



An
Bord
Pleanála

Inspector's Report

ABP-321039-24

Development	Construct a new dwelling house & garage, septic tank with percolation area, change existing agricultural entrance to private dwelling entrance and all associated site works
Location	Debicot, Mountmellick, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	24/60103
Applicant(s)	David Whelan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	David Whelan
Observer(s)	None.
Date of Site Inspection	7 th March, 2025

Inspector

Aiden O'Neill

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The proposed development site, c. 0.32ha in area, is generally level (c. 72-73mOD) and irregular in shape, and is an infill, greenfield site in agricultural used, located to the south of, and accessed by, the single-carriageway R422 in the townland of Debicott, Mountmellick, Co. Laois. There is an existing wooden gated access and dropped kerb from the R422, and internal hardstanding area immediately inside the gate. The site boundaries are generally characterised by a hedgerow, with some trees. The north-western boundary has a low stone pillar and wall at the site entrance and a wooden fence to the front of the hedgerow, which runs to the boundary with the neighbouring property to the west.
- 1.2. There are 4no. primarily single-storey dwellings to the immediate west of the site and a further 2no. single-storey dwellings further west. The nearest dwelling to the west is part single-storey, part -two-storey and is orientated on a north-east/south-west axis, with a single-storey shed structure forming part of the front boundary with the R422. There are a further 3no. dwellings to the east. The dwelling to the immediate east is the applicant's family home. There are a further 10no. primarily single-storey dwellings to the north. There is a total of 5no. existing dwellings with accesses onto the R422 located to the immediate north and east of the proposed development site.
- 1.3. The speed limit at the proposed development site is 80kph, with a 60kph speed limit stated to be c. 56m to the east.
- 1.4. The site is located c. 680m to the east of Mountmellick and c. 480m to the west of the Rock GAA Club and further west of the Rock National School. The R422 is generally straight in the direction of Mountmellick, and veers slightly generally at the location of the 60kph speed limit in the direction of the Rock GAA Club.

2.0 Proposed Development

- 2.1 The proposed development consists of the construction of a new dwelling house & garage, septic tank with percolation area, change existing agricultural entrance to private dwelling entrance and all associated site works. The application is accompanied by a letter of consent from the applicant's father, together with a map illustrating the entire landholding to the south of the proposed development site and adjoining family home.

- 2.2 The proposed 4no. bedroom (or 3-bed plus study) dwelling is modern in design, is single-storey (plus attic, c. 1.92m in height) and of a long, narrow plan, parallel to, but set back by c. 28.3m from, the R422. The ground floor plan of the dwelling is 182m². The single-storey garage (35m²) is located to the east of the dwelling by c. 6m. Both the dwelling and garage have a FFL of 73mOD. The maximum ridge height of the dwelling is c. 5.6m, and the ridge height of the garage is c. 4.4m.
- 2.3 Proposed materials include black/blue slate, napp plaster, black/grey rainwater goods and triple glazing.
- 2.4 It is proposed to connect to the public water supply, and a septic tank with percolation area is also proposed. Surface water is to be treated by a soakpit.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refused planning permission on 18th September, 2024 for 2no. reasons.

1. The proposed development is located on the R422, a Strategic Regional Road where a 80kph speed limit applies and where it is the policy of the Laois County Development Plan 2021-2027 as set out under policy TRANS 22 to “Prohibit unnecessary access onto strategic regional routes in areas where speed limits in excess of 50kmph applies”. The proposed development would therefore materially contravene the policies and objectives of the Laois County Development Plan 2021-2027. Further, the proposed development, located on a Strategic Regional Road, by itself, or by the precedent which the grant of permission would represent, could lead to a proliferation of similar type developments, would reduce the capacity of the road, would interfere with the safety and free-flowing nature of traffic on the road and would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the proposed vehicular access to the site which is located on the R422, a Strategic Regional Road where a 80kmph speed limit applies and the failure to demonstrate that adequate sightlines of 3m x 180m, as required under the provisions of the Laois County Development Plan 2021-2027, to comply with the Roads and Parking Standards 2007, the proposed development would endanger public safety by reason of traffic hazard, the

obstruction of road users and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.1.1. Conditions

