



An
Coimisiún
Pleanála

Inspector's Report ABP-321259-24

Development	Construction of 5 dwelling houses, new site entrance and access road; the demolition/removal of derelict farm buildings and ancillary services and all associated site works.
Location	Tierhogar, Killenard, Portarlinton, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2460108
Applicant(s)	Matt Colgan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Patrick and Elizabeth Costello
Observer(s)	Margaret McQuirk Bernadette Keane Jack Donnelly John Duffy
Date of Site Inspection	21 st July 2025
Inspector	Aoife McCarthy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.31 Ha and is located in the village of Killenard, Co. Laois.
- 1.2. The site is currently accessed from the L3171 (a local road), linking to Killenard village to the north of the site.
- 1.3. The site forms part of a wider landbank of lands in the ownership of the applicant, all in agricultural use.
- 1.4. The environs of the site include a mix of 2 storey detached dwellings within gardens to the south, a residential estate to the west of the L3171 and modest bungalows to the north.
- 1.5. The site is bound to the north by a cul-de-sac 'Killenard', providing access to a series of single storey dwellings; to the south by the side boundary of a residential property fronting to the L3171; to the east by lands in agricultural use; to the west by the L3171. Site boundaries include mature trees, stone walls and hedging. There is no gate/fencing at the entrance to the site from the L3171.
- 1.6. The site contains derelict agricultural sheds / and structures.

2.0 Proposed Development

- 2.1. The proposed development will consist of:

the construction of 5 no. detached, split level, 3-bed houses (ranging in size from 128m² to 158m² GFA) (4 no. with single-storey, rear returns and side car-ports), a new site entrance and access road off the existing cul-de-sac road to the east off the Killenard Road L3171, the demolition/removal of existing derelict farm buildings, a landscaped pedestrian link from the L3171, proposed new boundaries, landscaping, a shared green area, related and ancillary services and all associated site-work.
- 2.2. In response to a Request for Further Information (RFI), the layout was amended, omitting 1 no. unit, resulting in a total of 4 no. 3 bed detached dwellings, all on a site of 0.25 hectares.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The local authority issued a Notification of Grant Permission on 10th January 2025, subject to 23 No. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 18th October 2024)

- The report includes a summary of 11 submissions made on the application.
- The report includes detailed planning history on the subject site (see below).
- A Request for Further Information was issued on the 25th April 2024 relating to, inter alia, (1) removal of development from lands subject to Strategic Reserve; 2) submission of lighting plan, Stage 1 and 2 RSAs; fully dimensioned road plans; revisions to car parking; sightline drawings, auto track analysis, proposal for surface water attenuation and disposal storm water attenuation.
- Subsequent responses were considered acceptable. Item 1 resulted in alterations to the red line boundary, and was deemed Significant, requiring the submission of revised public notices.
- The report includes a summary of a single submission received by the local authority on the Significant Further Information.
- Development contributions under the Laois County Council Development Contribution Scheme 2023-2029 under s.48 of the Act apply.
- The report recommends that permission is granted subject to conditions.

3.2.2. Other Technical Reports

- **Roads Design Office (24th April 2024):** Request Further information.
- **Roads Design Office (13th September 2024):** No objection subject to condition.

- **Waste Management & Environmental Protection (19th March 2024):**
Request Further Information.

3.3. **Prescribed Bodies**

- **Uisce Éireann (19 March 2024):** No objection subject to condition.

3.4. **Third Party Observations**

3.4.1. A total of 11 no. third party submissions have been received by the local authority, the grounds of which is as summarised below:

- The application could facilitate future phases of development, having regard to range of permissions relating to site as detailed below.
- Site is within the Strategic Reserve.
- The 12m required rear garden depth is not achieved.
- There has been significant growth to date in Killenard.
- Insufficient sewerage capacity and water supplies to serve this additional growth in the town.
- Properties at 1-11 Killenard have been unable to connect to the local wastewater system.
- Traffic safety implications during construction and operational phases.
- Road network is insufficient.
- Insufficient services in the area.
- Privacy and lighting impacts.

4.0 **Planning History**

4.1. **Subject Site**

4.1.1. **ABP Ref.:PL11.312726; P.A. Reg. Ref.: 21/467:** Permission granted by Laois County Council (LCC) and refused by ABP in April 2023 for the construction of 99 no. detached dwellings, a single storey creche/childcare centre, a new estate entrance off an existing access road on the east side of the Killenard Road L3171, a pedestrian link to Ballycarroll Road, the demolition/removal of a

derelict farm building, all estate roads, boundaries, landscaping and associated site works including a foul drainage piped outfall through adjacent agricultural lands to the north and a piped storm drainage outfall through agricultural lands to the east. The Board refused permission on the grounds that a large portion of the proposed development would take place on lands Strategic Reserve; would be at variance with a sequential approach to the location of new development, and by reason of scale and location would be contrary to Objective CS 30 of the 2021-2027 CDP, NSO1 NPF 2018, RSO 2 of the EMRA RSES, supporting sequential development of lands.

