



An
Bord
Pleanála

Inspector's Report ABP-319263-24

Development	Construct 99 No. new dwellings, a crèche and all associated site works to facilitate the development.
Location	Rahin, Ballylynan, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2360015
Applicant(s)	JC Brenco Developments Ltd.
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Ballylinan Council
Observer(s)	None
Date of Site Inspection	16/10/2024
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1. The subject site located in the western outskirts of Ballylynan village in Co. Laois. The site is 6.080ha and is irregular in shape. (The village has two spellings, Ballylinan and Ballylynan on all maps. For the purposes of this report I will retain the original spelling, Ballylynan).
- 1.2. Access to the subject site is from an existing roundabout onto the local road L73711. The roundabout serves the local national school, the Athy Road and another housing estate. The site is within a 5minute walk of the Main Street, Ballylynan.
- 1.3. Immediately to the west of the site on the adjoining lands is a primary school. To the north is the public road, a roundabout and a graveyard bounding the site along its northern boundary. To the east of Ballylynan town centre and a number of residential developments.
- 1.4. On the adjoining southern and eastern site boundaries are residential estates, The Village and Gracefield Manor.
- 1.5. Further north is another residential estate Leylandii Drive.
- 1.6. The site includes remnants of an unfinished estate. There is an unfinished internal estate road that was never completed.
- 1.7. The site is slightly below the level of the public road at the entrance off the roundabout. There is a slight dip into the site which is covered in gorse and unmanaged grass. The site rises to the east in the direction of the graveyard. It rises slightly to the south towards the southernmost housing estate. Overall, the general topography of the site is flat.

2.0 Proposed Development

- 2.1. Planning permission was sought for 99No. dwellings each with a private space and private amenity area, broken down as follows:
 - 7No. Four Bedroom Two storey Detached units
 - 12No. Four Bedroom Tow-storey semi-detached units
 - 60No. three bedroom semi-detached units

- 8No. two bed single storey semi-detached units
- 12No. two-bedroom two storey semi-detached units
- A creche and 18No. parking spaces
- New vehicular and pedestrian entrance, internal roads, footpaths, communal open space, connection to services, boundary treatment, landscaping, drainage and all associated site development works.

2.2 The application documentation included the following documents:

- Full set of plans and drawings
- An **Archaeological Assessment Report** (the site is partially located within the zone of Archaeological potential of a church and graveyard (RMP LA026-003/ LA 026- 003001)
- Letter from applicant's solicitor stating the applicant purchased the site on 25th of September 2019.
- **Ecology Report** BioLogiQ Solutions was requested to carry out an ecological report to identify the suitability of habitats for protected species on a proposed construction site for a housing development in Ballylynan, Co. Laois. This involved a desktop assessment using publicly available information from the NPWS, EPA, GSI and 'Catchments' websites and site visits on 3rd August 2022 and 24th August 2022.
- Letter from local school stating it can accommodate 50-70 additional students
- **Traffic Report** including a Stage 1 and 2 Road Safety Audit. It is indicated that the proposed roundabout junction can accommodate the existing traffic proposed residential development. The summary table also indicate that during the busiest AM peak hour period this roundabout junction operates with reserve capacity of over 85% during this critical peak traffic period. The internal road infrastructure within the development to comply with the residential standards set out within the Design Manual for Urban Roads and Streets.
- Pre-connection Form to Irish Water
- Phasing Layout

2.3 **Further Information** (as requested on 15/03/2023)

On the 20th of October 2023, a revised site layout was submitted confining the proposed development on 'zoned lands' only. The red boundary of the site was altered accordingly. The overall scheme was reduced by one unit to **98No. dwellings**. The percentage of public open space was calculated at 19.45%. The bulk of the zoned lands adjacent to the graveyard have been excluded to allow for the future expansion of the graveyard. The proposed creche has been relocated to lands zoned Community, Educational and Institutional. The proposed density is now 17.3 dwellings per hectare. Revised house designs were submitted with a reduction in ridge heights, and the inclusion of a brick finish. In addition to revised proposals there was a Construction Management Programme, Traffic & Transport Assessment Report.

2.4 On the 12/12/2023 A Soil and Surface Water Design report was submitted by the applicant, along with a revised House Type A and I design, and another Traffic Report prepared in December 2023, and a Landscape Plan. The planning authority wrote again to the applicant on 15/01/2024 requesting revised notices.

3.0 **Planning Authority Decision**

3.1. **Decision**

By Chief Executives Order signed the 16th of February 2024, Laois Co. Co. decided to grant planning permission subject to 25No. conditions. (Copy appended to this report)

Condition No. 1 outlined the extent of the permission, and the revised drawings submitted. It stated that the permission was for 98No. dwellings as per 20/10/2023 and 12/12/2023 submissions.

Condition No. 5 required a brick sample to be submitted to the planning authority, that the drawings for House Type I should correlate, and the finishes to the houses shall be as per the revised plans.

Condition 8 related to the proposed boundary treatment.

Condition No. 20 related to the Construction Management Plan

Condition No. 21 the houses are to be sold to owner occupiers.

Condition No. 22 requires a 20metre buffer from the Recorded Monument.

(Copy of conditions appended to this report)

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are four reports on the planning application file.