N/A.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Executive Planner dated 22nd April, 2024 notes that the applicant is a son of the landowner, and the site is part of the family farm. A herd number and map has been submitted, as has the applicant's birth certificate and recent correspondence confirming that he has lived in this local rural area for a substantial period of time. The applicant is currently living and working abroad but intends to return home in 2026 to continue to work with his current employer but also farm with the intention of eventually taking over the running of the family farm.
- The Executive Planner notes that the applicant has confirmed a need to live in the rural area for the purposes of farming, but is requested to confirm that this would be his first dwelling in the rural area.
- It is also stated that the proposed dwelling, which is contemporary in style, is well set back from the frontage of the site. The dwelling proposed is considered to be designed and sited appropriately. The design, scale and height of the garage is also considered to be acceptable.
- There are no concerns in relation to impacts on the residential amenities of adjacent dwellings, and the applicant is not proposing any hedgerow removal works.
- The key consideration is Section 10.1.3.3 of the Laois County Development Plan 2021-2027, which states that the Council shall adopt a restrictive policy in relation to new development on Strategic Regional Roads in the interests of traffic safety. It is stated that the road is heavily trafficked with the subject site located on a point on the R422 where an 80kph speed limit applies. As such Policy TRANS 22 of the Laois County Development Plan 2021-2027 applies, which reiterates the position of the Council as set out in Section 10.1.3.3, to "Prohibit unnecessary access onto strategic regional routes in areas where speed limits in excess of 50kmph applies".

- In addition, access from the proposed development is onto the R422 Strategic Regional Road where sight distances of 3m x 180m are required in accordance with the Laois County Council Roads & Parking Standards 2007. The applicant has shown that 3m x 120 sight distances can be achieved which is well below the recommended standard.
- Further Information (RFI) was requested on 23rd April, 2024 and a response was received on 22nd August, 2024.
- The RFI requested the following details:
 1. Local Need – confirmation that this the applicant’s first house.
 2. Strategic Regional Road
 - a) The Planning Authority notes that the proposed development is located on the R422, a Strategic Regional Road where a 80kph speed limit applies. The applicant is requested to comment on the material contravention of the policies and objectives of the Laois County Development Plan 2021-2027, including policy TRANS 22 to “Prohibit unnecessary access onto strategic regional routes in areas where speed limits in excess of 50kmph applies”, and that the proposed development, located on a Strategic Regional Road, by itself, or by the precedent which the grant of permission would represent, could lead to a proliferation of similar type developments.
 - b) The applicant is requested to clarify if there is land within family landholding with access onto a local road.
 3. Traffic Safety:
 - a) Submit a revised 1:500 site layout plan, annotated photographic and topographic survey clearly showing sight distances of 180 metres achievable on either side of the site entrance in strict accordance with Laois County Council document Roads and Traffic Standards, section 2.1.
 - b) the driver joining the road or turning right into the entrance shall be able to have full unobstructed vision along the required sight line distance.
 - c) the written consents of the relevant third parties are required to be submitted as appropriate.
 - d) confirm the full extent of hedgerow removal works to achieve the required sight distances as set out above.

4. Uisce Eireann: the submission of a Pre-Connection Enquiry (PCE) in order to determine the feasibility of connection to the public water/waste water infrastructure.

The applicant responded on 22nd August, 2024 stating that:

- This is the applicant's first house to own in any rural area. It is a new dwelling house for a farmer's son wishing to build a new house on the family farmland. When the applicant returns from work placement abroad, he will be taking over the running of the family farm while also maintaining other employment. The applicant will need to live on the farm to take care of livestock. There is no land with access onto local roads. A personal & confidential letter from the applicant's father explaining a personal medical need for his son (the applicant) to live beside him is included.
- A revised 1:500 site layout plan with sightlines from a 3 metre setback at the entrance from a drivers eye height of 1.05 metres to an object height of 1.15 metres located in both directions from the entrance to the nearside edge of road.
- A sightline of 180 metres is achievable to the west/left direction from the entrance. The neighbouring garden hedge will be maintained at a height of 0.95 metres to facilitate this sightline. A letter from the neighbouring property owner confirms agreement to maintain the garden hedge at 0.95 metres.
- A sightline of 125 metres is achievable to the east/right direction from the entrance. This sightline will require no removal or maintenance of hedgerow not in the ownership of the applicant. The garden hedges to the right of the site are currently setback 4 metres from the road edge. It should be noted that although 180 metres of sightline is not achieved to the east/right of the entrance a 60kph speed limit exists along this section of road. Therefore cars approaching the subject site and entrance will be coming from a 60kph speed limit, this speed limit changes to 80kph just 56 metres from the site. This slower speed limit should be taken into consideration when reviewing the available sightline distance from the east/right direction approaching the site. It should also be noted there is an active campaign to have the 80kph speed limit on this section of road reduced to 60kph.
- A letter dated 17 May 2024 from Uisce Eireann confirms feasibility of mains water connection to this site without upgrade.

