



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314827-22

<b>Development</b>	2 Houses with associated site development works. (NIS included)
<b>Location</b>	Market Square/Spa Street, Portarlinton, Co. Laois.
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	22232
<b>Applicant(s)</b>	Ormonde Homes Market Square Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Siobhan Connolly Aine Connolly Nita Powell Kathleen McNally
<b>Observer(s)</b>	None

**Date of Site Inspection**

15<sup>th</sup> of March 2024

**Inspector**

Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The subject site is 0.51 ha brownfield site located in the heart of Portarlinton, Co. Laois. The site is located at the end of a cul de sac of recently completed dwelling houses (*the scheme was permitted under planning reference is 20/346 (ABP – 310360-21 for 18No. dwelling units)*). The new housing estate consists of a small development of 15No. single storey dwellings, served by a short cul de sac road accessed off Market Square, Portarlinton, and the conversion of a former hotel into 3No. apartments.
- 1.2. The scheme is located in the heart of Portarlinton town which contains a number of Protected Structures and the site is located within the designated Architectural Conservation Area under the objectives of Laois County Development Plan 017-2023. The scheme is within walking distance of the central business hub of Portarlinton.
- 1.3. The site, which has an almost square configuration, is located to the rear of a number of terraced dwellings along Spa Street, Portarlinton. Spa Street runs north from Market Square towards the River Barrow.
- 1.4. The site has the following boundaries:
  - North: The rear garden of a property on Spa Street with a 2.4metre brick wall;
  - East: Rear gardens/ boundaries of a residential terrace on Spa Street;
  - South: It is hammerhead/ parking area associated with the recently completed housing scheme for elderly persons. The proposed development represents an extension of the existing estate. The site is currently fenced off and is overgrown.
  - West: To the west of the site is an open space area associated with the entire newly constructed housing scheme. There is also a pedestrian access into the adjoining Waterford apartments.

## 2.0 Proposed Development

- 2.1. Planning permission was granted for 15No. dwellings and the conversion of an existing building to provide 3No. apartments on the site under planning reference

20/346. The current proposal is for **2No. additional dwellings** within the previously permitted scheme.

2.2. The proposal includes

- 2No. two bedroom semidetached dwellings;
- 2 No. parking spaces
- Associated works and boundary treatments
- Private rear gardens

2.3 The houses have been designed to suit the older person. They have been located in such a way to book-end the existing scheme. The existing infrastructure will be utilised.

2.4 Access to the current scheme is directly off Market Square.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Laois Co. Co. issued a Notification of a Decision to Grant Planning Permission for the proposed development on the 22<sup>nd</sup> of September 2022. There were 20No. conditions attached to the decision.

All the conditions are standard planning conditions associated with residential developments.

As per condition No. 20 a development contribution payable is €8000.

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

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

- The site is zoned 'Town Centre' and housing is open to consideration under the zoning.
- The principle of residential development is established in the wider area and under P20/346.
- Policy H03 The need to provide different housing types and tenure.

- Part V obligations under 20/346 have been fulfilled according to Housing Section.
- House design is in keeping with existing housing estate.
- Archaeological
- Flood risk: the site straddles a flood risk zone A and B. There is an assessment submitted with the application.
- 50m from a Natura 2000 site

### 3.2.2. ***Other Technical Reports***

Eastern Area Office: No comment

Housing: No comment

Heritage Officer: No comment

Roads Design: No comment

### 3.3. **Prescribed Bodies**

#### 3.3.1 ***Development Application Unit (National Parks and Wildlife)***

There are further archaeological investigations warranted.

There shall be no adverse impact on the River Barrow and the River Nore SAC (Site Code :002162) located 50m downstream of the development during the construction and operational phase of the development.

Swift boxes to be provided and should be carried out under the guidance of a qualified ornithologist. A licence is required from the National Parks and Wildlife Service.

