



An
Bord
Pleanála

Inspector's Report

ABP-318703-23

Development	Construction of 16 houses and 44 apartments with associated site development works.
Location	106-165 The Glen, Kilnacourt Wood, Portarlinton, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2380
Applicant(s)	McKenzie Developments Ltd
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	The Glen Residents Association
Observer(s)	None.
Date of Site Inspection	16 th of October 2024.
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1. The subject site, (1.1474haHa) is located within Kilnacourt Woods residential development, to the east of Main Street, Portarlinton. The site is bounded to the north by agricultural lands and to the south and west by The Glen housing estate.
- 1.2. The site is fenced off from the existing residential development and is overgrown. There are a number of remnants of construction works on the subject site however these works have since become overgrown.
- 1.3. To the north is the River Barrow and the county bounds with Offaly. The closest point to the river is approximately 93metres beyond the northern boundary. The River Barrow flows in a west to east direction. There are a number of surface water drainage channels in the vicinity of the site, with one transecting the site.
- 1.4. The Glen housing estate includes a mix of two storey dwellings and three storey apartment blocks.
- 1.5. To the south is a boundary wall and two storey dwellings of The Glen laid out in short cul de sacs.
- 1.6. The site slopes gently from the southern and western site boundaries to the eastern and norther site boundaries.

2.0 Proposed Development

- 2.1. The subject development forms the last phase of an original residential development granted under planning reference 00/994. The current proposal comprises of 60No. dwellings which include:
 - 16No. dwellings including 6No. three bed end of terrace dwellings, and 10No. two bed mid terrace houses and
 - 44No. apartments in 2No. four storey blocks which will include 22 No. one bedroom apartments and 22No. two bedroom apartments.
- 2.2. Connections to public water, public sewerage and surface water system.
- 2.3. The planning application was accompanied by reports:
 - Outdoor Lighting Report (submitted 08/03/2023)

- Construction Stage Plan
- Drainage Design Report
- Archaeological Assessment
- Site Specific Floor Risk Assessment (requested by Further Information)
- Road Safety Audit Stage 1 and 2 (Submitted 03/08/2023)

3.0 **Planning Authority Decision**

3.1. **Decision**

Laois Co. Co. by Manager's Order decided to grant planning permission for the proposed development on the 23rd of November 2023 subject to 21No. conditions. There were 21No. conditions attached that are standard planning conditions associated with residential estates.

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports***

- The proposal complies with the development plan policies
- The housing density and mix is acceptable
- The design and layout is acceptable. A number of apartments are below the minimum floor area this needs to be revised
- Further information is required on Design issues, A Construction Management Plan, disposal of surface water, parking , public lighting, a road safety audit, and Archaeological impact assessment
- The Environment section require additional information
- There are 6No. units required under Part V of the Planning and Development Act
- The finished floor levels of the proposal need to be revised to 65.13m OD to reflect the flood risk associated with the site.

- In the Second Planning report, the inspectors report is referenced on the assessment of planning reference 17/203, which stated in reference to the Kilnacourt Wastewater pumping station, the Portarlington Waste Water Treatment works, the construction works already carried out on the site, the proposed development would not give rise to Appropriate Assessment. There was clarification sought on Surface water disposal in particular soakaways were not acceptable, and an attenuation system to be provided that is not within the flood zone.
- In the third Planning Report following receipt of all the requested information, the planning authority recommended a grant of permission.

3.2.2. **Other Technical Reports**

- Environment Section: Further information is required in respect of providing a Resource Waste and Management Plan, a Construction Management Plan, and details of the storm water management system. Also details of the apartment bin storage.
- Housing: No objections subject to Part V agreements
- Roads: No objections

3.3. **Prescribed Bodies**

3.3.1 Irish Water has no objections subject to conditions.

3.3.2 Department of Housing, Local Government and Heritage :

AA. Screening is required in respect of the River Barrow and River Nore SAC located immediately adjacent to the site. Recommendations regarding bats.