- The Executive Planner's report dated 12th September, 2024 on the response to the RFI notes that the response of the applicant in relation to local need, and the Confirmation of Feasibility from Uisce Éireann is acceptable.
- However, the Executive Planner noted that the proposed development would therefore materially contravene the policies and objectives of the Laois County Development Plan 2021- 2027. Further, the proposed development, located on a Strategic Regional Road, by itself, or by the precedent which the grant of permission would represent, could lead to a proliferation of similar type developments, would reduce the capacity of the road, would interfere with the safety and free-flowing nature of traffic on the road and would therefore be contrary to the proper planning and sustainable development of the area. It is also noted that Roads Design have recommended refusal as it is contrary to TRANS 22.
- Noting the failure to demonstrate that adequate sightlines of 3m x 180m, as required under the provisions of the Laois County Development Plan 2021-2027, to comply with the Roads and Parking Standards 2007, the proposed development would endanger public safety by reason of traffic hazard, the obstruction of road users and would, therefore, be contrary to the proper planning and sustainable development of the area. It is also noted that Roads Design have recommended refusal as the necessary sightlines cannot be achieved.
- The Executive Planner's report is the basis for the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

- The report of the Executive Technician dated 3rd April, 2024 on the site suitability assessment noted that the results are in accordance with Code of Practice Domestic Wastewater Treatment Systems for Single Houses (Population Equivalent < = 10).
- The report of the Senior Executive Engineer, Waste Management & Environmental Protection dated 18th April, 2024 recommends permission subject to conditions.
- The report of the Executive Engineer, Road Design Office dated 18th September, 2024, restates the recommendation of the report of 22nd April, 2024 of a refusal of permission on 2no. grounds, including a material contravention of policy objective Trans 22 of the Laois County Development Plan 2022, and that the proposed access does not meet the Laois

County Council Roads and Parking Standards 2007 in relation to the requirement for 180m of sightlines to the nearside of the road.

3.3. Prescribed Bodies

Uisce Éireann made a submission during the original period requesting engagement by way of a pre-connection enquiry.

3.4. Third Party Observations

There are no observations on file.

4.0 Planning History

There is no record of any planning history pertaining to the proposed development site.

5.0 Policy Context

Development Plan

- The applicable Plan is the Laois County Development Plan 2021-2027.
- By reference to Map 4.1 of the Laois County Development Plan 2021-2027, the proposed development site is located in a Rural Area Under Strong Urban Influence.
- Table 4.4 of the Plan states that it is an objective to recognise the individual housing needs of people intrinsic to the rural areas located within the areas defined as 'rural areas under strong urban influence'. Such needs may be accommodated on lands within the rural area under strong urban influence, subject to the availability of a suitable site and normal proper planning and sustainable development criteria:
 - a) the application is being made by a long term landowner or his/her son or daughter seeking to build their first home on the family lands; or
 - b) the applicant is engaged in working the family farm and the house is for that persons own use; or
 - c) the applicant is working in rural activities and for this reason needs to be accommodated near their place of work; or