### 3.4. **Third Party Observations**

There were 4No. submissions received. The issues raised in the submissions can be summarised in the following bullet points:

- Proximity to rear boundary wall;
- Impact on views;

- Loss of trees;
- Impact on species and habitat;
- Noise pollution;
- Carbon emissions;
- Social Housing;
- Security;
- Visual amenity;
- Increased traffic congestion;
- Spa Street is a flood zone;
- Loss of privacy

## 4.0 Planning History

### 4.1 *Planning Reference 20/346 (ABP-310360(late appeal))*

Planning permission granted including works to a building listed on the NIAH Register (Reference No. 129000206) for 15No. dwellings specifically designed to accommodate older persons comprising of 8No. two bed semi-detached dwellings single storey units, 5No. two bed mid-terrace single storey houses, and 2No. two bed end of terrace houses.

Renovation and change of use of the existing three storey buildings to Market Street which is a listed building on the NIAH register from hotel to 3No. apartments comprising of 1No. three bed apartment and 2No. two bedroom apartments.

Provision of a vehicular and pedestrian entrance off Market Square with associated upgrade works along with pedestrian access from French Church Street. Provision of 27No. parking spaces (12No. attributed to public provision), alteration to existing site boundaries.

## 5.0 Policy Context

### 5.1 *National Planning Framework*

The National Planning Framework (NPF) 2018 sets out a high-level strategy for the planning and development of Ireland to 2040. The NPF forecasts that Ireland will continue to experience population growth above the EU average over the next 20 years, with an expected increase of around one million people above 2016 levels by 2040. The strategy to accommodate this growth in a sustainable way focuses on 10 national strategic outcomes that include Compact Growth, Sustainable Mobility, Enhanced Amenity and Heritage, a Low Carbon and Climate Resilient Society and the Sustainable Management of Water, Waste and Environmental Resources.

**Compact Growth** The NPF priorities for compact growth include an emphasis on the renewal of existing settlements, rather than continued sprawl. This priority recognises the impacts that our dispersed settlement pattern (including the dispersal of residential, commercial and employment uses within settlements) is having on people, the economy and the environment.

#### 5.1.2 Housing for All (2021) Housing for All –

A New Housing Plan for Ireland 2021 is the Government's housing plan to 2030. The overall objective is that everybody should have access to sustainable, good quality housing to purchase or rent at an affordable price, built to a high standard, and located close to essential services, offering a high quality of life. The plan recognises the need to plan for a more diverse and socially inclusive society. It also recognises that a sustainable housing system requires infrastructure, including public transport and water services. T

#### 5.1.3 Climate Action Plan 2023 (CAP23)

The Climate Action Plan 2023 (CAP23) is the first plan to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction of economy-wide carbon budgets and sectoral emissions ceilings in 2022. The plan implements these carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. Of particular relevance to these Guidelines, CAP23 notes that the dispersal of residential settlements, commercial zones and workplaces to peripheral areas instead of focusing on central areas and locations served by public transport, has led to an overreliance on the private car. The Annex of Actions to CAP23 includes an action to prepare sustainable settlement guidelines

and to review planning guidelines to ensure a graduated approach in relation to the provision of car parking.

#### 5.1.4 ***Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (January 2024)***

##### 3.3.4 Small and Medium Sized Towns (1,500 – 5,000 population)

(i) Description of Settlement Small to medium sized towns outside of metropolitan areas vary considerably in terms of population, employment and service functions and the level of public transport provision. Some small to medium sized towns have a district-wide service and employment function and are largely self-sustaining. Others, particularly those within commuting distance of cities, have experienced rapid residential expansion in recent decades based on population growth that is generated by economic drivers in larger urban centres. Many of these ‘commuter’ type towns have a high population but are reliant on other centres for employment and services, and tend to be heavily car-dependent.

The strategy for all small to medium sized towns is to support consolidation within and close to the existing built-up footprint. The key priorities for compact growth in smaller to medium sized towns in order of priority are to:

- a) strengthen town centres,
- b) protect, restore and enhance historic fabric, character, amenity, natural heritage, biodiversity and environmental quality,
- c) realise opportunities for adaption, reuse and intensification of existing buildings and for backland, brownfield and infill development, and
- d) deliver sequential and sustainable urban extension at locations that are closest to the urban core and are integrated into, or can be integrated into, the existing built up footprint of the settlement.

