towards exceptional costs incurred or to be incurred by the planning authority in respect of improvement of infrastructure benefitting development in the area and which will benefit the proposed development.</p>
18.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Planning Inspector

24 February 2023

Appendices:

Appendix 1 Photographs

Appendix 2 Laois County Development Plan 2021-2027, extracts.

Appendix 3 Portlaoise Local Area Plan 2018-2024, extracts.