- d) the application is being made by a local rural person(s) who have spent a substantial period of their life living in the local rural area, and, who for family and/or work reasons need to live in the rural area.
- Policy Objective DM RH 1 with respect to new dwelling houses in rural areas, sets out a range of criteria will be used to assess if a rural site is acceptable in principle for a dwelling house. The criteria are detailed in Appendix 7: Rural Design Guidance.
 - Policy Objective DM TRANS 2 states that where sightlines are inadequate and would give rise to a traffic hazard, development will not be permitted.
 - Policy Objective DM TRANS 2 states that sightline requirements are determined by the Council having regard to Laois County Council Roads and Parking Standards (2007) guidelines (and any and in exceptional circumstances on a case by case basis. Factors including the type, speed limit and condition of the road shall be taken into consideration: Where sightlines are inadequate and would give rise to a traffic hazard, development will not be permitted.
 - Policy BNH 28 of seeks to preserve, maintain and protect native hedgerows within the County and, therefore, hedgerow removal works should be kept to an absolute minimum.
 - DM HS 15 of the Plan in relation to infill development in rural areas states that Infill development is encouraged in principal where it does not adversely affect neighbouring residential amenity (for example privacy, sunlight and daylight), the general character of the area and the functioning of transport networks.
 - DM RH 2 of the Plan in relation to infill development in a rural area states that limited infill development shall be permitted in rural areas where the proposed site shall coalesce the existing linear pattern of development and shall not be located at the end of a line of houses but on a vacant site within the existing linear form of development subject to the following:
 - The applicant satisfies the local need criteria contained in Table 6;
 - Evidence is provided that no other sites are available on the applicants or family landholding that can be developed;
 - Wastewater treatment can be provided for the proposed dwelling in line with the EPA Code of Practice (2009);

- Maintains the existing building line and established lengths of site frontage with adjacent dwellings;
- Complies with the road standards in the Roads and Parking Standards (2007) or amended document
- Has a minimum 0.202 hectares (0.5 acres) of site area;
- The house design proposed is in line with the advice contained within the following:
 - The Landscape Character Assessment contained in Appendix 6
 - The Rural Design Guide contained in Appendix 7
- The site is not located in a flood zone, and there are no built heritage designations on the site or in the vicinity.
- By reference to Map 11.7 of the Laois County Development Plan in relation to Landscape Character, the site is located in a Lowland Agricultural Area. Table 11.6 of the Plan notes that such character areas have low sensitivity with capacity to absorb a wide range of uses. There are no scenic views or prospects at the proposed development site or in the vicinity.

5.1. Relevant National or Regional Policy / Ministerial Guidelines (where relevant)

5.1.1 Sustainable Rural Housing Guidelines for Planning Authorities (2005)

These guidelines differentiate between Urban Generated Housing and Rural Generated Housing and directs urban generated housing to towns and cities and lands zoned for such development. A number of rural area types are identified including rural areas under strong urban influence which are defined as those in proximity to the immediate environs or close commuting catchment of large cities and towns. Urban generated housing has been identified as development which is haphazard and piecemeal and gives rise to much greater public infrastructure costs. Examples of rural generated housing need outline 'persons who are an intrinsic part of the rural community' to include people who have lived most of their lives in rural areas and are building their first homes, and 'persons working full-time or part-time in rural areas'.

5.1.2 National Planning Framework (NPF) (2018)

National Policy Objective 15 seeks to support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

National Policy Objective 19 makes a distinction between areas under urban influence and elsewhere. It seeks to ensure that the provision of single housing in rural areas under urban influence on the basis of demonstrable economic and social housing need to live at the location, and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. Natural Heritage Designations

The River Barrow and River Nore SAC (002162) is located c. 1.36km to the west of the proposed development site. Mountmellick SAC (002141) is located c. 2.27km to the north-east of the proposed development site

6.0 EIA Screening

See Form 1 and Form 2 attached to this appeal. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- The First Party appeal against the refusal of permission makes the following case:
- Proposed Development located on R422:

- There is already a well-constructed agricultural entrance in operation used regularly by jeep and trailer, as well as tractors and lorries. This does not interfere with the safety and free flowing nature of the traffic.
- There is no issue with the capacity of the road.
- From a safety perspective, the entrance has clear vision of 180m to the town side and 120m on the other side.
- The proposed site is an infill site.
- There will be no more development as it is the only available site in the area that will allow the applicant to manage the farm.
- Strategic Regional Road with an 80km speed limit:
 - The limit is 60km to the east at about the 120m point and 80km to the west.
 - The council has erected a streetlight just at the 60km speed limit which interferes with the distance beyond the 120m point.
 - There is a 6m margin from the proposed site entrance side of the road to the hedge line. This includes the distance to the 120m point. This hedgeline is owned by the applicant's father who is meticulous about its upkeep. Vehicles can park safely on the margin, including the Garda to carry out speed monitoring.
 - The 80km zone was change from 60 to 80km a few years ago. It is understood that the 60km speed limit will apply again.
 - The applicant has helped his father on the farm since he was a child. The applicant wants to build his home on the farm and take over the working of the farm.