- 4.1.2. **P.A. Reg. Ref 08/1421:** Permission refused in January 2009 to construct 11 no. detached dwelling units, on the grounds of inadequate public open space, omission of a Part V proposal and would materially Condition 2 of PL11.22556 07/288.
- 4.1.3. **P.A. Reg. Ref 07/351:** Permission refused for an enterprise park. Refused on the grounds that insufficient capacity at Portarlinton WWTP, excessive scale and form with inadequate sightlines.
- 4.1.4. **ABP Ref.: PL11.225563 / P.A. Reg. Ref 07/286:** Permission granted in September 2008 by the Board for the construction of a retirement complex comprising a 40 bed nursing home with 18 semi-detached self-contained retirement units, a 10 bedroom guest house and all other ancillary works. An extension to the duration of this permission was granted in July 2013 (**13/186** refers). No works have commenced on this application. Access to the scheme was from the cul-de-sac to the north of the property.
- 4.1.5. **ABP Ref.: PL11.225567/ P.A. Reg. Ref.: 07/288:** Permission granted in September 2008 to erect 50 no. residential houses, tennis courts with public car parking, associated landscaping and boundary treatment and all other ancillary works. An extension to the duration of this permission was granted in July 2013 (**13/185** refers).
- 4.1.6. **ABP Ref.: PL11.215935; P.A. Reg. Ref: 05/693:** Permission refused by Council and subsequently by the Board in July 2006 for the construction of 110 no. residential units, retail block with office/retail units, community hall with creche and Montessori school and all ancillary works.

4.1.7. **P.A. Reg. Ref: 04/1136:** Planning permission refused in November 2004 for 6 no. detached single storey dwelling houses, 40 no. semi-detached two storey dwelling houses and all associated site works.

4.2. **Environs of Site (Cited by Appellant)**

4.2.1. **Tierhogar, Killenard (PL11.300178; P.A. Reg. Ref.:17147):** Permission granted by An Bord Pleanála in May 2018 for construction of a nursing care centre of 116 beds, 40 assisted living units, 65 sheltered homes, 1 wardens gate lodge, ancillary support facilities and all associated site works. An extension to the duration of this permission was granted in September 2023 (23/240).

4.2.2. **Tierhogar (PL11.312590; P.A. Reg. Ref.: 21/643):** Permission granted by An Bord Pleanála in May 2018 for construction of 79 no. residential units and all associated site works.

5.0 **Policy Context**

5.1. **Housing for All 2021**

5.1.1. Specifies four pillars by which universal access to quality housing options is to be achieved. Of relevance to the proposed development is the achievement of Pillar 1, increasing new housing supply.

5.2. **Project Ireland 2040 National Planning Framework, First Revision April 2025**

5.2.1. The first National Strategic Outcome expected of the National Planning Framework is compact growth. The First Revision was updated to include, inter alia, additional population growth in excess of earlier forecasts for the 2018-2040 period. Effective densities and consolidation of urban areas is required to minimise urban sprawl and is a top priority. Relevant provisions of the NPF include the following:

NSO1 to seek compact growth across towns, cities and villages.

National Policy Objective 7 - Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 9 - Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.

National Policy Objective 20 - In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 45 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.

5.3. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (the ‘Sustainable Residential Development Guidelines’), including the associated Urban Design Manual (2009)**

- 5.3.1. The Guidelines were designed to assist planning authorities, developers, architects and designers in delivering quality residential development Delivering Homes.
- 5.3.2. Chapter 3 discusses the role of design, and along with the accompanying urban design manual sets 12 Design Criteria that should be used to evaluate residential development, relating to context, connections, efficiency inclusivity, variety, efficiency, distinctiveness, assessing the layout, public realm, adaptability, privacy and amenity, parking and detailed design.
- 5.3.3. These guidelines have been replaced by the Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024.

5.4. **Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024**

- 5.4.1. The Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024 (the Compact Settlement Guidelines) set out national planning policy and guidance in relation to the creation of settlements that are

compact, attractive, liveable and well designed. The Guidelines replace the Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities 2009.

5.4.2. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements.

5.4.3. Key Priorities for Rural Towns and Villages include realising opportunities for infill and backland development; and to provide for sequential and sustainable housing at edge of settlement locations closest to the urban core.

5.4.4. With respect to density, Table 3.7 of the Guidelines states the following:

Rural Towns and Villages are small in scale with limited infrastructure and services provision. It is a policy and objective of these Guidelines that development in rural towns and villages is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure). Lands zoned for housing at the edge of rural towns and villages at locations that can be integrated into the settlement and are connected to existing walking and cycling networks can offer an effective alternative, including serviced sites, to the provision of single houses in the countryside. The density of development at such locations should respond in a positive way to the established context.

5.4.5. Development standards for housing are set out in Chapter 5, including SPPR 1 in relation to separation distances (16m between opposing windows serving habitable rooms above ground floor level), SPPR 2 in relation to private open space (3 bed 40 m²), SPPR 3 in relation to car parking (1.5 spaces per dwelling in Rural Towns and Villages (<1,500 population) and SPPR 4 in relation to cycle parking and storage.