The site is located within close proximity to a Recorded Monument LA 005-004. Archaeological Assessment is required.

3.4. **Third Party Observations**

There was a total of 18No. objections received from residents in The Glen estate. The concerns cited can be summarised as follows:

- 60No. additional dwelling units in The Glen will cause traffic safety issues

- Four storey apartment blocks does not adhere to the existing pattern of development in The Glen
- There is a lack of usable green spaces proposed
- Privacy/ overshadowing
- The estate was originally planned with a creche and a river walk, neither of these facilities has been provided.
- Traffic congestion
- Ant-social behaviour.
- High density
- Flooding
- Blocking of sunlight

4.0 Planning History

There is extensive planning history associated with the site and its immediate environs.

4.1 ***Planning Reference :21/419***

Planning permission granted to retain groundworks, and erect 24No. dwellings along with ancillary site works at 106-129 The Glen.

4.2 ***Planning Reference 17/203 (ABP 300639-18)***

Planning permission granted to retain groundworks and ground beams at sites and construction of 18No. two storey dwellings as per planning permission No. 00/994 and full planning permission for two blocks of apartments in lieu of dwellings on sites 110-127 inclusive.

4.3 Then there were a series of applications to extend the duration of permission on planning reference 00/46

4.4 ***Planning Reference 00/994***

Planning permission granted to erect 261No dwellings and a creche facility with two apartments.

4.5 ***Planning Reference 00/46***

Permission refused for the development of 277No. residential units.

5.0 **Policy Context**

5.1 ***National Planning Framework Project Ireland 2040***

The National Planning Framework is a strategic planning policy document prepared for the national tier of planning governance. It aims to improve the strategic planning of Ireland for both urban and rural areas to improve the economic performance and the quality of life of its citizens. We note the following National Policy Objective to be of particular relevance for the subject proposal:

NPO 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

NPO 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

National Policy Objective 13

In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.2 Development Plans

5.2.1 **Portarlington Joint Local Area Plan 2028-2024.**

Site is zoned Residential 1: Existing Residential.

Zoning Objective is to protect and improve the amenity of developed residential communities.

5.2.2 **Laois County Development Plan 2021-2027**

5.3 **Section 28 Ministerial Guidelines**

The following list of Section 28 Ministerial Guidelines are considered to be of particular relevance to the proposed development:

- Sustainable Development Residential Developments and Compact Settlements – Guidelines for Planning Authorities 2024
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual);
- Design Standards for New Apartments - Guidelines for Planning Authorities 2018;
- Urban Development and Building Heights - Guidelines for Planning Authorities, 2018.
- Design Manual for Urban Roads and Streets, updated 2019; (DMURS)
- Quality Housing and Sustainable Communities, 2007.
- Childcare Facilities – Guidelines for Planning Authorities, 2001.
- The Planning System and Flood Risk Management’ – Guideline for Planning Authorities, 2009 (including the associated ‘Technical Appendices’).

5.4 ***Sustainable Development Residential Developments and Compact Settlements – Guidelines for Planning Authorities 2024***

Table 3.5 - Areas and Density Ranges Key Towns and Large Towns (5,000+ population)
10 Key Town / Large Town - Centre and Urban Neighbourhood The

centre comprises the town centre and the surrounding streets, while urban neighbourhoods consist of the early phases of residential development around the centre that have evolved over time to include a greater range of land uses. It is a policy and objective of these Guidelines that residential densities in the range 40 dph-100 dph (net) shall generally be applied in the centres and urban neighbourhoods.

6.0 The Appeal

6.1. Grounds of Appeal

The Glen Residents Committee has taken this appeal against the decision made by the planning authority to grant planning permission for 60No. dwelling units at the Glen, Portarlinton. This was the subject of three previous planning references 00/994, 17/203 and 21/419. The grounds of the appeal can be summarised as follows:

6.1.1 **Flood Concerns**

The Planner's Report dated 02/05/2023 raised concerns regarding flooding. Part of the proposed properties, gardens, parking and public open spaces are in a flood zone. The flood zone maps provided with the application do not give an accurate picture of the flooding that takes place during the winter on the site.