#### **Table 3.6 Areas and Density Ranges Small to Medium Sized Towns Small / Medium Town - Centre**

In many cases, the town centre comprises a main street and streets immediately adjoining, while the inner urban neighbourhood consists of the early phases of residential development around the centre, and may include local services and



interdispersed commercial, industrial and institutional uses. Backland, brownfield and infill sites will generally be in the town centre or inner urban neighbourhoods. It is a policy and objective of these Guidelines that the scale of new development in the central areas of small to medium sized towns should respond positively to the scale, form and character of existing development, and to the capacity of services and infrastructure (including public transport and water services infrastructure).

### 5.1. **Development Plan**

The relevant development plan is the **Portarlington Local Area Plan 2018-2024**.

The site is zoned for Town Centre (Primary/ Retail Core Area).

**Objective:** To protect and enhance the special physical and social character of the existing Town Centre and to provide for and improve retailing and commercial activities.

**Purpose:** To enhance the vitality and viability of the town centre through the promotion of retail, residential, commercial, office, cultural, public facilities and other uses appropriate in the urban core.

To prioritise the development of town centre lands in order to consolidate the development of the town.

To encourage the use of buildings and backlands, in particular the full use of upper floors, preferably for residential purposes.

**H O1:** Ensure that sufficient zoned land is available at appropriate locations to cater for the envisaged population growth of the Core Strategies.

**H O2:** Promote and encourage the development of the critical mass of Portarlington and to enhance its strategic location on the National and Regional road and rail network.

**H O3:** Facilitate the provision of housing in a range of locations to meet the needs of the population, with particular emphasis on facilitating access to housing to suit different household and tenure needs, in a sustainable manner.

**H O4:** To ensure compliance with the provisions of Part V of the Act (as amended) and to integrate such housing so as to prevent social segregation within residential developments.

**H O6:** To encourage the sequential development of sustainable serviced residentially zoned lands in a sustainable manner subject to compliance with relevant Department Guidelines and Development Management Standards of the Laois County Development Plan 2017 – 2023 and Offaly County Development Plan 2014 – 2020.

**H O8:** To encourage appropriate housing development on infill and brownfield sites subject to preservation of existing residential amenity, the provision of a high quality design respecting the established character, density and layout, compliance with all traffic safety, quantitative and qualitative standards of the Laois County Development 2017 – 2023 and Offaly County Development Plan 2014 – 2020.

**H O9:** To promote the reoccupation of vacant residential stock within Portarlington Town Centre, including 'Living Above the Shop' units.

**H O10:** To ensure an appropriate and sustainable mix of dwelling types, sizes and tenures to cater for all members of society, including homeless persons, the elderly, disabled and traveller

## **5.2. Natural Heritage Designations**

The River Barrow and River Nore SAC is 20-30metre north of the subject site.

## **5.3. EIA Screening**

The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that 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**

The appellants (Siobhan Connolly, Aine Connolly, Nita Powell and Kathleen McNally) reside Spa Street, Portarlinton. The site is located within an 'archaeological significance zone', adjacent to previously permitted planning reference: 20/346 at Market Square, Spa Street, Portarlinton.

The previous development (reference 20/346) was for 15No. houses was designed to suit older people. The development also included the renovation and change of use of the existing 3 storey building to Market Square which is listed on the NIAH register from a hotel to apartments. The existing newly constructed housing estate has been built on a gravel wasteland. The previous owner of the site had his permission rejected by the Council, because the planning authority would not allow the entrance/ exit to be used, yet it has been passed on this occasion. The land was previously leased for travelling circuses and funfairs.

Spa Street, Portarlinton is a well known flood plain to the extent insurance companies will not cover their homes. The fact permission was granted on a flood plain is staggering. The River Barrow runs directly by the end of Spa Street. Attached are photographs from the last flooding in December 2015. There has been works carried out to Spa Street to help in the event of another flooding. How can Kilgallen and Partners in Spring 2022 conclude that there is no flood risk.