7.2. Applicant Response

- N/A

7.3. Planning Authority Response

- None on file.

7.4. Observations

- None on file.

7.5. Further Responses

- None on file.

8.0 Assessment

8.1 Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

8.2 The main issues are as follows:

- Compliance with the Development Plan
- Material Contravention

8.3 Compliance with the Development Plan.

8.3.1 The applicant has provided evidence to satisfy the requirements of rural housing policy as set out in Table 4.4 of the Laois County Development Plan 2021-2027. It is clear that the applicant has ties with the local area in which he wishes to build his first house, and this was to Laois County Council's satisfaction.

8.3.2 I also consider that the design of the proposed dwelling is in keeping with Policy Objective DM RH 1 of the Laois County Development Plan 2021-2027, and is generally consistent with Appendix 7 of the Plan in relation to Rural Design. This was also to Laois County Council's satisfaction.

8.3.3 Laois County Council refused permission on the basis of non-compliance with the policies of the Laois County Development Plan 2021-2027, including TRANS 22 to "Prohibit unnecessary access onto strategic regional routes in areas where speed limits in excess of 50kmph applies" and the Roads and Parking Standards 2007, having regard to the site's location on the R422, a Strategic Regional Road where a 80kph speed limit applies, and where adequate sightlines of 3m x 180m, as identified in the provisions of the Laois County Development Plan 2021-2027, could not be achieved.

8.3.4 However, as noted by the First Party, the proposed development site is an infill site.

8.3.5 As an infill site, consideration must be given to policy objectives DM HS 15 of the Plan, which states that infill development, including in rural areas, is encouraged in principal where it does not adversely affect neighbouring residential amenity (for example privacy, sunlight and daylight), the general character of the area and the functioning of transport networks.

8.3.6 In this context, the proposed development does not adversely affect neighbouring residential amenity, nor the general character of the area. I am also of the opinion that the proposed development, as assessed further below, will not adversely affect the functioning of transport networks.

8.3.7 I also note policy objective DM RH 2 of the Plan which states that limited infill development shall be permitted in rural areas where the proposed site shall coalesce the existing linear pattern of development and shall not be located at the end of a line of houses but on a vacant site within the existing linear form of development. The proposed development will coalesce the existing linear pattern of development along the R422 and is not located at the end of a line of houses, but on a vacant site within the existing linear form of development. Compliance with policy objective DM RH 2 is also subject to compliance with the following:

- The applicant satisfies the local need criteria contained in Table 6 – the applicant satisfies the local need criteria.
- Evidence is provided that no other sites are available on the applicants or family landholding that can be developed – the applicant has clarified that there is no other available site on the family landholding.
- Wastewater treatment can be provided for the proposed dwelling in line with the EPA Code of Practice (2009) – Laois County Council is satisfied that the proposed wastewater treatment unit is satisfactory.
- Maintains the existing building line and established lengths of site frontage with adjacent dwellings – the proposed development is set back from the public road generally in line with existing dwellings either side of the R422.
- Complies with the road standards in the Roads and Parking Standards (2007) or amended document – it is considered that the proposed development generally complies with the provisions of the 2007 Standards.

- Has a minimum 0.202 hectares (0.5 acres) of site area – the site is 0.32ha in area,
- The house design proposed is in line with the advice contained within the following:
- The Landscape Character Assessment contained in Appendix 6 – the site is located in a Lowland Agricultural Area. Table 11.6 of the Plan notes that such character areas have low sensitivity with capacity to absorb a wide range of uses.
- The Rural Design Guide contained in Appendix 7 - the design of the proposed dwelling is in keeping with Policy Objective DM RH 1 of the Laois County Development Plan 2021-2027, and is generally consistent with Appendix 7 of the Plan in relation to Rural Design.