5.5. **Sustaining Communities and accompanying best Practice Guidelines – Quality Housing for Sustainable Communities, 2007**

5.5.1. The purpose of these Guidelines is to assist in achieving the objectives for delivering homes, sustaining communities contained in the Government

statement on housing policy which focuses on creating sustainable communities that are socially inclusive.

- 5.5.2. Development standards for housing are set out in Table 5.1 of the document. These include target overall gross floor area (100m²); min. space requirements for main living room (15m²), aggregate living area (37m²), aggregate bedroom area (36m²), internal storage (6m²) for 3 bed/6 person 2 storey dwellings.

5.6. **Eastern and Midland Regional Spatial & Economic Strategy (RSES), 2019-2031**

- 5.6.1. Key Regional Strategic Objectives within the Eastern and Midland Regional Area (EMRA) RSES is as follows:

RSO 2 - Promote the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens.

purposes.

5.7. **Climate Action Plans 2024 and 2025**

- 5.7.1. The Acts, to be read in conjunction outline measures and actions by which the national climate objective of transitioning to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy by 2050 is to be achieved. They include budgets appropriate across a range of sectors. Of relevance to residential development is the built environment sector. The Commission must be consistent with the Plan in its decision making.

5.8. **National Biodiversity Action Plan (NBAP) 2023-2030**

- 5.8.1. The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss.
- 5.8.2. Section 59B (1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Commission, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Commission. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making

having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

5.9. Laois County Development Plan 2021-2027

5.10. Land Use Zoning

5.10.1. The site is subject to two zoning objectives as identified on the Killenard Zoning Map (Map 6.4A). The eastern section of the site is subject to Residential 1 Established which seeks “To protect and enhance the amenity of developed residential communities.”

5.10.2. A section to the west of the site is within the Strategic Reserve which seeks “to provide lands for future development in line with national and regional targets over the next Plan period 2021 – 2027”.

5.10.3. The application was amended at Further Information stage removing development from lands within the Strategic Reserve.

5.11. Core and Settlement Strategy

5.11.1. Killenard is a Village under the Development Plan. The Plan states that these centres have an important role to play in performing local residential, retailing, social and leisure functions and providing appropriate local services to a wider hinterland.

5.12. Housing Strategy

5.12.1. The Development Plan includes the following relevant objectives:

HPO 6 To plan for future housing needs and housing allocation within the County in accordance with the estimated population targets and the Core and Settlement Strategy, in order to facilitate the expansion of existing settlements in a planned, sequential and coordinated manner, which ensures development is built alongside the necessary infrastructure including works with Irish Water, and to consolidate the built-up area within the existing settlements. This ensures the creation of sustainable communities in line with national policy.

HPO 8 To ensure that an appropriate mix of housing types and sizes is provided in each residential development and within communities in keeping with Development Plan standards. All new housing development is expected to be of a high-quality design in compliance with the relevant standards.

HPO 9 To promote residential densities appropriate to the development's location and surrounding context, having due regard to Government policy relating to sustainable development, which aims to reduce the demand for travel within existing settlements, and the need to respect and reflect the established character of rural areas.

HPO 20 Apply flexibility in the application of development management standards with the consideration of performance-based criteria appropriate to general location, which will provide high-quality design outcomes, where appropriate. This more dynamic performance-based approach, applicable to town centre, infill and brownfield locations, will facilitate flexible design solutions in instances where a proposal fulfils specific planning requirements.

5.13. **Development Management Standard for Residential Development**

5.13.1. The Development Plan includes the following relevant standards:

DM HS 1 Residential Housing Development- Applications for residential development will be assessed against the design criteria set out in Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (2009) and the companion Urban Design Manual: A Best Practice Guide (2009).

DM HS 3 Density of Residential Development- The number of dwellings to be provided on a site should be determined with reference to the document Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009). Within these Guidelines a range of residential densities are prescribed, dependent on location, context, scale and availability of public transport.

DM HS 4 Landscaping and Public Open Space in Residential Developments Public open space shall be clearly defined and be of high quality design and finish which is easily maintained, easy to access from all parts of the development, easy to use including by people with disabilities, has

good lighting and natural surveillance and is enjoyable to use, walk and cycle around all year round. These spaces should include informal play spaces, safe well-lit pathways which will facilitate children learning to cycle, adults able to walk safely and encouraging social interaction between local residents.

A detailed plan for hard and soft landscaping should be submitted for each development. It should propose planting in public and private areas.

Landscaping should contribute to the overall attractiveness of the development and be easily maintained.

Public open space shall comprise of the following:

- In large infill sites or brown field sites public open space should generally be provided at a minimum rate of 10% of the total site area.
- In greenfield sites, the minimum area of open space that is acceptable within the site is 10% of the total site area.
- In all other cases, public open space should be provided at the rate of 10% of the total site area.
- Where a public space is not fully usable due to the presence of infrastructure or occurrence of repeated flooding, the Council will require this to be offset by provision at another location, or addressed through a financial contribution in lieu of the shortfall arising, in accordance with the Council's Development Contribution Scheme.
- SuDS are not generally acceptable as a form of public open space provision, except where they contribute in a significant and positive way to the design and quality of open space. Where the Council considers that this is the case, in general a maximum of 10% of the open space provision shall be taken up by SuDS.