- (i) First Report dated 15th of March 2023 outlined the Site Description, proposed Development, Planning History,, Pre-Planning, Submissions/ Observations, Referrals, Policy, and recommended extensive Further Information.
- (ii) Further information required addressed the following concerns:
 - Part of the roadway and open space is located on unzoned lands. There are Type D houses located on lands zoned for Community, Educational and Institutional, and these are beside the local graveyard. The scheme is to be revised to address these layout concerns.
 - The County Development Plan Table 13.4 states a density of 10-12 units per hectare is appropriate in small towns and villages. The government circular NRUP states the recommended density for edge of centre small towns and villages is 15-20 dwellings. The proposed density is 16.3 dwellings/ hectare.
 - The overall height of the dwellings was to be reduced. Boundary treatment is noted however not along the roadside boundary. There are 22m separation distances between opposing dwellings.
 - A Traffic Assessment report in line with the requirements of PE-PDV-02045 of TII publications document was submitted.
 - A pedestrian link via Gracefield Manor housing estate as requested by the P.A. was provided.

- Surface water details were acceptable. A construction management plan was submitted by way of further information.
- (iii) The Second Planning Report of the 14th of November 2023 recommended Clarification of Further Information on the outstanding items relating to Design of the Houses and Layout, and a number of outstanding issues which the Roads Design office requested.
- (iv) In the Third Planning report dated 15/01/2024 required new public notices.
- (v) The final report dated 14th of February 2024, following receipt of the all the information requested, recommended a grant of permission. Condition 5 (a),(b) and (c) were site specific relating to house designs

3.2.2. **Other Technical Reports**

- Roads Design (09/03/2023) and (13/11/2023): Further information regarding public lighting, impermeable paving, and not brick paving or coloured asphalt. Roads and footpaths are appropriate to scale. A pedestrian/ cycle link is required from the site to the village. The applicant shall provide a Belisha Beacon and crossing at the arm of the roundabout where the entrance is. No levels have been provided for the surface water connection. There has to be attenuation proposals.
- Roads Design (09/01/2023): No objection subject to 11No. conditions (appended to this report)
- Housing (27/01/2023) No objection subject to the standard Part V agreements being in place.
- Fire Section: No objections
- Water Services: No objection subject to Irish water's pre-connection approval.

3.3. **Prescribed Bodies**

3.3.1 *Irish Water:* No objections subject to conditions.

3.3.2 *Department of Housing, Local Government and Heritage:*

It is noted that the proposed development is within directly alongside recorded monuments LA026-003----Class: Church and LA026-003001-Class: Graveyard,

which are subject to statutory protection in the Record of Monuments and Places, established under section 12 of the National Monuments (Amendment) Act 1994. Given the extent and location of the proposed development it could impact on subsurface archaeological remains. In line with national policy, see Section 3.7 of 'Framework and Principles for the Protection of the Archaeological Heritage' 1999, the Department recommends that the following

archaeological conditions be included in any grant of planning permission that may issue.

Archaeological Conditions

1. A buffer area of 20 metres shall be implemented around Recorded Monuments.

LA026-003----Class: Church and LA026-003001-Class: Graveyard. No ground works shall be carried out within the buffer area, including boundary works, landscaping or ground reduction. The buffer area shall be fenced off and protected during construction and shall not be used for storage or vehicular access.

2. All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist under licence, for a distance of 100 metres around the established buffer.

3. Should archaeological material be found during the course of works, the work on the site shall be stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

Reason:

To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

Nature Conservation

- AA Screening to ensure no impact on River Barrow and River Nore SAC
- The habitat and ecological mitigation and enhancement measures as outlined in the ecology report submitted as part of the application for planning,

including but not limited to those mitigation measures outlined in the bullet points on page 4 and the following paragraphs including onto page 5, of the submitted Ecology Report, be included as conditional to planning and be enforced for the duration of the existence of the development.

- Ecological Management Plan required.
- All native hedgerows on site should be retained, except where removal for sightlines or construction is required. Any supplementary planting or new planting should consist of native hedging species such as Hawthorn, Holly, Guelder Rose, Blackthorn and Hazel.

Bats

Bats (and other nocturnal wildlife) are particularly sensitive to Artificial Light at Night (ALAN). As such it is recommended that lighting on site follows the following guidance by Bat Conservation Ireland: Bats and Lighting, Guidance Notes for: Planners, engineers, architects and developers 2010.

Swifts

Laois County Council is reminded of the Policy Objective for Biodiversity and Designated Sites BNH11 to Support measures to protect Swift population such as the creation of Swift nest cavities in all new commercial and public buildings (schools/libraries, etc. BNH15. In dealing with applications for new developments, the Planning Authority will have regard to the following: Inclusion of Swift nesting opportunities in new buildings through use of Swift brick or Swift nest boxes where appropriate.

3.4. Third Party Observations

There were 43 No. third party objections to the proposed development at the planning application stage. A summary of the concerns expressed is as follow:

- The density is too high, and lacks adequate open space
- No social amenity
- Significant increase in traffic resulting in congestion in the town and safety issues

- There could be a negative impact on the graveyard
- Application states 99No. dwellings and Traffic Report states 98No. dwellings
- Private lane is marked as the Kilkenny Road. The school is St. Patricks and not St. Brendan's
- Overloading is existing sewage treatment in the village
- There should be no access through Gracefield Manor because this could become a vehicular access
- There are flooding issues in the area
- Traffic predictions unrealistic as most dwellings have 2No. cars
- There is no community centre
- The roundabout has already 4No. access points off it, it cannot cope with existing traffic let alone the addition of the proposed development
- The opening into the Village estate should not be permitted, it will diminish the amenities and parking in the existing estate.
- The proposal will have net zero ambitions under Irelands Climate Action Plan. The development is not powered by renewable energy, use of concrete should be limited, car dependent estate, not a low carbon lifestyle
- In terms of biodiversity the proposal does not address conservation of animal species on the site. There should be dense hedging.
- The rainwater should be collected in a sustainable way.
- There is no allowance for the expansion of the local cemetery.