6.1.2 **Climate Change Act 2021- Environment Impact Assessment**

An EIA was not carried out. Planning Authorities must consider the cumulative impacts when considering the requirements of an EIA. Under the Climate Act 2021 Ireland is committed to halving our greenhouse gas emissions by 2030. There is an onus on planning authorities to explore the effects of new developments. This is done by an EIA which has not been done in this instance.

6.1.3 **Height and Density of Proposed Four Storey Apartment Blocks and privacy**

The proposed height of the apartment blocks is 12.15m which is 2.5metre above the previously approved 3storey apartment block granted under planning reference

00/994. This height does not keep with the current aesthetics of the existing estate. The height increase is considered and not modest as described by the developer.

6.1.4 **Finished Floor Level**

The finished floor level does not appear to be indicated on the section drawings, including the effect of the overall height of the four storey apartments relative to the height of existing nearby dwellings. The height and density of the development is not in line with the relevant Guidelines and are more in line with suburban areas such as Adamstown, Dublin and not small towns like Portarlington.

6.1.5 **Government Planning Guidelines**

Portarlington is a small to medium sized town. Thereby according to planning guidelines, (Urban Development and Building Heights -Guidelines for Planning Authorities 2018, Development Management Criteria, Building Height in Suburban/ Edge locations, as cited in the appeal submission) the density envisaged is 25-30 units per ha on edge of town areas. The Planner's Report on file states Portarlington is a 'Self-sustaining Growth' town. The Sustainable Residential Development in Urban Area Guidelines 2009 and Table 13.4 sets out 15-25 units per ha is appropriate for Self-sustaining towns on Edge of centre/ greenfield sites. The Government Circular NRUP 02/2021 recommended a density of edge of larger towns to be 35-50 dwellings/ hectare. The applicant has proposed a density of 52.2 dwellings per hectare which is above the recommended density range.

6.1.6 There should be a childcare unit provided per 75units. The creche planned on the original permitted scheme 00/994, was never provided.

6.1.7 The developer has allocated 25.85% of the site to public open space but it is located in a flood zone and is not safe. All the green areas in the current estate, The Glen, are narrow, left-over spaces. None of the current greenspaces are usable due to health and safety standards.

6.1.8 **Accessibility to Local Parks**

Both parks are not within walking distance and are not accessible by public transport.

6.1.9 **Privacy and Security**

A number of existing residents will have their back gardens overlooked by one of the proposed apartment blocks. The second block of apartments will be directly in front of a number of residences. The 60No. units will generate traffic of 120No. cars.

6.1.10 **Zoning**

The onus on Residential 1 zoning objective is to protect the existing residential developments that have been there for 18No. years.

6.1.11 **Other Grounds of Appeal**

- The site is on the periphery of the 1% AEP flood plain. The surface water attenuation is to be restricted to outside the boundary of the flood zone. The council's taking in charge of the scheme is wholly unacceptable to date. This has led to unfinished works, unchecked planning conditions and effective abandonment of residents.
- The Road Safety Audit is based on the previous application.
- The roundabout at the entrance off the main road has experienced a large volume of accidents.
- Dangerous reversing movements at carparking space 56 are noted . Problems identified in the Road Safety audit have been partially addressed in a rushed manner. There are uncontrolled pedestrian crossing points.
- There are significant traffic bottle necks at the peak flow times at the single entry/ exit to the development. An increased residential population of Kilnacourt Woods will lead to increased traffic flow problems at peak hours.
- A worrying trend has developed in Portarlinton showing a disregard to 'middle Town First' and 'Climate Change ' policies. All the new 6 developments in Portarlinton are not within walking distance of the town centre and are highly dependent on vehicles.
- G.P. and childcare facilities are full to capacity in Portarlinton
- There was no engagement with the Fire Services by the applicant before applying for this four storey development.