8.3.8 In relation to the non-compliance with the policies of the Laois County Development Plan 2021-2027, including TRANS 22 to “Prohibit unnecessary access onto strategic regional routes in areas where speed limits in excess of 50kmph applies”, I note that there is an existing agricultural access into the site from the R422 that is in use. In addition, there is a dropped kerb at this access. The application for permission specifically sought to change the existing agricultural entrance to a private dwelling entrance. The applicant has indicated that the use of this access for agricultural purposes has not interfered with the safety and free-flowing nature of traffic on the R422.

8.3.9 In relation to non-compliance with the Roads and Parking Standards 2007 of the Plan, it is noted that a sightline of 180 metres is achievable to the west/left direction from the entrance, and that the neighbour has given written agreement to maintain the garden hedge at a height of 0.95 metres to facilitate this sightline.

8.3.10 A sightline of 125 metres is achievable to the east/right direction from the entrance.

8.3.11 Policy Objective DM TRANS 2 states that sightline requirements are determined by the Council having regard to Laois County Council Roads and Parking Standards (2007) guidelines. It also provides for exceptional circumstances on a case-by-case basis, with factors including the type, speed limit and condition of the road to be taken into consideration.

8.3.12 In this context, it is noted that the proposed development site is an infill site with an existing agricultural entrance between 7 no. dwellings in an area characterised by a cluster of c. 19 no.

dwellings either side of the R422. There are also 5no. existing dwellings with accesses onto the R422 located to the immediate north and east of the proposed development site.

8.3.13 The R422 is in good condition, and is characterised by a footpath to either side, and dwellings are generally set back from the road.

8.3.14 The proposed development site itself has an existing access and dropped kerb from the R422 which is used for agricultural purposes. The applicant has stated that the use of the access has not impacted the safety of the road, and that the road has capacity to cater for the addition of another dwelling.

8.3.15 Of importance is that there is a 60kph speed limit applies c. 56m from the proposed development site, within the required 180m sightline along the R422 to the east.

8.3.16 In this context, it is noted that a sightline of 125m is achieved from the site entrance to the east along the R422.

8.3.17 Table 2.1 of the Laois County Council Roads and Parking Standards 2007, copied in the section on 'Relevant Policies' later in this report, sets out the required visibility splays ('x' distances, 3m from the edge of the public road) that apply to rural sites. For Strategic Regional Roads, the stated distance is N/A, with the footnote to Table 2.1 explaining that the 'x' distance restriction will not necessarily apply in certain specific cases as outlined in the county development plan, noting that in such cases the dimension 'x' is 215m for National Secondary roads and 'x' is 180m for Strategic Regional roads.

8.3.18 I note, however, that the minimum speed limits to which the 'x' distance restriction applies is 80kph. There are no such distance restrictions identified for Strategic Regional Roads where a 60kph speed limit applies.

8.3.19 Notwithstanding that the footnote to Table 2.1 indicates that relaxations in 'x' distance restrictions will not apply to Strategic Regional Roads, this does not take into account the specific circumstances in this instance that a 60kph speed limit applies c. 56m to the east of the proposed development site.

8.3.20 I would, therefore, be inclined to agree with the applicant that this lower speed limit should be taken into consideration in this case.

8.3.21 This sightline will require no removal or maintenance of hedgerow not in the ownership of the applicant.

8.3.22 In addition, the garden hedges to the east of the site are currently setback 4 metres from the road edge.

8.3.23 In this context, it is my opinion that there are exceptional circumstances for this proposed infill site having regard to Policy Objective DM TRANS 2.

8.3.24 In addition, as there are specific circumstances in this instance that warrant an exception to the requirements of Policy Objective DM TRANS 2 and the Laois County Council Roads and Parking Standards (2007), it is not considered that this will establish an undesirable precedent, or lead to a proliferation of similar types of development.

8.4 Material Contravention

8.4.1 The Planning Authority's first reason for refusal of permission states that the proposed development would materially contravene the policies and objectives of the Laois County Development Plan 2021-2027.