4.0 Planning History

The following planning histories relate to the subject site:

4.1 ***Planning Reference 21889***

Planning permission for 99No. dwellings, a new retail premises, community carpark, new access. Application withdrawn.

4.2 ***Planning Reference: 04/1577***

Planning permission granted for 153No. units including demolition of Whelan's garage and a vehicular access off the N78 connecting Athy to Castlecomer.

Planning Reference 10/481 Extension of duration of permission 04/1577 was granted planning permission.

5.0 Policy Context

5.1. National Policy

5.1.1 *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.

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 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
- 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’).

5.3 Local Planning Policy

5.3.1 Laois County Development Plan 2021-2027

Ballylynan Is designated Small Town in the Settlement Hierarchy for Laois with a population in the 2016 census of 1101 and in the 2022 CSO 1167. (

The bulk of the site is zoned **New Residential** with the northern part of the site zoned **Community// Educational Institutional**. (See Zoning Map included in the photo plates)

The second objectives map associated with the area indicates objectives to upgrade the public footpath and public lighting along the street providing access to the site.

5.3.2 Core Strategy 05

Support the regeneration of underused town centre and brownfield/infill lands along with the delivery of existing zoned and serviced lands to facilitate population growth and achieve sustainable compact growth targets of 30% of all new housing to be built within the existing urban footprint of targeted settlements in the County

Section 2.10.4 refers to TOWNS which include Durrow, Rathdowney and Ballylynan.

Ballylinan also provides a limited range of services and facilities in the north eastern quadrant of the county for its population and that of its rural hinterland. Its proximity to Athy and Carlow has placed pressure on it from a commuting perspective and so it is considered appropriate to identify opportunities within the town that could grow employment and enterprise and potential serviced sites for residential purposes.

Towns Policy Objectives

CS 28

Promote consolidation coupled with targeted rural housing and investment policies in Towns and Villages where required to improve local employment, services and sustainable transport options and to become more self-sustaining.

CS 29

Promote regeneration opportunities within these towns to ensure their viability as service centres for the surrounding areas.

5.4 Natural Heritage Designations

See Section 8 below

I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 6km from River Nore and River Barrow SAC (Site Code: 001262) the nearest designated site. The proposed development comprises the construction of 98 no. dwellings, together with creche and ancillary site development works. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Nature and scale of works
- Distance from nearest European site
- Taking into account screening determination by the planning authority

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

Ballylynan pNHA is 2.3km east of the village.

5.5 EIA Screening

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

The proposed development is for 98 dwellings on a site c. 6.06 ha. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended). Accordingly, it does not attract the need for a mandatory EIA. The site is located within a designated development area of Ballylynan, on lands zoned for residential purposes. Furthermore, as this proposal would fall below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required

6 The Appeal

6.1 Grounds of Appeal

The third-party appeal has been taken by Ballylynan Council, who are a number of local people living in Ballylynan. There were 43No. submissions made by local people to the planning application. These submissions were brushed aside by the planning authority. The following is a summary of the grounds of the appeal.

6.2 Invalid application

6.2.1 The planning application is invalid and the information submitted is misleading.

Question 5 of the planning application form states the applicant to be JC Brenco Development Ltd, and that Seamus Brennan Killeslin Road, Carlow is a company director. The form also states the applicant is the legal owner. There are 4No. folios associated with the subject site. The lands are owned 3No. persons at an address of 22 Harcourt Street, Dublin 2. There is no mention of the applicant. There is no written authority submitted with the application illustrating the written consent of the landowners to the planning application. Article 22(g)(1) states the written consent of the relevant landowner must be provided with the planning application.

6.2.2 There are other lands owned by the 3No. named parties in the village which have not been highlighted on the submission documents. These are highlighted in figure 2 of the appeal submission. The land of the primary school is also highlighted on their folio and this was not included in the planning application, and highlighted blue.

6.2.3 These omissions are in direct conflict with the legal provisions of the content for planning applications and therefore the planning application is invalid.

6.2.4 The application details fail to state the site is within a zone of archaeological potential. This is an important element of the application and Q17 of the statutory planning application form. The development is developer led and not plan-led. The information provided is misleading and factually incorrect and the application should be invalidated. The application will fall at the first hurdle of judicial review. This submission is a constructive notice to all parties to a judicial review.

6.3 **Proper Planning and Sustainable Development**

6.3.1 The developer deliberately designed the development to avoid the SHD process, which would have been more appropriate for 99No. dwellings which has been designed to maximise economic return with scant regard for the local community.

6.3.2 A photomontage of the vernacular architecture in Ballylynan is submitted on appeal clearly illustrating the level of vacant properties that has ravaged the village in recent years. The village lacks a vibrant built community. Another 98No. dwellings will exacerbate the number of deficiencies in the village. There were large estates granted permission in the village pre-Celtic tiger era and the increase in population did not bring prosperity to the village and it did not improve the village. The

proposed development bares no relationship to the village of Ballylynan in terms of its size, scale, mass and architectural design.