6.1.12 **Portarlinton Flood Relief Scheme**

Sage 1 started in 2022 and their progress is that the Hydrological Analysis is completed. The topographical and CCTV is in progress and the Hydraulic modelling, and environmental surveys and assessments.

It is submitted the proposed development because of its density, location and proximity to the River Barrow is premature and at high risk. Photos taken from No. 75 The Glen illustrating flood of the subject site.

6.2. Applicant Response

The applicant did not respond to the third-party appeal.

6.3. Planning Authority Response

There was no further response from the planning authority to the appeal.

7.0 Assessment

7.1. I have inspected the site and considered the contents of the appeal file, I will assess the appeal under the following relevant headings:

- Planning History
- Planning Policy
- Design and Layout
- Flood Risk and Drainage
- Appropriate Assessment

7.2 Planning History

7.2.1 Section 4 of this report outlines the planning history of the subject site. The Glen estate is within a large residential area called Kilnacourt Woods. The Glen was originally granted planning permission in 2004, for 261No. two storey dwellings and a creche under planning reference **00/994**. The bulk of the 216No. housing units have been constructed and the permission has been implemented with the exception of the appeal site and the provision of a creche.

- 7.2.2 Following on from the parent permission been granted in 2004, there were a series of Extension of Duration of permissions, under Planning References 09/524 and 11/287. Eventually the extension of durations became unacceptable due to Section 42 of the *Planning and Development Act 2000* as amended, which restricts the number of times a planning authority can extend the appropriate period of an application.
- 7.2.3 Under P.A. Reg. Ref. 17/202, ABP -300742-18 (adjoining site to the west of appeal site) permission was granted retain floor slabs as constructed and full planning permission for completion of two storey terrace of houses 202 to 205 and 224 to 227 (8 houses in total) either side of existing apartment block granted permission under P.A. Reg. Ref. 00/994 and all ancillary siteworks at The Glen.
- 7.2.4 Under P.A. Reg 17/203, ABP 300639-18 (on the appeal site), permission was granted to retain groundworks and complete 18No. houses and all site works as per planning permission 00/994, and construction of 8No. houses in lieu of apartment blocks.
- 7.2.5 Phase 1 and a large portion of Phase 2 of the original permission, 00/994, is complete and occupied. The incomplete area of Phase 2 relates to the subject appeal site. Given the planning history of the site, I consider the proposed development is acceptable in principle.

7.3 ***Planning Policy***

- 7.3.1 The Portarlington Joint Local Area Plan 2018-2024 is the relevant statutory plan. The site is zoned '**Residential 1**: Existing Residential *To protect and enhance the amenity of developed residential communities*'.
- 7.3.2. Residential development is acceptable in principle in the 'Residential 1' land use zoning. Furthermore, the development relates to the completion of an unfinished housing development. The development is, therefore, acceptable in principle subject to the assessment of the relevant planning issues identified below.
- 7.3.3 I refer to the *Sustainable Development Residential Developments and Compact Settlements – Guidelines for Planning Authorities 2024*. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural

settlements, with a focus on sustainable residential development and the creation of compact settlements.

7.3.4 In the Laois County Development Plan 2021-2027, Portarlinton is a designated Self Sustaining town in the county. With a population in excess of 9,000 according to the last Census, it is considered to be a **large town**. The site is located just outside of the town centre off the R420 Kilnacourt Wood. The subject site is within walking distance of the town centre, I would consider the location to be out suburban or car dependent. Therefore, in accordance with the Guidelines, *Key Town / Large Town - Centre and Urban Neighbourhood The centre comprises the town centre and the surrounding streets, while urban neighbourhoods consist of the early phases of residential development around the centre that have evolved over time to include a greater range of land uses. It is a policy and objective of these Guidelines that residential densities in the range 40 dph-100 dph (net) shall generally be applied in the centres and urban neighbourhoods.*

7.3.5 Therefore, the gross density of 54units per hectare, is acceptable at this location.

7.4 Design and Layout

7.4.1 The proposed layout follows the existing estate road layout of The Glen estate. It is L-shaped with the 16No. two storey dwellings facing or addressing existing two storey dwellings in The Glen, and two apartment blocks, located midway between two streets of two storey dwellings. The public open space area is 3289sq.m. and is 25.85% of the site area.

