



An
Bord
Pleanála

Inspector's Report

321295-25

Development

Retain (i) construction of covered beer garden (178sq.m) at rear of public house, comprising bar and seating area (ii) car park to east of public house comprising 39 no car parking spaces (iii) 1 no pedestrian gate to beer garden and 1 no vehicular access gate to car park and (iv) all boundary treatments, ancillary works and landscaping necessary to facilitate the development.

Location

The Railway Bar, Station Road,
Coolderry, Portarlinton, Co Laois

Planning Authority

Laois Co. Council

Planning Authority Reg. Ref.

2360457

Applicant

Shay Gallagher.

Type of Application

Permission to retain

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellants	Stuart McCaul, Lynda Moorhead and others.
Observer(s)	None
Date of Site Inspection	5 th February 2025
Inspector	Ann Bogan

Contents

1.0 Site Location and Description.....	4
2.0 Proposed Development.....	4
3.0 Planning Authority Decision.....	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies.....	7
3.4. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations.....	10
5.3. EIA Screening	10
6.0 The Appeal	10
6.1. Grounds of Appeal	10
6.2. Applicant Response	13
6.3. Planning Authority Response	14
6.4. Observations	14
6.5. Further Responses	14
7.0 Assessment	14
8.0 AA Screening.....	23
9.0 Recommendation.....	24
10.0 Reasons and Considerations.....	24
11.0 Conditions	24

Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site is located on Station Road, Cooltederry on the southern side of the town of Portarlinton, approximately 170m from the railway station. The site contains a two-storey structure, with single storey section to rear, with a public house, the Railway Bar, on part of the ground floor, and residential use in the remainder of the ground floor and at first floor level. There are also a number of other structures related to the bar use and an associated car park. The structures include a fully enclosed single storey building, referred to as a 'beer garden', outdoor seating/smoking areas, some with overhead canopies and side walls but not fully enclosed. There is a private fenced off garden area to the rear of the bar building, serving the residential use.
- 1.2. The car park to the south of the pub, has vehicular access from adjoining road and a pedestrian entrance to beer garden and rest of pub premises. Car parking spaces are not marked out and the car park is surfaced with loose stone/gravel with numerous waterfilled potholes evident. There is also what appears to be a makeshift bar adjoining the southern boundary of the beer garden area, facing into the car park, with various bar stools, parasols and beer barrels stored in the vicinity. The Site is bounded to west by approximately 2m high concrete block wall and to the east and north by hedges.
- 1.3. Station Grove housing estate immediately adjoins the site to the west and north, and Millbrook Manor estate is further north. There are some commercial and industrial business in the vicinity, including a Spar shop 90 metres to the north and the Odlum Mills industrial complex approximately 150m to the north. A cleared brownfield site is located on the opposite side of the road, and the railway station car park is nearby.

2.0 Proposed Development

- 2.1. The development consists of retention of:
 - Construction of 1 no covered 'beer garden' (178sqm) to rear of public house comprising bar and seating area
 - Car park to the south of public house with 39 parking spaces indicated, which takes in most but not all of the existing car park.

- 1 no pedestrian gate to beer garden and 1 no vehicular access gate to car park.
- All associated boundary treatments, ancillary works and landscaping

2.2. The application is accompanied by Planning Report prepared by Hughes Planning and a Noise Impact Assessment (dated May 2023) prepared by Wave Dynamics Acoustic Consultants.

2.3. Further information request led to submission of additional documents/drawings including revised elevational drawings reflecting existing finishes; a Post Mitigation Noise Impact Assessment (dated Sept 2024), a Noise Management Plan and a commitment that the 'beer garden' structure would not be used for live music.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Grant permission subject to 9 conditions

Conditions include:

- Condition 2 which limits the use to a beer garden with bar ancillary to public house
- Condition 4 addresses noise: requires noise mitigation measures to be implemented, no live or loud music to occur in beer garden with bar area, only background music allowed in this area; upper limit for music noise levels LAeq (dBA) shall not exceed 70dB at the noise sensitive receptors; noise level readings to be taken and recorded at weekends, and retained for inspection by Planning Authority; operator to keep a log of noise complaints from neighbouring properties
- Condition 5 restricting advertising signs
- Condition 6 disposal of surface water
- Condition 7 requiring external lighting to be cowled
- Condition 9 Development contribution

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report 12th December 2023:
 - Noted 10 third party submissions received
 - Considers the principle of the beer garden and car park ancillary to public house would be open for consideration on lands zoned general business
 - Appears structure is effectively an extension of the public house and operates as a music venue with bar
 - Expresses concern re proximity of the development to existing residential areas and potential noise impact associated with the development. Notes that Noise Impact Assessment proposes mitigation measures to reduce noise levels
 - EIA screening concluded development is not specified in Part 2 of Schedule 5 of Planning and Development Regs 2001 therefore EIA not required.
 - AA screening concluded no potential significant effects and AA not required
 - Further information recommended seeking clarification as to the use of the structure; requesting a post upgrade Noise Impact Assessment; clarification as to the purpose of screen located to rear of building; submission of a Noise Policy to control noise levels; revised elevational drawings to reflect existing finishes; and clarification re opening and closing times of beer garden.
- Planning Report 21st October 2024 considers responses to further information request:
 - Recommends condition to restrict use of the area as beer garden and bar ancillary to main bar and not a standalone music venue
 - Considers noise mitigation measures carried out to be acceptable i.e. walls upgraded in line with acoustic report, gaps and holes in walls filled

and sealed, and in particular not using the structure for live or loud music and use of noise limiter for background music

- Noise screen to rear is intended as a noise barrier and will remain in place
- Considers, if implemented, Noise Management Plan should ensure noise is kept to reasonable level
- External finishes considered acceptable
- Having assessed the application in conjunction with internal reports and planning policies, recommended permission subject to conditions