6.4 Ballylynan Village

6.4.1 Ballylynan Village is a close-knit community with a number of small cluster estates, local GAA, Church, cemetery and primary school. It has grown exponentially over the past 25years. When the last large estate was granted permission in the village, 'The Village' and 'Grange Manor' the village had 5No. pubs, a mini-market, a garage, shops, a library, health centre with GP, a nurse, dentist and credit union. There is no social infrastructure in the village. The additional houses from 2003-2004 did not improve the village. The village does not need another 99No. dwellings with no social infrastructure.

6.5 Demographics of Ballylynan

6.5.1 The population of Ballylynan is 907persons. The number of dwellings is 308No. dwellings. There are 318No. cars. The proposed development will increase the village population by $98 \times 2.9 = 284$ No. persons. This is a population increase of 31%. There will be an increase of 100cars also a 31% increase.

6.6 Traffic

6.6.1 Ballylynan is gridlocked at certain times. A personal traffic count was taken on 05/03/24. Between 8.30am and 9.30 am there were 160No. cars, 1 coach, 1 minibuss and 1 JCB on the Main Street. The majority of the cars travelled back up the Main Street within minutes. Often traffic is backed up at the cemetery. There were 22No. children walked to school.

6.6.2 The traffic report accompanying the planning application is deficient and is a desktop exercise with no bearing to the actual situation on the ground. The traffic report states that less than 120No. inbound or outbound movements would occur. This is unbelievable, given that 98No. houses will generate at least two movements and 18No. spaces for the creche will generate at least 36No. movements. This equates to 276No. traffic movements. The production of the TIA and RSA do not equate to the actual on the ground situation which will be made significantly worse with the development.

6.7 Pedestrian and Cycle Infrastructure

- 6.7.1 The applicant did not address Item 17 of the further information, stating the permeability of connections from the proposed development to the wider village is outside of the applicant's control, and that the applicant has no responsibility for lands outside of their control.
- 6.7.2 If the applicant is providing 98No. dwellings, and increase of 31% in housing stock, then it is their corporate and moral responsibility to adhere to the proper planning and sustainable development of the area. The developer must cater for the population impact. A special development levy should be imposed to undertake a permeability audit and works to facilitate the development which JC Brenco is financially benefitting from.
- 6.7.3 The applicant has deferred the provision of connectivity and permeability from the development, and the local authority do not have the time or resources to be installing pedestrian and cycling infrastructure. The road leading to the school and subject site is 'lined' to allow for pedestrian movement, but this is not safe. There needs to be physical infrastructure to cater for a 31% increase in population.
- 6.7.4 It is logical that a smaller site with a smaller number of dwellings would be consistent with the pattern and size of Ballylynan, and more appropriate in terms of sustainable planning. The 3-phase development plan, however the landscape plan, traffic management plan, construction management plan, ecology plan all lack phasing planning to match the development plan which would indicate that there is no real phasing plan at all.

6.8 Conclusion

- 6.8.1 The community are not opposed to development but are opposed to poor development that will add nothing to their village. There is no need to construct 98No. dwellings in one development. It will be completely out of scale and character with the existing village. The development needs to be consistent with the current pattern and scale of Ballylynan. The proposal should be refused on this basis.

6.2 Applicant Response

Ger Fahy Planning has responded to the third-party appeal on behalf of the applicant. A summary of the response is as follows:

- 6.2.1 The third party appeal is invalid because there was no fee paid with the submission within the 5 week period. It states in the submission please transfer fee from 21/885. There is no provision in the legislation for doing this. There was no fee paid, therefore the submission should have been returned as invalid.
- 6.2.2 The names and addresses of the people appealing the decision have not been given. The appeal refers to 43No. submissions. The concerned group do not have a registered Chairperson or Secretary, no addresses of the community. The third party appeal has been made by the Ballylynan Community Council and not on behalf of other observers.
- 6.2.3 Brenco Developments Ltd are the legal owners of the site. This is confirmed on appeal by a solicitor's letter, indicating the purchase of the property was completed on 25/09/2019.
- 6.2.4 The proposal is accompanied by an archaeological assessment and provided for a 20metre buffer from the monument. The planning application is not misleading.
- 6.2.4 The anti-developer tone to the appeal is unhelpful, as developers have a critical role in providing housing and other developments throughout the country. The proposal is located in a small town designated for development. The proposal is plan -led.

6.2.5 ***National Planning Framework***

- The proposed development provides the delivery of much needed residential accommodation in the area within the vision of the National Planning Framework (NPF).
- The site is a brownfield site where planning permission previously existed and there were surface water infrastructure provided in order to accommodate development on the site, the proposal accords with the NPF. The target of the NPF is to provide 40% of all new housing to be delivered within existing built up towns, villages and cities. The site is located beside a school and graveyard within walking distance of the main street.
- The proposal represents compact orderly growth on residentially zoned land.
- The proposal provides for population growth on an infill site within walking distance of all local amenities.

6.2.6 Laois County Development Plan 2021-2027

- Durrow, Rathdowney and Ballylynan are included within a tier of the settlement hierarchy of the development plan. Facilitating housing is paramount to ensuring the vitality, sustainability and viability of rural places in the county. Ballylynan is a designated Small Town with a population of 1101 in 2016 and 1167 in 2022.
- The proposed development provides for the regeneration of an unfinished infill estate and conforms with the policies in the Laois County development Plan for consolidated and regeneration of towns.