DM HS 6 Private OpenSpace in Housing Residential Development All

houses (terraced, semi-detached and detached) should have an area of private open space behind the building line.

For 3, 4, 5 bedroom units the minimum requirement is 75 sq m

Private open space shall be designed to maximise sunlight, privacy and shelter from winds and shall normally be located to the rear of dwellings. Narrow or awkward spaces, spaces which are not private and spaces also used for parking will be excluded from private open space area calculations.

In general, a minimum distance of 22m should be achieved between opposing first floor windows at the rear of dwellings.

The Council will only consider exceptions to the standards in exceptional circumstances where an otherwise high quality design solution is proposed, which has full regard to the characteristics and context of the site. Discretion of this standard will be dependent on-site layout characteristics and flexibility may be employed where performance-based criteria can be adequately demonstrated. (For example, where a side garden of equal or greater dimensions can be substituted for rear garden space and where a situation of overlooking is demonstrably avoided).

DM HS 9 Internal Space Standards in Housing Developments

The design and layout of individual dwellings should provide a high quality living environment for residents. Designers should have regard to the targets and standards set out in Table 5.1 of the Quality Housing for Sustainable Communities Guidelines, DCHLG (2007) with regard to minimum room sizes, dimensions and overall floor areas when designing residential accommodation.

MHS 5 Boundary Treatments - The side boundaries of rear gardens shall be 1.8m-2m in height and shall be formed by high quality boundary treatments such as concrete block walls or concrete post and rail fencing.

Two-metre-high concrete walls shall be provided between all areas of public open space and gardens to the rear of dwellings. The walls shall be suitably rendered and capped in a manner acceptable to the Council. Concrete screen walls along public spaces should be avoided through quality design but where it is not possible to do this, they should be suitably rendered and capped.

Proposals for planting along the public side of the wall shall be included on a landscaping plan. An additional inner grass verge shall be provided at the footpath to facilitate this if necessary.

In the interest of passive surveillance, where side boundary walls adjoin the public footpath, the walls shall be a maximum of 1 metre in height as far as the rear building line of the dwelling (beyond which a 2m wall may be provided).

Landscaping along boundary walls is also encouraged to promote biodiversity and green infrastructure.

Open plan front gardens will generally be discouraged and will only be acceptable.

DM HS 15 Infill Development in Urban and Rural Areas 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.

5.14. **Land Use Parking Space Requirements (Table 10.3)**

includes a standard requirement of 2 no. car parking spaces per dwelling.

5.15. **Infrastructure Objectives**

5.15.1. The Development Plan includes the following infrastructure objectives:

TRANS 18 Facilitate a limited level of new accesses or the intensified use of existing accesses to the national road network on the approaches to or exit from urban centres that are subject to a speed limit zone between 50kmph and 60kmph otherwise known as the transition zone. Such accesses will be considered where they facilitate orderly urban development and would not result in a proliferation of such entrances, leading to a diminution in the role of these transitional zones. A Road Safety Audit, prepared in accordance with TII Publications: GE-STY-01024 Road Safety Audit shall be submitted where appropriate.

Proposals shall have regard to the TII Publication 'The Treatment of Transition Zones to Towns and Villages on National Roads' (TII Publications DN-GEO-03084)

TRANS 21 The capacity and efficiency of the national road network drainage regimes in County Laois will be safeguarded for national road drainage

5.16. **Natural Heritage Designations**

5.16.1. There are no European sites within the subject site.

5.16.2. The closest European site to the subject site is the River Nore and River Barrow SAC (Site Code: 002162), located c.2.0km to the north of the site.

5.16.3. The closest designated site is the Grand Canal pNHA (Site Code: 002104), located c3.87km to the south-west of the site.

5.17. Water Framework Directive Assessment

5.17.1. The closest waterbody to the subject site is Barrow_080 (EPA Code: IE_SE_14B010900) Line located c.2.1 km to the north of the site.

5.17.2. The proposed development comprises Permission for the construction of 4 no. 3 bedroom detached dwellings; access road and all associated works.

5.17.3. No water deterioration concerns were raised in the planning appeal.

5.17.4. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.

5.17.5. The reason for this conclusion is as follows:

- The relatively small scale and nature of the development.
- distance from nearest water bodies and lack of hydrological connections.

5.17.6. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

5.18. EIA Screening

5.18.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal are from residents of Killenard to the north of the site, and are summarised as follows:

- The proposal should utilise access within the control of the applicant.
- The proposed development would establish access to the site for additional phases of development.
- The minimum distance of 12m has not been achieved for all houses.
- The site is in the Strategic Reserve of the Development Plan.
- The wastewater system does not have capacity for the existing dwellings, recently overflowing onto Ballycarroll [Road].
- The CDP states that the wastewater treatment plant at Lough is at capacity and requires upgrade.
- Excessive growth to date in Killenard.
- Proposal would exacerbate traffic issues in Killenard.
- The scheme should be accessed from the access point from Killenard hill.
- The increase in traffic onto the subject cul-de-sac is inappropriate, particularly if this is to cater for additional /future phases of development.