The planning application states the proposed development is to cater for older people. However it has been confirmed locally that the houses are to be allocated to Laois Co.Co. for general social housing once they are complete.

The current application includes the development of two dwellings directly to the rear of Siobhan and Aine Connolly's dwellings. The development will require the removal of an ash and sycamore trees and hedgerows which have existed for over 100 years. This is wholly unnecessary and will result in a signifigant loss of habitat. The loss of the trees will negatively impact on the visual amenities of the area. They are to be removed to accommodate 2 carparking spaces and the construction of a boundary wall along the western site boundary. The cutting or felling of trees is

prohibited under the Wildlife Act 1976-2018 during the period of 1<sup>st</sup> of March to 31<sup>st</sup> of August. The removal of the trees is totally unjustifiable.

Although there is a need for social housing in the country at the present time, there is no justification that two houses are to be permitted in the rear gardens of a terraced street which does not have the density to accommodate this. Attached is the boundary map for application 20/246 which shows the trees in situ before the application 22/232 was issued.

When the mature trees are removed, their visual amenities will be disrupted by the Waterford Apartments which is extremely worrying. The Waterfront Apartments are one of the worst antisocial hubs in Portarlinton. Opening it up further will enable such behaviour to continue and worsen. There is underage drinking and drug use evident along the riverbank. It is intimidating to walk in this area. The removal of the trees will result in these apartments being exposed. There will be noise pollution from the houses and the Waterfront apartments onto their homes. To date the trees have acted as a buffer to more extreme noise pollution as well as traffic on French Street and Barrow Bridge.

When the third-party appellants objected to the new river bank access point the response from the applicant's agent was *The development granted under planning permission has been designed so that all public spaces are overlooked by active front of houses which encourages strong passive observation and creates a sense of security*. The agent does not live in Portarlinton and has no experience of the anti social behaviour. Strong passive surveillance, especially by the elderly, means nothing to these youths. Basically, the area is just a rat run for the youth and drug dealers. If the two houses are indeed for the elderly, then a security gate should be put in place, which is not included on the plans.

There will now be 3 entrance/ exit points to the rear of Spa Street, provision for vehicular and pedestrian entrance of Market Square, pedestrian access from French Church Street and the river bank access. Spa Street is a bottleneck with constant 24 traffic. Another entrance will add to the congestion and cause further safety problems. Residents park their vehicles on the street outside their homes resulting in the road being far too narrow for its current level of two way traffic.

Twenty years ago there were plans to make Spa Street a one-way system and inner relief road, but to date nothing has happened. There is serious congestion during the school run times.

There will be serious environmental impact to Spa Street. Portarlinton has a serious water supply issue, including water restrictions and low water pressure. This is an old town that does not have the infrastructure to support all the new developments in the area.

Sewage in the area is also an issue. On French Church Street there has been blocking up and of nearby residents in the past 20 years without any upgrade to the infrastructure.

The town of Portarlinton is located within an Area of Archaeological significance zone and is a French Huguenot town with buildings in the Market Square dating back to the 1700s. Spa Street was once known as Camlins Lane. Laois Co. Co. are investing millions into Market Square and yet are intent on allowing new housing into this historical area. There has been no archaeological trench testing carried out for planning application 20/323.

The combined history of our families son Spa Street is over 200years, and while we embrace change we find it hard to accept housing been built in our back gardens. One of the neighbours has found damage to her boundary wall as a result of the construction of 20/346, perhaps due to digging foundations or the use of heavy machinery close to a mature tree which was deemed to be removed and the matter is currently with her solicitor.

## **6.2. Planning Authority Response**

There was nothing further from the planning authority regarding this appeal.