8.4.2 However, specific reference is only made to policy objective TRANS 22 which, as noted in seeks to "Prohibit unnecessary access onto strategic regional routes in areas where speed limits in excess of 50kmph applies". No other policies and objectives of the Plan are cited.

8.4.3 As noted above, the speed limit along the site's boundary with the R422 is 80kph, which reduces to 60kph c. 56km to the east. The site is already served by an existing agricultural access into the site from the R422, with a dropped kerb, that is in use. There is also a dropped kerb at this access.

8.4.4 Regard is also had to Policy Objective DM TRANS 2 of the Plan which, while requiring sightlines to have regard to Laois County Council Roads and Parking Standards (2007), also notes that exceptional circumstances can be considered on a case-by-case basis, with factors including the type, speed limit and condition of the road to be taken into consideration.

8.4.5 As noted above, notwithstanding that the Laois County Council Roads and Parking Standards (2007) indicates that relaxations in 'x' distance restrictions will not apply to Strategic Regional Roads, this does not take into account the specific circumstances in respect of this infill site where a 60kph speed limit applies c. 56m to the east of the proposed development site.

8.4.6 Further regard is also had to the established pattern of development in the vicinity, where the site is located in a cluster of c. 19no. dwellings either side of the R422. There are also 5no. existing dwellings with accesses onto the R422 located to the immediate north and east of the proposed development site.

8.4.7 In this context, while I note that the Planning Authority's first reason for refusal, that the proposed development would materially contravene the policies and objectives of the Laois County Development Plan 2021-2027, specifically Policy Objective DM TRANS 22 of the Plan, it is considered that, having regard to the fact that there is an existing agricultural access into the site from the R422 that is in use, and to the exceptional circumstances that apply in this instance in the context of Policy Objective DM TRANS 2 of the Plan, that Policy Objective DM TRANS 22 is not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in terms of normal planning practice. In this context, it is considered that the Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act, as amended.

9.0 AA Screening

- 9.1 I have considered the permission for construct a new dwelling house & garage, septic tank with percolation area, change existing agricultural entrance to private dwelling entrance and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 9.2 The River Barrow and River Nore SAC (002162) is located c. 1.36km to the west of the proposed development site. Mountmellick SAC (002141) is located c. 2.27km to the north-east of the proposed development site.
- 9.3 The proposed development consists of construct a new dwelling house & garage, septic tank with percolation area, change existing agricultural entrance to private dwelling entrance and all associated site works on a site at Debicot, Mountmellick, Co. Laois..
- 9.4 No nature conservation concerns were raised in the planning appeal.
- 9.5 Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works, including the small scale and nature of the development
 - Location and distance from nearest European site and lack of connections
- 9.6 I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

- 9.7 Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

- 10.1 I recommend that permission for the development be granted for the following reasons and considerations.

11.0 Reasons and Considerations

Having regard to the infill nature of the site, and to the policies of the Laois County Development Plan 2021-2017, including policy objectives DM HS 15, DM RH 2 and DM TRANS 2, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended on 22nd August, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of</p>

	<p>development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>The existing front boundary hedge and fence shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>(a) The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof</p> <p>(b) The external walls shall be finished in neutral colours such as grey or off-white.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p>

	<p>(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p>Reason: In the interest of traffic safety and to prevent flooding or pollution.</p>
6.	<p>Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for a service connection to the public water supply network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
7.	<p>(a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on [date] and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.</p> <p>(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021. (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.</p> <p>Reason: In the interest of public health and to prevent water pollution.</p>
8.	<p>The site shall be landscaped, using only indigenous deciduous trees and</p>

	<p>hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) the establishment of a hedgerow along all side and rear boundaries of the site, and</p> <p>(b) planting of trees at intervals along the boundaries of the site.</p> <p>Any plants, trees or hedging which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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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.

18th March, 2025

Ad. onull

Inspector: _____ **Date:** _____

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-321039-24		
Proposed Development Summary	Construct a new dwelling house & garage, septic tank with percolation area, change existing agricultural entrance to private dwelling entrance and all associated site works.		
Development Address	Debicot, Mountmellick, 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 √		Tick if relevant and proceed to Q2.
	No		Tick if relevant. 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)?			
Yes √	Tick/or leave blank	Class 10(b)(i) of Part 2 of Schedule 5	Proceed to Q3.
No	Tick or leave blank		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No √	Tick/or leave blank	Class 10(b)(i) of Part 2 of Schedule 5. Threshold is 500 dwelling units.	Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?