6.2.7 Response to Third Party Appeal

- It is unclear who the concerned group are. They do not have a registered chairperson or secretary, nor have they included the names and addresses of members. The appeal refers to 43No. other submissions, but none of them are observers to the appeal. The appeal was made by the Ballylynan Community Council, and not on behalf of the observers.
- JC Brenco Developments Ltd are the legal owners of the property. A letter from applicants solicitor confirms this. The purchase of the land was completed on 25/09/2019.
- The application is accompanied by an archaeological assessment and provides a 20m buffer from the monument.
- The land is zoned for residential development and community/ education and is located in a designated Small Town as per the development plan. The development is therefore Plan-led.
- Threats of judicial review are unhelpful especially when made by an unknown entity. The appellant is attempting to predetermine the decision of the Board and the courts.
- The proposal is below the threshold for a SHD. The SHD process concluded accepting applications on 20th of January 2023, so the appellants are factually incorrect in their statement. The tone of the appeal is disrespectful to all personnel involved in the planning system and serves no purposes other than to highlight the vexatious nature of the appeal.

- The appellant has failed to acknowledge the provision of a crèche within the proposal. The appellants suggestion the town lacks a vibrant built environment is unsupported and does disservice to the quality of the town. The existing estates fit well into the existing town. The applicant is a local builder who is seeking to invest into the town and deliver a high-quality residential scheme and creche which would contribute to the social infrastructure of the town.
- The size, scale and mass of the proposed development is similar to that of other existing estates. Connections to the town centre will be facilitated through the development. The mass and patter of development is typical of a rural town and is well laid out to provide an attractive residential development for future residents.
- The NIMBY approach of the appeal is rejected. The appeal fails to acknowledge that businesses need a certain population to support businesses. The closure of pubs is not a planning disaster, or a fault of the applicant. It reflects a changing social environment for rural towns and villages in a post-Covid era.
- In terms of traffic, the appellant has not provided any technical or quantifiable supporting traffic information. Personal traffic counts cannot be taken into consideration to independent traffic assessments carried out by professional engineers and an independent Road Safety Audit carried out under licence. The Traffic assessment was carried out following a professional traffic county, site inspection using TII approved technology for traffic modelling.
- Congestion at school times is a fact of life and should not prevent appropriate development of zoned lands.
- The appellant provides no quantifiable predicted traffic analysis to support their case.
- Its incredible a planning consultant would not highlight the benefits of locating the development alongside a school. The development is within walking distance of the town centre. The proposal will not give rise to any traffic impact or traffic safety concerns.

- The development plan shows objectives for improving footpaths and lighting alongside the L73711. Any upgrades to public footpaths and cycle lanes can come from the development Contribution Scheme which the applicant is happy to contribute to. The provision of same is the responsibility of the local authority and not applicant.
- The location, layout and design is modest and reflects the established character and pattern of development in the surrounding area.

6.3 Planning Authority Response

There was no further comment from the planning authority on appeal.

6.4 Observations

None.

7 Assessment

7.1 Having inspected the site and considered the appeal documents, I will examine the appeal under the following headings:

- Planning Policy
- Site Layout and Design
- Traffic
- Social Infrastructure
- Other Matters

7.2 Planning Policy

7.2.1 The subject site is located within the settlement boundary of Ballylynan, at the north western edge of the village. The site is currently under grass and is overgrown along its boundaries. Access to the site will be from a roundabout located on the Athy Road. I note that there are numerous policies and objectives in the operative Plan that support residential development within existing settlement boundaries on such sites. Ballylynan is identified as a town in the Core Strategy of the Laois County

Development Plan 2021-2027. The Plan includes a Zoning Map and an Objectives map for the town. Core Strategy 05 of the County Development Plan is to support the regeneration of underused town centre and brownfield/infill lands along with the delivery of existing zoned and serviced lands to facilitate population growth and achieve sustainable compact growth targets of 30% of all new housing to be built within the existing urban footprint of targeted settlements in the County.

7.2.2 The subject site is zoned for 'Residential' Uses. A portion of the site is also zoned for Community// Educational Institutional, where the proposed creche is located. The principle of residential development has been previously established on the site by the planning authority, under planning reference **04/1577**, (Planning permission granted for 153No. units including demolition of Whelan's garage and a vehicular access off the N78). There is a recognised need for additional dwellings within the existing footprint of Ballylynan and the proposed development would aid in meeting these housing targets of the planning authority. I am satisfied with the density proposed, and I consider it to be in compliance with the provisions of the Guidelines on Sustainable Residential Development and Compact Settlements for small towns of 1500-5000 people, although the proposed density is at the lower end of the scale. There are a number of established services and facilities within walking distance of the proposed development. There is a national school on the adjoining site to the north-west.

7.2.3 I note the concerns of the appellants regarding the proposal been developer-led. However, given the zoning of the site, its location within the development boundary of Ballylynan on serviced lands, and the pattern of residential development in the general vicinity of the subject site, I consider the proposal represents a sequential development of the existing town. The proposal was amended by way of significant further information revisions at the request of the planning authority. The aim of the revised design was to reduce the visual impact and residential amenities impacts on the receiving environment, and to ensure the footprint of the proposal remained within the zoned lands and an adequate separation distance from the adjoining graveyard to the north of the site and an adjoining national monument.