## **7.0 Assessment**

7.1 I have inspected the site, took the photographs appended to this report, and considered the content of the appeal file. I will assess the appeal under the following headings:

- Planning principle and policies

- Design and Layout

## 7.2 Planning Principle and Policies

7.2.1 The proposed development is the inclusion of two additional dwellings within a new housing scheme of 15No. units in the centre of Portarlinton town (planning history file attached). The residential cul de sac is accessed off Market Square in the town centre. The existing dwellings within the estate are to cater for the elderly persons. They are single storey units with a similar design and layout to the current proposal. The proposed dwellings are located at the end of the cul de sac, off the turning area, alongside the pedestrian access to the Waterford Apartment block to the west of the site and backing onto residential properties along Spa Street.

7.2.2 Given the site's town centre site location, its regular configuration, and the relevant zoning objective in the current *Portarlinton LAP 2018-2024*, local planning policies and objectives as outlined in Section 5 of this Report, I consider the proposed development of 2No. additional dwellings within the existing residential scheme, would contribute to achievement of national strategic and local planning objectives.

7.2.3 Cognisance should also be taken of the fact that the subject proposal involves the development of an under-utilised site within Portarlinton town centre. A suitably designed scheme would undoubtedly make a more positive contribution in land use planning terms to the vitality of the area and the rejuvenation of the wider surrounds. In this regard, support is lent to the proposal by reference to the multiple policy provisions at both a national and local level which promote the re-use / redevelopment of under-utilised serviced sites and place a strong emphasis on encouraging infill opportunities and the better use of underutilised land.

7.2.4 The proposed development site could be considered an infill site within the town centre where public services are available, including public transport links, and that the development of appropriately designed infill housing would typically be encouraged in such areas as per Ministerial guidance *Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (January 2024)*. In my opinion, it integrates successfully with the existing pattern of development and adequate consideration has been given to the need to protect the amenities of existing properties. Such an approach would correlate with the wider

national strategic outcomes set out in the National Planning Framework 'Project Ireland: 2040', including the securing of more compact and sustainable urban growth such as is expressed in National Policy Objective 35 which aims to 'increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights'.

7.2.5. Therefore, it is my opinion that the subject proposal, which provides for two single storey townhouses on an underutilised town centre site, complies with the 'Town Centre' land use zoning and further accords with the broader vision and policy provisions of the County Laois Development Plan and national guidance as regards the redevelopment of such areas. The overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues.

### **7.3 Design and Layout**

7.3.1 The proposed development consists of 2No. semi detached townhouses, with a small footprint of 16.8m x 9.7m = 162 square meters in total, on a site area of 0.061Ha. Each unit has two bedrooms, with an open plan living area. Each dwelling has a private rear garden area, 69.8sq.m. and 91sq.m respectively, with two parking spaces. The proposed development is located at the end of the service road catering for 15No. recently completed dwellings, which are the same design as the current proposal. I examined the site layout of 20/346, and the subject site was excluded from the site boundaries of the original scheme.

7.3.2 The architectural concept for the proposal is that the two dwellings will bookend the entire scheme. It also will ensure optimum use of existing infrastructure. I noted from my inspection there is a pedestrian access from the estate adjacent to the 2No. proposed dwellings to the contiguous Waterford Apartments. A small section of public open space is retained to the west of the site.

7.3.3 In terms of the receiving environment, the site is to the rear of residential properties along Spa Street. It backs onto rear boundary walls associated with the existing older residential properties of Spa Street. There are boundary walls along the

northern and eastern site boundaries, with a palisade fence forming the other two boundaries. The trees along the western site boundary are to be removed.

7.3.3 I note the Design Report submitted with the planning application. In my opinion the proposed development will readily integrate into the surrounding residential layout and will maximise the site's opportunities without any detrimental impact on the receiving environment.

House No. 16 has a bay window addressing the public open space, providing passive observation of the new green space from the main living area of the dwellinghouse. There are no alterations to the previously permitted access road serving the existing 15No. dwellings apart from a minor alteration to provide the 2No. parking bays to serve the proposed dwellings.