7.4.2 The proposed layout is poor. The block of 4No. dwellings, Nos. 162-165 are to the west of the site. These houses bare no relationship to the existing residential layout to the west, however, this building line has been permitted under previous planning decisions including ABP Reference 3000639-18. The four storey apartment block (No.s 140-161) is positioned opposite the boundary wall and gable end of two blocks of houses within The Glen. In my opinion, the second and third floors of the apartment block will impact on the privacy associated with the rear garden areas of the existing house to the south of the proposed development. The houses are laid out perpendicular to the proposed apartment block, and there is overlooking of rear

gardens associated with first floor windows, which is normal within a residential estate. However, this apartment building (No.s 140-161) will directly overlook a number of existing rear garden areas to the south of the appeal site, creating a perceived loss of privacy and ultimately causing injury to the residents existing residential amenity. In order to alleviate the perceived loss of privacy associated with the apartment block 140-161, which is four storeys and 12.75metres in height, I would recommend a condition be attached the building is setback at least 5metres from the current front building line, to increase the separation distance from the common boundary wall with 87 and 98 The Glen, or the building be reduced to three storeys. In line with increased residential density for town centre locations, a set back of the building line may be more appropriate providing which would be determined by the floodplain levels of the River Barrow in the general vicinity of the site.

7.4.3 The proposed large tract of public open space to the north-eastern extremity of the site is located to the rear and side of the development with very limited passive overlooking of this large area. The road layout continues around the back of the second apartment block No. s 110-131 with dwellings 106-109 facing the existing estate road serving 98-105 The Glen. I am not in favour of this layout because of the lack of passive surveillance of the public open space area. In my opinion, there is a blatant disconnect from the existing and proposed dwellings, which could be considered family homes, from the public open space area. Under normal planning circumstances, I would recommend a revised layout to appropriately integrate the public open space area into the housing layout as opposed to cutting it off on the periphery of the overall scheme, however, the next section of the report reveals the design concept for the layout which directly reflects the north-eastern section of the site has potential fluvial flood risk.

7.4.2 A similar layout has been previously permitted under planning references 17/203 and 21/419, therefore, a precedent has been set. In conclusion, in order to improve the current layout in terms of existing residential amenities, I recommend the apartment building is set back as prescribed above.

7.5 Flood Risk and Drainage

7.5.1 In accordance with the '*Planning System and Flood Risk Management Guidelines*' 2009, a site-specific flood risk assessment has been undertaken by the applicant and submitted by way of Further Information on the 3rd of August 2023. Of note are the following issues arising:

- The site is not located within a coastal or tidally influenced region.
- The River Barrow is located 93metres beyond the northern boundary of the site, therefore there may be potential for fluvial flooding.
- There is no significant or major urban drainage or water supply infrastructure therefore there is no pluvial drainage associated with the site
- There are no significant springs or groundwater discharges mapped in the immediate vicinity of the site.

7.5.2 The relevant hydrometric data and mapping was examined. There is a Gauging Station located in the western periphery of Portarlinton Town Centre. The Preliminary Flood Risk Assessment Mapping produced by the OPW would indicate the proposed development partially falls within an indicative fluvial flood zone. There are no indicative pluvial or groundwater zones within or adjacent to the site. The OPW Flood Maps indicate there is one recorded recurring flooding point adjacent to the north-western site boundary. This flood point refers to recurring flooding that occurs when the River Barrow overflows it's banks onto flood plains after heavy rainfall.