7.2.4 I am satisfied that the principle of residential development is acceptable on this site and that the proposal would aid in achieving targets for residential development within the settlement, while also improving the visual amenity of this underutilised

site within the built-up area. The site includes remnants of former construction work from the previously permitted residential development on the site. In my opinion, given its location, the proposal represents the natural progression of Ballylynan town.

7.3 Site Layout and Design

7.3.1 As stated the planning authority requested extensive further information after the planning application was originally received. The site boundaries were modified to ensure the development remained inside the development boundary and zoning objectives of the current development plan for the area. I refer to the revised proposal submitted on the 20th of October 2023. The revised scheme includes **98No. dwellings and a creche.**

7.3.2 Access to the proposed development is from the southern egress on an existing roundabout off the Athy Road. The front building line/ streetscape is setback into the site away from the roundabout. The main spine road progresses in a southerly direction, branching east to the proposed creche and a number of single storey semi-detached units and 3No. detached two storey dwellings. The remainder of the development consists of short cul de sacs of detached and semi-detached two storey dwellings. Each dwelling has a private carparking space and rear garden area. The layout reflects the existing layout of the adjoining Gracefield Manor and The Village estates. There is a large central open space area overlooked by houses on all sides. The open space areas possess good passive surveillance. The carparking provision complies with the development plan standards.

7.3.3 The overall house design is basic, with a render finish with some brick detailing on the front facades. Most of the dwellings are semi-detached, with a number of detached units. The housing mix is adequate and will ensure a variety are family sizes and ages are catered for within the scheme. The creche building includes 18No. carparking spaces, and it is safely tucked into the north-eastern corner of the scheme, and easily accessible from the main entrance.

7.4 Traffic

7.4.1 The proposed access for vehicles is via an existing roundabout on the L79711 road, which is a single carriageway rural road within the 50kmph speed limit. The applicant was requested by way of further information to address the additional traffic to be generated by the proposed development and its impact on the existing carrying

capacity of the road. The traffic surveys revealed there is ample capacity along the Athy Road and the roundabout during peak am times, and there were no recorded traffic delays. Using an ARCADY 10 traffic model, the report concluded the roundabout can readily cater for the 98No. residential estate. It is expected there would be a certain amount of congestion at school drop off and collection times. These are short time frames and are not exclusive to St. Patricks school in Ballylynan. There is a large set down area to the front of the school, which allows for ease of traffic flow. Another aspect of this development which is a planning benefit is the proximity of the national school on the adjoining site. The proposed development will enable pedestrian permeability from the existing residential estates, Gracefield Manor and The Village, to the school, which will reduce the drop off using cars from the two estates.

7.4.2 The appellant rejects the findings of the two traffic reports on file. However, the appellants have provided no technical and quantifiable evidence to refute the findings of the professional reports on file. The planning application also includes a submission from the applicant on the 12/12/2023 relating an accessibility audit carried out in accordance with the Design Manual for Urban Roads and Streets guidance and Transport Infrastructure Ireland standards, particularly identifying pedestrian crossing points. There will be pedestrian accessibly provided from The Village and Gracefield Manor estates via the proposed development. This will provide greater permeability to the school and wider village services for the existing and future residents. In addition, the applicant is also willing to provide a further controlled Belisha Beacon type pedestrian crossing on the L79711, within the southeastern arm of the existing roundabout junction. The submission also included a Stage 1 and Stage 2 Road Safety Audit. I am satisfied the proposal will not result in undue traffic congestion, or a potential traffic and pedestrian hazard within the built up area of Ballylynan.

7.7 Other Matters

- The applicant JC Brenco Developments are the legal owners of the site, by confirmation of solicitors letter. The appellant's claims otherwise are not based on legal evidence.

- The application contains an archaeological impact assessment and the applicant is fully aware that a potential of the site is within a zone of archaeological potential. The application was referred to the Department of Housing, Local Government and Heritage. It is noted that the proposed development is within directly alongside recorded monuments LA026-003----Class: Church and LA026-003001-Class: Graveyard, which are subject to statutory protection in the Record of Monuments and Places, established under section 12 of the National Monuments (Amendment) Act 1994. There are 3No. archaeological conditions recommended:

A buffer area of 20 metres shall be implemented around Recorded Monuments.

LA026-003----Class: Church and LA026-003001-Class: Graveyard. No ground works shall be carried out within the buffer area, including boundary works, landscaping or ground reduction. The buffer area shall be fenced off and protected during construction and shall not be used for storage or vehicular access.

2. All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist under licence, for a distance of 100 metres around the established buffer.

3. Should archaeological material be found during the course of works, the work on the site shall be stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

- The claims by the appellant that the applicant was attempting to avoid Strategic Housing Development (SHD) process are bizarre given there was a public consultation process with the process. The SHD process was replaced by the Large Scale Residential Developments in December 2021. The Large Scale Residential Development applications involve a Section 247 consultation process.