#### **7.4 Impact on adjoining Residential Properties.**

7.4.1 There were a number of objections received from residents to the east and north of the site who reside in the terrace fronting Spa Street. The third parties' rear garden areas back onto the subject site. The concerns expressed include the following:

- Impact on their views and removal of trees that hold significant amenity value
- Impact on habitat
- Increased noise
- Increased carbon emissions due to increased traffic

7.4.1 The appellants are gravely concerned about the loss of trees within the subject site some of which are over a hundred years old. They consider it is unacceptable and unnecessary and will ultimately, impact on their visual amenity and will impact on habitats and Climate Change. As part of the further information request the applicant was informed by the planning authority, that it considered a number of trees on the site had amenity value. A root protection plan should be considered relating to the trees to be retained on site.

A response to the further information was submitted on 28<sup>th</sup> August 2022. I note two trees are to be retained along the eastern site boundary as per Drawing AB-2022-02.



The trees along western site boundary are to be removed. I noted from my inspection the barks of the trees along the western site boundary were completely covered in ivy. The arborist report stated the trees along the western site boundary are asymmetrical, multi-stemmed and in fair to poor condition. The site is too small to prevent intrusion into the root systems of the trees, and the trees would need to be aggressively pruned which would impact on their overall health and stability. There is a boundary wall proposed along the western site boundary, and carparking spaces which would be incompatible with the retention of the trees. There is no tree preservation order associated with the trees. In my opinion, the trees offer very little amenity value due to their split multi-stemmed formation. These are not quality specimens, and if retained could undermine the future proposed development.

7.4.2 The site is a small urban site surrounded by residential developments. There is a high ambient noise level in the immediate area mainly associated with traffic along the streets. It is a very busy part of Portarlinton, adjacent to the main square where a number of the main roads into the town centre meet. The proposed development will not increase ambient noise levels in the area.

7.4.3 The site area is 0.061Ha within a built-up area. It holds very little value in terms of biodiversity or habitats.

7.4.4 I have considered the third-party concerns and I find no substantive planning issue arises. The proposed dwellings are low profile and will not overshadow the adjoining properties. There are no overlooking or loss of privacy issues arising. I consider the clearance of the site and the provision of two small dwellings will enhance the area.

## **7.5 Archaeology**

7.5.1 The site is located in a historical part of Portarlinton, which contains a number of protected structures and located within an Architectural Conservation Area of the Laois County Development Plan 2012-2023. The site. Also lies within a Zone of Archaeological Potential and the building at the entrance of the estate is registered on the NIAH Register under Reference: 12900206. Condition No. 17 of the planning authority's decision should be included by the Board.

## **7.6 Flooding**

- 7.6.1 The third-party appellants submit the subject site is a flood plain, as the River Barrow is to the north of the site. There has been remedial works carried out to Spa Street following a severe flooding in 2015 when flood water entered the houses along the street. I refer to the Site-Specific Flood Risk Assessment that was submitted with the planning application documentation on the 14<sup>th</sup> of April 2022.
- 7.6.2. The site slopes gradually from south to north. The River Barrow is only 20metres from the site. The site is bound on all sides by development. The surface water drainage network was designed in accordance with the Greater Dublin Strategic Drainage Study (GDSDS), which includes measures to restrict the rate of discharge from the proposed development in order to avoid risk of flooding elsewhere. The minimum proposed floor level exceeds the recommended minimum floor level as defined in the Flood Risk management Guidelines. The proposed development does not impact on the 1% AEP floodplain in any way and its impact on flood risk outside of the site for the 0.1% AEP event is negligible.
- 7.6.3 The OPW National Flood Hazard Maps do not register any pluvial flood risk at the site. The site is not affected by urban drainage systems that would give rise to flood risk within the site.

## **7.7 Other Matters**

The appeal states the appellants did not object to the original permission granted under P20/346 for 18No. units because the accommodation was to cater for older persons. The current application 22/232 for 2No. dwellings states the two dwellings are to be allocated to Laois Co. Co. for social housing. According to a letter submitted to the planning authority on the 4<sup>th</sup> of April 2022, all the existing residential units within the estate were sold to Laois Co. Co. The Housing Section of Laois Co.Co. confirmed Part V does not apply to the application site.