- The proposed entrance would result in the removal of a bank of land utilised and maintained by residents over a period of 40 years, including the removal of mature trees and wildlife habitats.
- Overlooking from proposed houses.
- Extra surplus will cause soakage problems for the bungalows to the north.

6.2. **Applicant Response**

6.2.1. The applicant's response may be summarised as follows:

- Access to the applicant's lands from the cul-de-sac has previously been established (P.A. Reg. Refs: 07/286, 07/288 and 21/467 refer) and is as recommended by the Roads Section of Laois County Council.
- A TIA submitted as part of a previous application, demonstrated that the impact on the surrounding road network would be minimal.
- The current proposal is for 4 no. units on lands zoned for residential use. Any additional phases of development would be dependent on changes to the zoning objective under the CDP from Strategic Reserve.
- The rear garden depth of 12m is met for all dwellings. Distances between single storey returns and boundary wall to the south range from 9.75m to 12m. The quantum of private open space in the form of rear gardens exceeds the Development Plan recommendation of 75m².
- The layout has been amended, removing development from lands within the Strategic Reserve.
- Uisce Éireann has no objection to the proposal and connections for water supply and wastewater is feasible without infrastructure upgrades.
- The addition of houses within an established village setting on a site zoned for residential use in the time of a housing crisis is to be encouraged.
- The embankment to be removed and levelled is located alongside a narrow strip of land overgrown by shrubs and trees and is not functional open space. The area of public open space associated with the bungalows

will remain in place. The Roads Section are in favour of the site entrance off the cul-de-sac rather than directly off the L3171.

- The existing path and cycle lanes are off-road and therefore not affected by traffic.
- Private amenity space of the bungalow rear gardens would be unaffected.

6.3. **Planning Authority Response**

6.3.1. None received.

6.4. **Observations**

6.4.1. A total 4 no. submissions were received from third parties, all from residents of Killenard to the north of the site; and all of which consider that it is unnecessary to remove open space to the south of their properties, in addition to utilising access to the scheme via this cul-de-sac.

6.4.2. A letter of support has been received from Brian Stanley T.D.; requesting that the application be expedited as soon as possible.

6.5. **Prescribed Bodies**

6.5.1. A single observation has been made on the application as follows:

- **Development Applications Unit (8th January 2025)**
 - Bats may be present in trees to be removed and buildings to be renovated/demolished.
 - All bats are protected by the Wildlife Acts 1976-2010 and are listed on Annex IV of the Habitats Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild flora and fauna.)
 - A bat survey should be carried out by a suitably qualified ecologist and circulated to the Department for comment, prior to a decision being made on the application.
 - If bat species are found to be roosting in the buildings and trees a derogation licence will need to be applied for from the National Parks and Wildlife Service of the Department.

- If any bats are encountered during the works, works must cease, and the Conservation Ranger must be contacted. A derogation licence will need to be applied for from the Wildlife Service of the Department.
- Where possible native hedgerows and trees present on site should be retained. Where necessary to remove this should be done outside the bird nesting season. All hedgerows should be replanted back as early as possible with native species.
- The All-Ireland Pollinator Plan guidelines for planting should be followed.

6.6. Further Responses (Applicant)

6.6.1. The applicant notes the following with respect to the submission as received from the Department:

- It is not possible to undertake a bat survey currently, (running from April to September normally).
- Bat boxes have been located throughout the site and wider farmlands, and these can be increased, as necessary, in addition to other measures to further protect bats if encountered on site.
- Existing buildings are in a derelict state and require removal for health and safety grounds.
- Existing mature trees on the north of the site would be retained. The proposed entrance can be provided without the removal of any existing trees.
- Existing hedgerow along the north of the site would also be cut back, during the appropriate season, but retained where possible, excluding the site entrance area. The development includes a new native hedgerow to the east, native tree and shrub planting.
- The All-Ireland Pollinator Plan will be encouraged throughout the scheme.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the report of the local authority, having inspected the site and having

regard to the relevant local and national policies and guidance, I consider the substantive issues in this appeal are as follows:

- Principle of Development
- Residential Amenity
- Ecology (Bat Surveys)
- Traffic and Transportation
- Site Services

7.2. Principle of Development

- 7.2.1. The subject site is located on lands subject to Residential 1 Established zoning objective of the Development Plan. Residential use is normally acceptable under the zoning objective.
- 7.2.2. The application at the time of lodgement included development on lands within the Strategic Reserve. Further to a Request for Further Information (No. 1), alterations were made to the layout, excluding development from lands within this area.
- 7.2.3. As noted above, the Board issued a Decision to Refuse Permission for development on the subject site and including lands within the Strategic Reserve (ABP Ref: PL1.321626; P.A. Reg. Ref. 21/46 refers). The application was refused on the grounds that the proposal would contravene Policy CS30 of the 2021-2027 Laois County Development Plan and having regard to NS01 of the NDP 2018 and RSO 2 of the EMRA RSES.
- 7.2.4. In this context, I note that the amendments to the scheme during the application stage have addressed the Commission's previous reason for refusal.
- 7.2.5. Having regard to the land use zoning objective, planning history on site, I am satisfied that the principle of providing a residential development is acceptable at this location, subject to assessment with respect to layout and design, residential and visual amenity, access, site services and biodiversity.
- 7.2.6. At the outset, I note that the appellant raises concerns that the subject application would support proposals for additional phases of development on adjoining lands in the ownership of the Applicant. In this context, I note that

every application is assessed on its own merits; including the subject application. The appellant also considers that there been excessive growth within Killenard to date.