- The issue over vacant properties in the village, is not relevant to the appeal. The critical mass created by 98No. additional dwellings in the town will help sustain local businesses.
- The issue regarding the lack of social infrastructure raised by the appellants, fails to acknowledge a creche is being provided within the overall scheme. In my opinion, the closure of pubs and businesses within the village is not relevant to the current proposal. As stated, the critical mass created by the proposed development should improve businesses and services in the Ballylynan. This is the underlying principle of the Core Strategy in the County Laois Development Plan.
- The Ballylynan Objectives Map in the Laois County Development indicates a footpath and public lighting improvements are envisaged for the Athy Road. Of highlight is the area to the front of the graveyard where the tarmacadam road has the pedestrian area indicated by a painted line. The works required to upgrade the public footpath and lighting in the vicinity of the site are the responsibility of the local authority and not the developer. The developer will provide a contribution towards the cost of the public infrastructure benefitting the proposed scheme through a condition requiring payment via the development constriction scheme.
- The proposed scheme includes a phasing scheme, which is 3No. phases as per the Drawing submitted on 20/10/2023.
- The Housing section of the planning authority indicated no objections to the proposed development in its report. It stated the standard Part V agreements are required.
- The Construction Management Plan was submitted on 20th of October 2024. The hours of construction are noted under section 3.3 of the report, and are standard working hours. The site environmental measures are outlined under section 4 of the report, and are standard practice.
- The surface water drainage system proposed is outlined on Drawing No. 67.23 -01. Comprehensive longitudinal sections and specifications were submitted on 12/12/2023. The stormwater management system in accordance

with the recommendations of the CIRIA C753 SuDS Manual 2015. The SuDS design addresses water quantity, water quality, amenity and biodiversity. The final design includes permeable paving, planting, and attenuation with a petrol interceptor. A detailed report prepared by Geoenvironmental in December 2023, regarding Soil Infiltration and Surface Water Design. It is proposed that the surface water run-off from >90% of rainfall events (up to including 1:10 yr events) will be managed on site via a StormTech Infiltration System with the necessary excess only if or when required in the case of rare weather episodes (i.e >1:10 yr events) being discharged to the existing surface water drainage network which will be connected to the Storm system located the adjoining Gracefield Manor Housing Estate. All run-off generated from the proposed development will be diverted through a by-pass Petrol & Oil Interceptor. There were soil infiltration tests carried out on site. Soil Infiltration tests were completed in accordance with BRE 365 Digest Guidance Document – Soakaway Design.

8.0 AA Screening

8.1 Screening the need for Appropriate Assessment

8.1.1 Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development of 98 residential units, creche and ancillary site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

8.1.2 A screening report for Appropriate Assessment was undertaken by the Local Authority assessment of the proposed development, Appropriate Assessment Screening (pages 29-31 of Planner's Report dated 15/03/2023) was undertaken by Laois County Council as part of their planning assessment and a finding of no potential for significant effects on a European Site was determined. Laois County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

- 8.1.3 A detailed description is presented in Section 2 of my report. In summary, the proposed development site, is located within the townland of Rahin, to the northwest of the existing settlement of Ballylynan, Co. Laois, circa 3km from the Co. Kildare border. The site adjoins existing residential developments to the south and a school to the northwest. It is currently under grass and is relatively flat, with some mounding evident. The site, as outlined in red, has a stated area of 6.08 hectares. Access to the site is via an existing roundabout on the Athy Road. There are no drainage ditches or surface water ditches associated with the site. The proposed development will be served by public mains connections. Foul wastewater from the development will be dealt with in the WWTP in Ballylynan. Uisce Eireann have expressed no objections, to the proposal subject to conditions. There are no registered wells in the vicinity. SuDS measures are proposed, which are standards measures in all new such developments and are not included to avoid/reduce an effect to a Natura 2000 site. The site is not located within a flood risk area. There are no invasive species recorded on site. Habitats on site are of local biodiversity value only.
- 8.2 The planning authority state the proposed development will not affect the integrity of the River Barrow and River Nore SAC (Site Code 002162) or any other European site. The Department of Housing, Local Government and Heritage state the habitat and ecological mitigation and enhancement measures as outlined in the ecology report submitted as part of the application for planning be included as conditional to planning and be enforced for the duration of the existence of the development. There are no natural, surface water courses on or adjacent to the development site.
- 8.3 **European Sites** The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). The proposed development site is close to the built-up residential area and located in Ballylynan town on lands zoned for residential development.
- 8.4 The boundary of the nearest European Sites to the proposed development is

- River Nore and River Barrow Harbour SPA is located approximately 5km east of the proposed development site.
- Ballyprior Grassland SAC (site code 002256) is situated about 6.6 km to the north-west of the site.

As there was no source-pathway-receptor between the proposed development site and both of the two European sites, it was deemed to not require further investigation by the applicant in the Ecology Report. The planning authority agreed with this assertion.

I will further examine **River Barrow and River Nore SAC (002162)** in this light:

Qualifying Interest	Conservation Objective
(Freshwater Pearl Mussel) [1029] (White-clawed Crayfish) [1092] (Sea Lamprey) [1095] (Brook Lamprey) [1096] (River Lamprey) [1099] Twaite Shad [1103] (Salmon) (Otter) [1355]	Maintain Favourable Conservation Condition

Likely impacts of the project (alone or in combination)

Due to the enclosed nature of the development site, the limited scale of development and the presence of a significant distance between this existing site and the River Barrow and River Nore SAC, I consider that the proposed development would not be expected generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors. The proposed development would not have direct impacts on any European site. There are no spatial overlaps with any Natura 2000 site.