7.5.3 The alluvial deposit maps of GSI Ireland indicate the north-eastern position of the site is underlain by Alluvium Deposits.

7.5.4 The OPW CFRAMS predictive flood maps illustrate the predictive extreme 10% AEP (1 in 10 year), 1% AEP (1 in a 100year) and 0.1% AEP (1 in a 100 year) fluvial flood extents in the vicinity of the site. Figure 7 of the Report indicates that the north-eastern portion of the proposed site falls within the predictive 10% AEP (1 in 10 year), 1% AEP and 0.1% AEP fluvial flood zone. This would explain the provision of the large open space area in the north-eastern position of the site.

7.5.5 The finished floor level associated with the development is 1.36metres above the predicted 0.1% AEP flood level of 64.89m OD upstream of the site and 65.1m OD respectively. Figure 13 of the Report illustrates the finished floor levels. It also

indicates predictive fluvial flood zoned within the rear garden areas of proposed dwellings 132-135. The finished floor levels were revised following a request by the planning authority for further information which was received on the 3rd of August 2023.

7.5.6 The Portarlinton Joint Local Area Plan 2018-2024 includes Map 4 Portarlinton Flood Plains. The northern -eastern portion of the site falls within Strategic Flood Zone A and Flood Zone B.

7.5.7 The lowest finished road level associated with the proposed development is 0.6m above the predictive 0.1% AEP flood level. The potential fluvial flood risk to development would appear to be adequately mitigated against with the proposed finished floor levels throughout the scheme.

7.5.8 The primary potential flood risk to the site can be attributed to an extreme fluvial flood event in the River Barrow located to the north of the subject site. A portion of the north-eastern area of the site falls within the delineated 1% AEP (1 in a 100 years) and .1% AEP (1 in 10000 year) fluvial flood zone. However, no development will take place within the delineated flood zones, these areas are devoted to private and public open space areas. There will be no infilling, ground level raising or infill landscape works within these areas.

7.5.9 The surface water runoff generated by the proposed development will be routed through a series of SuDS (Sustainable Urban Drainage System) elements. These elements will promote runoff infiltration, detention and infiltration at source before run-off reaches attenuation system composed of an underground tank. The flow control device installed on the outfall will be designed to attenuate 1 in a 100 years storm event duration. Therefore, no flooding on or off site will be caused by run-off from the proposed development.

7.6 Other Matters

7.6.1 In accordance with Part V of the Planning and Development Act 2000 as amended, the applicant has proposed 6No. units to be allocated to the planning authority. A standard condition can be applied for the parties to make the final agreement.

7.6.2 Access to the proposed development is via the existing The Glen estate. There was revised Road Safety Audits prepared by way of Clarification of Further Information. The Roads Department had no objections to the proposed development. Carparking provision is in line with development plan standards.

7.6.3 Open space provision is in excess of development plan quantitative standards.

8.0 AA Screening

8.1 Appropriate Assessment Screening Determination

(Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed housing development in light of the requirements of the Planning and Development Act 2000 as amended. A Screening Report for Appropriate Assessment was submitted prepared by the planning authority (28/04/2023). The report concluded that, *'The construction and operation of the proposed development project will not have a significant impact on the conservation objectives of the Natura 2000 sites'*.

8.2 Description of the proposed development

A full description of the proposed development is the construction 16No. houses and 44No. apartments consisting of:

- 6No. two storey three bedroom end of terrace houses
- 10No. two storey mid terrace houses
- 44No. apartments in 2No. four storey apartments

To include bin and bicycle storage, carparking, landscaping and ancillary site development works.

The site has a stated area of 1.1474Ha and is located northeast of a large residential area, Kinacourt Wood. The site was formerly part of the larger estate and some works had previously being carried out on the site and it was left overgrown. To the north of the site, 93metres is the River Barrow which flows in an west to east direction. Between the site and the river is agricultural land and mature trees.