- 7.2.7. Whilst not raised as a grounds of appeal, I have reviewed the plans and consider that the layout and design of these 4 no. units to be acceptable; having regard to, inter alia, the layout including a new access from the cul-de-sac to the south (Killenard) with landscaped combined cycleway/pedestrian route to the L1471. The units are served by their own access road within the site.
- 7.2.8. , I note that the dwellings are aligned on an east to west basis, parallel to the bungalows to the north of the site; and perpendicular to those fronting to the L4171 local road to the south of the site.
- 7.2.9. The scheme includes 3 no. differing 3 bed house sizes (ranging in size from 110m² to 158m² GFA), reducing in scale and form towards development to the south of the site. The proposed development constitutes, in my opinion, a compact and permeable development, in close proximity to the services within Killenard village.
- 7.2.10. Overall therefore, I consider the design and layout to accords with the design criteria as out in Sustainable Residential 2024 Compact Settlement Guidelines, with a high degree of permeability, legibility, and residential amenity for prospective and existing residential communities.

7.3. Residential Amenity

- 7.3.1. The third party consider that the proposal would result in overlooking of their property, located to the north of the site.
- 7.3.2. From a review of the plans, I note that the properties have an overall ridge height of +88.78m OD, whilst the bungalows along Killenard cul-de-sac, have an overall ridge height of c +88.5m OD. The proposed units, located off the internal access road, have a separation distance of between 40.6m to 42m between the proposed dwellings and these bungalows.

- 7.3.3. In addition, I note that the units would be screened by a mature established tree line to the north of the site, to be retained and enhanced as part of the subject application.
- 7.3.4. As such, I am satisfied that the development would not result in adverse impacts with respect to overlooking of residences to the north of the site.
- 7.3.5. As noted above, the site is bounded to the south by a side boundary to a rear garden of a property exiting to the L3171 to the west.
- 7.3.6. I note that boundary treatments include a 1.8m high capped boundary walls to the south, retention of existing boundary wall to the west and new hedgerow to the east. As such, in my opinion, these boundary treatments will enhance the protection of residential amenities of adjoining properties to the south of the site.
- 7.3.7. The appellant and third parties note that the rear gardens should have a minimum depth of 12m. I note that there are no standards within the Development Plan or national design guidelines, for a rear garden depth.
- 7.3.8. I note that SPPR 1 of the Compact Settlement Guidelines 2024 set a minimum distance of 16m from habitable windows at first floor level, superseding DM HS 6 of the Development Plan requiring a minimum distance of 22m. I note that the proposed development does not seek to include the introduction of rear facing windows to existing window openings at first floor level, and as such, does not apply in this instance.
- 7.3.9. Notwithstanding, I note the westernmost unit is at a distance of 21.2m to the closest point of adjoining property to the south, fronting to the L3171.
- 7.3.10. I also note that a depth of between 9.75m and 12m is provided between the rear boundaries of the dwellings and the southern site boundaries.
- 7.3.11. The Development Plan specifies a minimum requirement of 75m² for private amenity space for 3 bed dwellings; with the Sustainable Community Guidelines requiring a minimum of 40m². The rear gardens range in size from 97.5 to 135.6m², thereby exceeding both minimum standards.

- 7.3.12. From a review of the drawings, I note that the proposed units accord or exceed the minimum housing standards as set out in the 'Quality Housing for Sustainable Communities – Best Practice Guidelines' (2007).
- 7.3.13. Having regard to the scale, height and design, I consider the proposed development would not dominate the adjoining properties and therefore have no negative impact on the residential amenities. In addition, I note that the screening of the units with mature established trees provides additional evidence that the proposal would have no negative impacts on the amenities of existing units to the south.

7.4. Access and Car Parking

- 7.4.1. The Appellant and Observers consider that the proposed development should be accessed from the L3171.
- 7.4.2. As noted above, the proposed development would be accessed via the Killenard cul-de-sac located to the immediate north of the site, with a pedestrian /cycle link to the L3171 Killenard road to the west, at approximately the location of the existing egress from this site.
- 7.4.3. The scheme includes the provision of 2 no. surface level car parking spaces per unit (8 no. spaces in total). All of spaces could function as EV spaces. This car parking provision is noted to meet SPPR 2 of the Compact Settlement Guidelines 2024 and car parking requirement of the Development Plan of 2 no. spaces per unit.
- 7.4.4. The application was accompanied by a Road Safety Audit (Stages 1 & 2 January 2024). The audit highlights that visibility splays at the access may be restricted, due to the existing embankment. In addition, visibility to the left from the existing junction of the cul-de-sac with the L-3171 may be restricted by existing vegetation and roadside boundary on the eastern side of the boundary.
- 7.4.5. I note that the recommendations of the RSAs have been taken into account within the development proposal, and refer the Commission to drawing pack submitted as part of the FI, in this regard. The pack includes an updated road layout drawing, illustrating the achievement of sightlines of 23m in both

directions when exiting from scheme to the cul-de-sac to the north and 45m in both directions when subsequently exiting to the L3171.