## 7.8 Appropriate Assessment

7.8.1 The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB, Sections 177U and 177V of the Planning and Development Act, 2000 (as amended) are considered fully in this section. The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- Appropriate assessment of implications of the proposed development on the integrity of each European site.

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The application is accompanied by an Appropriate Assessment Screening & Natura Impact Statement, prepared by Ecofact Environmental Consultants. I have had regard to the contents of same which relates to all 17No. dwellings (existing and proposed).

### 7.8.2 European Site

There is one site within the potential zone of influence i.e. **River Barrow and River Nore SAC (Site Code: 002162)**

This site consists of the freshwater stretches of the River Barrow and River Nore catchments. The site is of special conservation interest for a wide range of aquatic, terrestrial and marine habitats as well as species listed on Annex II of the EU Habitats Directive.

The proposed development is within 30m south of the River Barrow and River Nore SAC. The proposed development is to be connected to the Portarlinton Wastewater Treatment plant which discharges directly into the River Barrow.

***There is no pathway for potential impacts on the designated site from the subject site.*** There is no pathway on marine habitats as these habitats are located over 200metres downstream of the proposed development. There are no Annex I woodland habitats in the immediate vicinity of the site. There are no Fresh Water Pearl Mussels in the River Barrow.

Due to the proximity of the site to the SAC, there is potential for indirect impacts on some species in the nearby SAC, as well as indirect impacts via the waste water treatment plant discharge.

There are potential pathways for impacts on the following qualifying interests:

Floating River Vegetation;

White-clawed Crayfish;

Sea lamprey;

Brook lamprey

River Lamprey

Twaite Shad

Atlantic Salmon and

Otter.

Cumulative impacts may arise regarding water quality as the Barrow catchment is also affected by agricultural issues.

Therefore a Stage 1 Screening is required for the 2No. additional dwellings within the scheme.

### 7.8.3 Stage 1 Screening

#### **Annex I Habitats**

#### 7.8.4 *Floating River Vegetation:*

*Construction Phase:* The habitat is not present at the proposed site, but are most likely downstream. The proposed site is less than 30metres from the edge of the River Barrow. Between the site and the River Barrow there are a number of existing residential gardens and a River Barrow walk. There is a sufficient buffer area with vegetation and boundaries that would naturally prevent any run off during the construction phase entering the river. The back of the site will be fenced off as a precautionary measure. There are no demolition works required.

*Operational Phase:* The two dwellings will be connected to the Portarlinton WWTP. The plant has capacity to cater for the proposed development. There are no indirect impacts that will affect the Floating River Vegetation habitat downstream.

#### **Annex II Species**

#### 7.8.5 *White -clawed Crayfish*

*Construction Phase:*

The habitat is not present at the proposed site, but are most likely downstream. The proposed site is less than 30metres from the edge of the River Barrow. Between the site and the River Barrow there are a number of existing residential gardens and a River Barrow walk. There is a sufficient buffer area with vegetation and boundaries that would naturally prevent any run off during the construction phase entering the river. The back of the site will be fenced off as a precautionary measure. There are no demolition works required.

*Operational Phase:* The only pathway for the operational phase indirect impacts is the Portarlinton WWTP. The files relating to the WWTP were reviewed in the NIS submitted with the application. The licence report in 2029 note excessive flooding of the River Barrow may become an issue in the future. However there is adequate treatment of foul sewage prior to discharge to the River Barrow. The surface water

system serving the site ensures Surface Water Drainage Systems will be followed for the treatment of surface water drainage. There will be a hydrocarbon separator as well as an integrated silt chamber at the surface water drainage outfall.

#### 7.8.6 *Sea Lamprey, Brook Lamprey, River Lamprey, Twad Shad, Atlantic Salmon*

##### *Construction Phase:*

The habitat is not present at the proposed site, but are most likely downstream. The proposed site is less than 30metres from the edge of the River Barrow. Between the site and the River Barrow there are a number of existing residential gardens and a River Barrow walk. There is a sufficient buffer area with vegetation and boundaries that would naturally prevent any run off during the construction phase entering the river. The back of the site will be fenced off as a precautionary measure. There are no demolition works required.