Site preparation work and construction works will require extensive ground clearance and excavations with the removal of the surface layer of soil.

The proposed development will be connected to a public water, surface water and foul sewer network. Attenuated water from the site will be discharged to the existing surface water drainage serving The Glen housing estate, which ultimately outfalls to the River Barrow. There are no streams or watercourses traversing or bounding the

site. There is drainage channel indicated on the drawing in the north-eastern portion of the site, which is located in a Flood Plain A and B, as indicated on GIS maps.

Consultations and submissions

The grounds of appeal raised no issues which related directly to the impact of the proposal on any European sites. There were no submissions from third parties that relate to European sites. Department of Housing, Local Government and Heritage submission stated AA. Screening is required in respect of the River Barrow and River Nore SAC located immediately adjacent to the site. Recommendations regarding planning conditions relating to bats were also made by the Department.

The planning authority screening for Appropriate Assessment was prepared on the 28/04/2023. It was concluded that no likely significant impacts area predicted due to the nature of the proposed development. I note the Planning Reports on file referred to Board's decision on the previous planning application and subsequent appeal under references 17/203 and ABP 3000639-18 (report appended). The reporting inspector concluded no appropriate assessment issues arose in light of the flood litigation works proposed in the FRA report, the capacity of the pumping station and Portarlinton Wastewater Treatment works, and the construction works already carried out on site.

European Sites

The proposed development site is not located within any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA). The closest European site is only 93metre north of the subject site, and those that may be within a potential zone of influence of the proposed development, are listed below.

European Site	Qualifying Interests (relevant)	Distance	Connections
River Barrow and River Nore SAC,	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140]	93metres north	Yes: There is a drainage channel

<p>(Site Code 002162)</p>	<p>Reefs [1170] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] European dry heaths [4030] Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430] Petrifying springs with tufa formation (Cratoneurion) [7220] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>		<p>which runs through the northern part of the site and forms a hydrological link to the River Barrow, and surface water in the area drains to the River Barrow. There is a risk of pollution occurring from the construction works and there are measures required to protect the drainage channel on site from silt laden run-off, uncured concrete, refuelling of machinery and prevention of hydrocarbon infiltration, and an emergency response to deal with accidental spillages</p>
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There are no hydrological or ecological pathways between the sites and the other European sites beyond Portarlinton.

Likely impacts of the project (alone or in combination with other plans and projects)

As the proposed application site is not located within a European site, there will be no direct impacts and no risk of habitat loss, fragmentation or any other direct impact.

With regard to indirect impacts, these would be limited to construction phase and could result from air-borne pollutants or water-borne pollutants from construction activities because the site is adjacent to an European site

Likely significant effects on the European site(s) in view of the conservation objectives.

The conservation objectives for the River Barrow and River Nore SAC are to maintain and restore the favourable conservation status of the qualifying interests. Dust deposition is listed as a threat to the qualifying interests of the SAC. Given the separation distance between the sites and the scale of the proposed development, any impacts from dust deposition are unlikely.

Any potential impacts from water pollution from the construction or operational phases of the development can be considered in terms the clearance of the site during the construction phase and other construction works. I have examined the Construction Stage Plan submitted with the application. This includes measures to suppress and manage dust on the subject site during the construction phase.

Despite the proximity to the European site north of the subject site, the applicant did not include an AA Screening Report with the application documentation. The concluding statement on the planning authority's Appropriate Assessment Screening indicated there is no potential for significant affects, therefore AA is not required.

The Drainage Design Report includes measures to manage surface water during the operational phase of the development. There are no measures in the submitted documentation to ensure there is no risk of pollution from the construction works via the existing hydrological link, which is a drainage channel traversing the site, heading northwards to the River Barrow.