7.4.6. The application includes auto-track analysis for accessing each dwelling.

7.4.7. I note that the Roads and Transportation Department considered this information including relating to sightlines to be acceptable. In the event the Commission decide to grant permission, I recommend the inclusion of conditions as recommended by the Roads Design Section; including the completion of Stage 3 and 4 RSAs; and the submission of public lighting plan and reports.

7.4.8. The Appellant and Observers consider that the proposed development would put additional pressure on Duke Street Bridge to the north and other routes into Killenard which are already under significant pressure.

7.4.9. I note that this application relates to the provision of 4 no. additional units on lands subject to an established residential zoning objective, and as such, do not consider that these works would result in a significant level of additional traffic within the wider area.

7.4.10. Having regard to the above, in my opinion, the provision of access to the Killenard cul-de-sac facilitates an acceptable layout, facilitating the provision of the pedestrian link along the access route to the L3171.

7.4.11. I am therefore satisfied that the proposed development would not give rise to significant adverse impacts with respect to traffic and transportation

7.5. Landscape Design

7.5.1. The Appellant and Observers consider that it is unnecessary to remove open space as part of the new access arrangements from Killenard cul-de-sac to the south.

7.5.2. Whilst this issue is noted, I note that this is an area of incidental public open space on lands outside the ownership, and on lands which have been taken in charge by the Council.

7.5.3. I note that the scheme seeks to retain in full all mature trees along this northern boundary; with remedial works as appropriate, to the existing hedgerow, as

illustrated on the Landscape Plan, updated at Further Information stage by the applicant.

- 7.5.4. The public open space within the scheme is located at the eastern end of the site and overlooked by the eastern most dwelling within the scheme (providing 10% of the site area, in accordance with the Sustainable Community Guidelines 2024 and County Development Plan). The public open space includes tree planting on the southern boundary, benches with new hedgerow planting on the eastern site boundary. As noted above, the scheme includes a 2m wide footpath traversing a landscaped green area to the local road, with native tree planting.
- 7.5.5. As noted above, I consider the proposal to utilise the access from the cul-de-sac, as approved by the Roads Section of LCC; to be fully justified in this instance.
- 7.5.6. I also consider that landscape plans including the retention of the full extent of mature trees along the northern boundary and proximity of these units to the new public open space within the scheme to address the loss of this area of incidental public open space.
- 7.5.7. I therefore consider the landscaping proposals to provide a high level of amenity to prospective residents within the scheme, as well as protecting the residential amenities of all properties to the north of the site.

7.6. Ecology (Bat Surveys)

- 7.6.1. As noted above a submission has been made by the Development Applications Unit of the Department of Housing, Local Government and Heritage, recommending that, a bat survey of the building/trees in question is undertaken and circulated to the Department, prior to a decision on the application, and in effect, in order to determine whether a derogation may be required.
- 7.6.2. In response, the Applicants response notes that at the time of receipt of the submission (January 2025), that it was outside of the bat survey season, running from April to September.

- 7.6.3. The applicant states that bat boxes have been erected throughout the applicant's lands, including the subject site; and that these along with other measures to further protect bats, should they be encountered on site.
- 7.6.4. The report notes that the existing agricultural buildings are in a derelict state and require removal on health and safety grounds.
- 7.6.5. Having completed a site visit, I am satisfied that the demolition of these structures is warranted in order to facilitate the development.
- 7.6.6. The response states that entrance to the scheme can be facilitated without the removal of any trees; and that there would be some works to the hedgerow on this northern boundary.
- 7.6.7. The report refers to landscape proposals as submitted at FI stage, including new native species hedgerow along the eastern boundary of the site; additional semi-mature trees within the public open space, with the aim of providing habitat and shelter for bats, birds and insects. Bee friendly planting has also been incorporated within the scheme. The scheme also includes the introduction of bat friendly lighting, i.e., with a reduced output.
- 7.6.8. In this context, I note that updated guidance has recently been published from DHLGH on Regulation 54 derogation process for protected species listed on Annex IV (Applications for Regulation 54 Derogations for Annex IV species, Guidance for Applicants, Version 1.0, 1 July 2025). In summary, this guidance requires any derogation to be granted before the approval of the consent to the proposed activity. The application includes the removal /demolition of former agricultural buildings in order to facilitate the development.
- 7.6.9. Information on the absence/presence of potential bat roosting features in buildings has not been included in the application documentation; thereby precluding the determination as to whether the works to the buildings may require a Derogation Licence.
- 7.6.10. I therefore recommend the Commission refuse permission on this basis.