*Operational Phase:* The only pathway for the operational phase indirect impacts is the Portarlinton WWTP. The files relating to the WWTP were reviewed in the NIS submitted with the application. The licence report in 2029 note excessive flooding of the River Barrow may become an issue in the future. However there is adequate treatment of foul sewage prior to discharge to the River Barrow. The surface water system serving the site ensures Surface Water Drainage Systems will be followed for the treatment of surface water drainage. There will be a hydrocarbon separator as well as an integrated silt chamber at the surface water drainage outfall.

#### 7.8.7. *Otter*

*Construction:* Suspected Otter spraint was identified under a dry arch of the bridge closet downstream of the proposed site, therefore, it is used by otters. There were no otter holts found. Limiting working hours to the day time and no night time hours will ensure no indirect disturbance impacts arise.

*Operational Phase:* The only pathway for the operational phase indirect impacts is the Portarlinton WWTP. The files relating to the WWTP were reviewed in the NIS submitted with the application. The licence report in 2029 note excessive flooding of

the River Barrow may become an issue in the future. However there is adequate treatment of foul sewage prior to discharge to the River Barrow. There are no indirect water quality impacts that would affect otters downstream.

#### **8.7.9 Potential In-Combination Effects**

There is no potential for cumulative impacts arising from the increased loading associated with 2No. townhouses to the Portarlinton WWTP.

#### **8.7.10 Mitigation**

A details Construction and Environmental Management Plan and Method Statement will be prepared in advance of the development been commenced. These will include, amongst other measures outlined in the NIS:

- The footprint of the works will be limited and the work area will be surrounded by hoarding and fencing to the north of the site.
- Works shall be limited to daytime hours to avoid potential disturbance to otters who may be commuting or foraging in the area.
- Silt fences will intercept any potential run-off from the site.
- Contained portaloos will be used on site
- SUDS drainage principles.

Mitigation measure proposed ensure that there are no residual impacts on the River Barrow or River Nore SAC. The potential impacts identified including water quality, disturbance, non-native invasive species, will be successfully reduced to an imperceptible scale following the implementation of the mitigation measure listed in the Natura Impact Statement.

#### **8.7.11 Conclusion**

It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or

projects would not be likely to have a significant effect on the River Barrow and River Nore SAC or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

## **9.0 Recommendation**

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

## **10.0 Reasons and Considerations**

Having regard to the provisions of the Laois County Development Plan 2021-2027 and the Portarlinton Local Area Plan 2018-2024, the Town Centre zoning objective for these lands, the planning history of the site and the parent permission for the overall scheme permitted under planning reference 20/346, to the location of the subject site within the town centre of Portarlinton, and to the existing pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of properties in the vicinity, would not be detrimental to the character and amenity of the area, would not result in a risk of flooding to the site and adjoining properties, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 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 further plans and particulars submitted on the 14<sup>th</sup> of April 2022, and by the further plans and particulars received on the 29<sup>th</sup> of August 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 development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be completed and serviced in accordance with the terms and conditions of the parent permission for the overall site permitted under planning reference 20/346.

**Reason:** In the interest of clarity.

3. A revised and comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-
  - (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
  - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual and residential amenity.

4. Details of the materials, colours, and textures of all the external finishes to the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

5. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and public safety

6. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

8. The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;
  - (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
  - (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
  - (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

9. One of the two proposed carparking spaces shall be provided with functioning electric vehicle (EV) charging stations/points and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date.

**Reason:** In the interest of sustainable transport.

10. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the Planning Authority a detailed surface water design proposal that incorporates an element of Sustainable Urban Drainage System measures if feasible, such a report and/or drawings shall be submitted to the planning authority for written agreement.

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

11. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

**Reason:** In the interests of clarity and public health.

12. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground throughout the site.

**Reason:** In the interests of visual and residential amenity.

13. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological

materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

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

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement

of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Caryn Coogan  
Planning Inspector

27<sup>th</sup> March 2024