Yes ✓	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?

No ✓	Tick/or leave blank	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector:

Ad. orull

18th March, 2025

Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-321039-24
Proposed Development Summary	Construct a new dwelling house & garage, septic tank with percolation area, change existing agricultural entrance to private dwelling entrance and all associated site works.
Development Address	Debicot, Mountmellick, 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>	
<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).</p>	<p>The proposed development is for 1no. new dwelling house in a rural area, and is of modest scale and design.</p> <p>The nature of the proposed development is not exceptional in the context of the existing environment. The proposed development does not require the use of substantial natural resources.</p> <p>The proposed development would result in some soil excavation. However, this and other works are not considered to result in the production of significant waste, emissions or pollutants or nuisance.</p>

	<p>The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p> <p>It presents no risks to human health.</p>
<p>Location of development</p> <p>(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, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is situated in a rural area on improved agricultural land which is abundant in the area.</p> <p>The River Barrow and River Nore SAC (002162) is located c. 1.36km to the west of the proposed development site. Mountmellick SAC (002141) is located c. 2.27km to the north-east of the proposed development site.</p> <p>Having regard to the nature and scale of the proposed development, it does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p> <p>There are no significant cumulative considerations having regard to other existing and/or permitted projects.</p>

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Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	No
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: Aden O'Sullivan Date: 18th March, 2025

DP/ADP: _____ Date: _____ (only where
Schedule 7A information or EIAR required)

Appendix 2 - AA Screening Determination Test for likely significant effects

AA Screening where no screening report was submitted, and no significant AA issues arise.

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics Case file: ABP-321039-24				
Brief description of project	Normal Planning appeal Construct a new dwelling house & garage, septic tank with percolation area, change existing agricultural entrance to private dwelling entrance and all associated site works. See section 2.0 of inspectors Report			
Brief description of development site characteristics and potential impact mechanisms	The proposed development site is located in the townland of Debicott, Mountmellick, Co. Laois.. There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area.			
Screening report	No Laois County Council screened out the need for AA			
Natura Impact Statement	No			
Relevant submissions	None			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
River Barrow and River Nore SAC (Site Code: 002162)	12no. habitats, including 2no. priority habitats; 10no. species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.pdf	1.36km	No direct connection	Y
Mountmellick SAC (Site Code: 002141)	1no. species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002141.pdf	2.27km	No direct connection	Y

The River Barrow and River Nore SAC (002162) is located c. 1.36km to the west of the proposed development site. Mountmellick SAC (002141) is located c. 2.27km to the north-east of the proposed development site.

Further Commentary / discussion

Due to the location of the development site and the distance between the site and the nearest designated site, I consider that the proposed development would not be expected to 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.

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site River Barrow and River Nore SAC (Site Code: 002162) Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] 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 Ranunculus fluitans and Callitriche-Batrachion vegetation [3260] European dry heaths [4030] Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]	Direct: none Indirect: localized, temporary, low magnitude impacts from noise, dust and construction related emissions to surface water during construction	The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to the SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the SCI listed. Conservation objectives would not be undermined.

<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p> <p>Mountmellick SAC (Site Code: 002141)</p> <p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p>	<p>Direct: none</p> <p>Indirect: localized, temporary, low magnitude impacts from noise, dust and construction related emissions to surface water during construction</p>	<p>The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to the SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the SCI listed. Conservation objectives would</p>
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	not be undermined.
	Likelihood of significant effects from proposed development (alone): No
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No
	Likelihood of significant effects from proposed development (alone): No
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No
<p>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</p> <p>I conclude that the proposed development (alone or in combination with other plans and projects) would not result in likely significant effects on a European Site. No mitigation measures are required to come to these conclusions.</p>	
<p>Screening Determination</p> <p>Finding of no likely significant effects</p> <p>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 the Bray Head SAC or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.</p> <p>This determination is based on:</p> <ul style="list-style-type: none"> • The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site • Distance from the nearest European site 	

Ad onull

18th March, 2025

Inspector: _____ Date: _____