During site clearance and construction of the proposed development, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water. However, the contained nature of the site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to River Barrow and River

Nore SAC, make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

Likely significant effects on the European sites in view of the conservation objectives

The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance. SuDs measures are proposed (standard construction practices); the site is not located within a flood zone and both the planning authority and Uisce Eireann are satisfied with the arrangements put forward. There is no evidence that discharges from the WWTP are negatively affecting habitats/birds using the River Barrow and River Nore SAC.

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 individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site, including River Barrow and River Nore SAC and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The scale of the development and lack of impact mechanisms that could significantly affect a European Site
- Distance from and weak connections to the European sites
- Taking into account screening determination by planning authority.

9 Recommendation

I recommend that the planning authority's decision to grant planning permission for the proposed development be upheld by the Board, subject to the following conditions.

10 Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Laois County Development Plan 2021-2027, and having regard to all the relevant guidelines issued by the Minister under section 28 of the Planning and Development Act 2000, as amended and the National Biodiversity Action Plan 2023-2030, it is considered subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the properties in the vicinity, would not lead to the creation of a traffic hazard or obstruction of road users, would improve permeability within the area and would not be prejudicial to public health. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

11 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 received by the planning authority on the 28/07/2023, 20/10/2023, 12/12/2023 and 23/01/2024 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. Prior to the commencement of the development, the developer shall submit to the planning authority for written agreement:
 - (a) Details relating to the proposed pedestrian link(s) to the adjoining Gracefield Manor and The Village residential estate, to include, design, alignment, signage and public lighting details, as required by the planning authority. The connections shall be provided by the developer at the developer's expense.

- (b) A sample of the brick finish and revised House Plans for House Type I
 - (c) Details of the materials, colours and textures of all the external finishes to the proposed (dwellings/buildings} shall be submitted.
3. Not more than 75% of the residential units permitted in this decision shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed at this time.
- Reason:** To ensure the childcare facilities are provided in association with residential units.
4. The developer shall comply with all of the requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:
- (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority, as per the Roads Design Office reports on the planning file, and shall be carried at the developer's expense;
 - (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner/turning radii.
 - (c) The materials used in any roads/ footpaths provided by the developer shall comply with the detailed standards of the planning authority for such works.

A detailed construction traffic management plan shall be submitted to and agreed in writing with the planning authority prior to the commencement of the development. The plan shall include details of arrangements for routes of construction traffic, parking during the construction phase, the location of the compound storage of plant and machinery and the location for storage of deliveries on site.

Reason: In the interests of traffic safety and convenience.

5. The proposed development shall provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details details of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points shall be submitted to and agreed in writing with the planning authority prior to the commencement of the development.

Reason: In the interest of sustainable transportation.

6. Site development and building works shall be carried out only between the hours of 8.00-18.00 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services, and in accordance with the submission documents dated stamped 12th of December 2023. Prior to the commencement of the development, the developer shall submit to the planning authority for written agreement, a Stage 2 – Detailed Design Stage Storm Water Audit. Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority.

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

8. Prior to the commencement of the development, the developer shall enter into a Connection Agreement (s) with Uisce Eireann (Irish Water) to provide for a service connections (s) to the public water and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/ wastewater facilities.

9. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority [in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

10. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

11. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) A plan to scale of not less than [1:500] showing –
 - (i) Existing trees, hedgerows, specifying which are proposed for retention as features of the site landscaping
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include prunus species
 - (iv) Details of screen planting which shall not include cupressocyparis x leylandii
 - (v) Details of roadside/street planting
 - (vi) Hard landscaping works, specifying surfacing materials, furniture and finished levels.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development and shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential amenity.

13. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and amenity.

14. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection.

15. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development/ installation of lighting.

Reason: In the interests of amenity and public safety.

16. All service cables associated with the proposed development (such as electrical and telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

17. If, during the course of site works any archaeological material is discovered, the City/County Archaeologist/Planning Authority shall be notified immediately. The developer is further advised that in this event that under the National Monuments Act, the National Monuments Service, Dept. of Housing, Heritage and Local Government and the National Museum of Ireland require notification.

Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

19. Boundary treatment shall be in accordance with the revised plans and particulars received on 20/10/2023 and 12/12/2023. Concrete block screen walls shall be suitably capped and plastered on the sides which have public facades.

Reason: In the interests of residential amenity.

20. The mitigation measures outlined on Page 4 of the Ecology Report submitted with the planning application shall be implemented in full by the applicant. Full details of the applicant's proposal to comply with the measures shall be submitted to and agreed with the planning authority in writing prior to the commencement of the development.

Reason: In the interest of proper planning and sustainable development of the area.

21. Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

22. 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.

Note: The applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

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

30th of November 2024

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-319263-24
Proposed Development Summary	Construct 98No. Dwellings, creche and all associated site works
Development Address	Rahin, Ballylynan, Co. Laois.
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	Size of the proposed development is not exceptional in the context of the existing environment. Development of 98 residential units and creche within existing, built-up area. Connecting to existing infrastructure
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites,	Not exceptional in the context of the existing environment. Zoned, serviceable site within built-up area of Ballylynan.

densely populated areas, landscapes, sites of historic, cultural or archaeological significance).		
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Proposed development is not located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species. Mitigation measures proposed to protect local ecology. No PS on site. No protected species or habitats on site	
Conclusion		
Likelihood of Significant Effects		No
There is no real likelihood of significant effects on the environment.	EIA is not required.	

Inspector: Caryn Coogan Date: 30th of November 2024