The qualifying interests of the River Barrow and River Nore SAC, are considered to have a sensitivity to suspended sediments or other pollutants, and their conservation objectives could be compromised due to construction related emissions or disturbance. There is a drainage channel associated with the northern part of the site. There is an absence of information relating to the construction impacts that may arise to this channel, that have the potential to cause adverse effects on the qualifying interests habitats of River Nore and River Barrow SAC. The potential water pollution risks during the construction phase of the development appeared to have been overlooked by the applicant. There is no AA Screening report or a Construction Environmental Management Report submitted with the planning application, therefore in my opinion, the proposal lacks any measures to protect the adjacent watercourse.

There is no reference to the elements of the development that could give rise to construction related impacts such as site clearance, excavation, soil storage. There should be measures proposed to protect the drainage channel on site or during potential flooding from silt laden run-off, uncured concrete refuelling of machinery and prevention of hydrocarbon infiltration, and an emergency response to deal with accidental spillages. The proposed construction works require measures to prevent surface water pollution (silt/ hydrocarbon/ construction related) from construction works which may result in changes to environmental conditions of the adjacent European site, in terms of water quality/ habitat degradation. Proposed mitigation measures both during construction and operational phases of the development have not been provided in the submission documents.

In terms of the in-combination impacts, there are no developments or projects under construction within the immediate area of the site or within close proximity. There are no large-scale developments or projects recently permitted within the area that would result in combination impacts with the subject development.

Overall Conclusion Screening Determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development may result in likely significant effects on the adjacent European Site, and additional information is required from the applicant in

respect of adequate an Appropriate Assessment screening and a Construction Environmental Management Plan.

This determination is based on:

- The scale and location of the development on fully serviced lands in an urban environment, adjacent to a European site.
- Distance from (98m), and a direct hydrological connection from the subject site to the European site.
- The lack of information regarding the management of construction period, in light of potential risks associated to pollution and its impact on the qualifying interests associated with the adjacent European site.
- Possible impacts identified may be significant in terms of site specific conservation objectives for the River Nore and River Barrow SAC

In the absence of satisfactory details which demonstrate the proposal would not impact on the River Nore and River Barrow SAC, having regard to the conservation objectives governing the adjacent European site, the Board is prohibited from making a determination on Appropriate Assessment and the precautionary approach is therefore applied. Accordingly, the applicant is required to prepare an Appropriate Assessment Screening Report and submit a Construction Environment Management Plan.

9.0 Recommendation

I recommend the Board request a notice under Section 137 of the Planning and Development Regulations, as this is a new issue arising from the assessment of the appeal.

10.0 Reasons and Considerations

1. In the absence of satisfactory details which demonstrate the proposal would not impact on European sites having regard to the conservation objectives governing the adjacent European site, the Board is prohibited from making a determination

on Appropriate Assessment and the precautionary approach is therefore applied. Accordingly, the applicant is required to prepare an Appropriate Assessment Screening Report and submit a Construction Environment Management Plan to provide an assessment of all aspects of the proposed development in relation to the River Nore and River Barrow SAC's Conservation Objectives using the best available scientific knowledge in the field.

2. The Board has concerns regarding the proposed height, proximity and relationship of the apartment Block apartment block 140-161, relative to the existing houses in The Glen estate south of the appeal site. The applicant is advised to consider a revised design proposal to alleviate any perceived direct overlooking or loss of privacy associated with the rear private amenity gardens associated with the existing dwellings to the south of the appeal site.

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.

Caryn Coogan
Planning Inspector

31st of October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318703		
Proposed Development Summary	60No. dwelling units		
Development Address	The Glen, Portarlinton , Co. Laois		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X	<i>The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings.</i>	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		It is less than 500 dwellings and the urban site is less then 2hectares	No EIAR or Preliminary Examination required

Yes		Class/Threshold.....		Proceed to Q.4
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4. Has Schedule 7A information been submitted?				
No	X		Preliminary Examination required	
Yes			Screening Determination required	

Inspector: _____ **Date:** _____