7.7. Site Services

Wastewater System

- 7.7.1. The appellant notes wastewater system does not have capacity to treat dwellings in Killenard recently overflowing onto Ballycarroll [Road]. The appellant also refers to the CDP (Section 6.4.2.4) outlining that the wastewater treatment plant at Lough is at capacity and requires an upgrade. I have checked the CDP and have found no reference to treatment plant at Lough.
- 7.7.2. In this context, I note that the application is accompanied by a Services Report dated January 2024, submitted at FI stage.
- 7.7.3. The report notes that it is proposed to collect the wastewater run-off and discharge by gravity to an existing public sewer which passes under the access to the site from the L3171. The scheme includes a new wastewater drain from each dwelling, discharging to a new foul drain located under the proposed access road.
- 7.7.4. The application is also accompanied by a letter of confirmation from Uisce Éireann, confirming that there is capacity within public wastewater system without upgrade requirements.
- 7.7.5. Given this response, and to a lesser extent the limited scale of the subject proposal, in my opinion, there is limited evidence that there is insufficient capacity within the public system to serve these units.

Water Supply

- 7.7.6. It is proposed to provide a new watermain within the scheme, connecting to an existing water existing watermain located along Killenard road, as illustrated on Proposed Watermain Layout submitted with the application.

The application was accompanied by Confirmation of Feasibility letter from Uisce Éireann, confirming that there is capacity within the water supply network to cater for the subject proposal, without the need for infrastructure upgrades.

Surface Water Drainage

- 7.7.7. It is proposed to collect surface water run-off from the proposed development and direct it towards the existing drainage point to the L3171 local road.

Surface water will be collected from each dwelling by a series of manholes and gullies via a new surface water drain.

7.7.8. The stormwater network includes the use of an underground attenuation tank located underneath the open space which forms part of pedestrian route/open to the west. Stormwater will pass through an attenuation system, prior to discharging the attenuated outflow to the land drain.

7.7.9. The stormwater calculations demonstrate that the proposed storage will cater for the maximum requirements. A Class 1 bypass petrol interceptor will be placed upstream of the attenuation system to ensure that hydrocarbons collected from the road run-off do not end up in the public system.

7.7.10. The Planner's Report (September 2024) notes that the Roads Design Department had reviewed the stormwater proposals and was satisfied with same.

7.7.11. In conclusion, I am satisfied that the proposed surface water drainage system to be acceptable and would not constitute a public health risk.

7.7.12. Having regard to the above, I am satisfied that the proposed development can be serviced and recommend the inclusion of condition, requiring the applicant to enter into a service connections collection network agreement with Uisce Eireann.

8.0 AA Screening

- 8.1. Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive). I have considered the proposed residential development of 4 no. houses and all ancillary works, in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The closest European site to the subject site is the River Nore and River Barrow SAC (Site Code: 002162), located c.2.0km to the north of the site.
- 8.3. No nature conservation concerns were raised in the planning appeal.
- 8.4. 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 effect on a European Site.
- 8.5. The reason for this conclusion is as follows:
- the distance of the site from Natura 2000 sites.
 - The location of the site within an established urban area.
- 8.6. I conclude, 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.
- 8.7. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1. I recommend that full planning permission is refused for the reasons and considerations as set out in Section 10.0.

10.0 Reasons and Considerations

The Commission is not satisfied, having regard to the proposal to demolish existing buildings on site, the absence of a bat survey of these buildings as submitted with the application, the submission as received from the Development Applications Unit (8th January 2025), the response submission from the developer, DHLGH Guidance on Regulation 54 derogation process for protected species listed on Annex IV (Applications for Regulation 54 Derogations for Annex IV species, Guidance for Applicants, Version 1.0, 1 July 2025); that the impacts on Bats have been adequately addressed. The proposed development would therefore be contrary to proper planning and sustainable 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.

Aoife McCarthy
Planning Inspector

9th October 2025

Form 1 - EIA Pre-Screening

Case Reference	321259-24
Proposed Development Summary	Construction of 4 dwelling houses, new site entrance and access road; the demolition/removal of derelict farm buildings and ancillary services and all associated site works
Development Address	Tierhogar, Killenard, Portarlinton, Co. Laois
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10(b)(i) Construction of more than 500 dwelling units – Sub Threshold.

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	
No ☒	

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	321259-24
Proposed Development Summary	Construction of 4 dwelling houses, new site entrance and access road; the demolition/removal of derelict farm buildings and ancillary services and all associated site works
Development Address	Tierhogar, Killenard, Portarlinton, Co. Laois
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
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).	The application relates to the construction of 4 no. dwellings with all ancillary works including demolition/removal of derelict farm buildings and all ancillary services. The construction phase would include the demolition of existing agricultural farm buildings, which may require a derogation licence, from the NPWS. The operational development will be served by surface water system (attenuation tank and new surface water drain); and will connect to the existing wastewater network and public water supply services. The operational phase will also be served by a new vehicular access off an established residential cul-de-sac. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
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, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The subject site is located within a village of Killenard, on lands, formerly in agricultural use. The site is c.5km from Portarlinton, the closest town, and 8km to the M7 motorway. The development is otherwise removed from sensitive natural habitats, designated sites, protected views, protected structures as designated within the Development Plan. The subject site is not located within or adjacent to any Natura 2000 sites. The closest European site is the River Nore and River Barrow SAC (Site Code: 002162), located c.2.0km to the north of the site.

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).	Having regard to the scale and nature of works, distance of the site from sensitive habitats, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)