3.2.2. Other Technical Reports

- MD Engineer: no objection
- Waste Water and Environmental Protection Report (dated 18th Dec 2023, post first planning report): Refusal recommended as granting retention without noise mitigation works outlined in Ch 6 of Noise Impact Assessment will impact negatively on residential amenity. If Planning Authority is looking favourably on application, then applicant (1) should carry out noise mitigation works within 6 months of grant of permission. Details of works to be agreed by Planning Authority prior to being carried out and (2) Storm water should be disposed of within site.
- CFO: Inform applicant they are required to comply with Building and Building Control Regulations
- Enforcement: Set out action taken to date

3.3. Prescribed Bodies

- UISCE Eireann: No objection subject to condition

3.4. Third Party Observations

- Whyte Planning Consultants Ltd made a submission on behalf of occupants of 10 nearby houses, which was accompanied by personal letters from 9 of these parties. The issues raised are the same as those outlined in the appeal documentation.

4.0 Planning History

- None relevant

5.0 Policy Context

5.1. Development Plan

5.1.1. Portarlington Joint Local Area Plan 2018-2024

Site is zoned 'General Business' with a stated objective to provide for and improve commercial activities. Development proposals must have due regard to location of the site in the town. Public house use is not automatically acceptable in this zoning, but is 'open for consideration'. Adjoining areas are largely zoned 'Existing Residential' with a brownfield site across the road from the Railway Bar zoned for new residential development. The corresponding zonings and objectives proposed in the Portarlington Joint Draft Local Area 2025-2032, which was out for public consultation in November/December 2024, are unchanged.

5.1.2. Laois County Development Plan 2021-2027

DM TC 2 "Night clubs and disco bars play an important role in urban areas providing a night use which adds to the attraction of a town. They will not, however, be permitted in residential areas. In dealing with applications for such developments the Planning Authority will have regard to the following:

- 1) The effects on the amenities of adjoining properties particularly as regards hours of operation, noise and general disturbance;
- 2) The anticipated levels of traffic generation (a traffic and car parking statement shall accompany any application for such a change of use);
- 3) The generation, storage and collection of waste;
- 4) Quality signage proposals – plastics and neon signage will not be permitted.

Noise levels at the boundaries of these establishments will be monitored as circumstances require and mitigation measures will be required at the time of the submission of the planning application.

Noise levels at the boundaries of these establishments will be monitored as circumstances require and mitigation measures will be required at the time of the submission of the planning application”.

DM TC 5 Canopies, Smoking Shelters and outdoor seating areas

“The council will ensure canopies, outdoor seating and displays add to the attractiveness and vibrancy of an area and do not disrupt movement along footpaths. A high standard of overall design will be required, relating to the scale, design and position of canopies....’

‘Outdoor seating can contribute to the vitality and vibrancy of a town centre. Outdoor seating to the front of premises either on private forecourt or on the public footpath is subject to a Planning Authority license and will be considered generally acceptable if:

- sufficient space is available;
- access arrangements are not impacted upon;
- minimal impact on the amenities of nearby residents.

The provision of beer gardens or smoking shelters at public houses will be considered having regard to the following:

- The location of the beer garden or smoking shelter;
- The impact on adjacent properties; the hours of use, which may be restricted if it is considered that the noise generated would adversely affect the amenities of nearby residents”.

Noise Pollution Policy Objectives include:

ES48 Ensure new development does not cause an unacceptable increase in noise levels affecting noise sensitive properties. Proposals for new development with the potential to create excessive noise will be required to submit a construction and/or operation management plan to control such emissions.

ES49 Require activities likely to give rise to excessive noise to install noise mitigation measures and monitors. The provision of a noise audit may be required where appropriate.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura 2000 site is the River Barrow and River Nore SAC, which is located circa 1.25km north west of the subject site.

5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. (See attached EIA Form 1 Pre-screening and Form 2 Preliminary Examination).

6.0 The Appeal

6.1. Grounds of Appeal

Appeal submitted by Whyte Planning Consultants Ltd on behalf of residents of 10 properties in nearby housing estates, namely Station Grove, Train View Station Road, and Millbrook Manor

- Appellants are not satisfied with the granted permission and would welcome reversal of planning authority's decision
- Appeal accompanied by copy of submission made to Planning Authority by Whyte Planning on behalf of same residents, which also included copies of letters from residents of 9 of these properties. Issues raised in the submission are summarised below, some of which respond to points raised in the Planning Consultants report submitted with the planning application:
- Development description is incorrect and application should be invalidated. Railway Bar is a disco bar/live music venue/concert venue. Application does not represent existing situation on site
- Intensity of use on site has increased in recent years. The applicant needs retention of the use not just retention of the physical development

- Railway Bar was a small local pub, but has now developed into a music destination, where large groups gather until late hour with loud music to detriment of local residents
- Planning precedents referenced by applicant are in town centre and such mixed-use areas, where historically residents would be accepting of a level of noise. Railway Bar is in a different type of area so the precedents do not apply
- Railway Bar is an economic asset to generate money and there is no respect for residents who previously enjoyed a high level of amenity
- Zoning of site is 'General Business'; public house use does not allow for a destination music venue. This is a predominantly residential area and granting permission would prejudice future development of residential lands in the area
- Objective DMTC2 states that night clubs and disco bars will not be permitted in residential areas
- Applicant references DMTC2 but he cannot claim the development is a simple beer garden and then claim compliance with this objective for night club/disco bar
- Inclusion of noise impact assessment is an indication of acoustic nuisance issue. Acoustic report confirms serious noise pollution occurs on site.
- Noise attenuation measures are not achievable, doors will be wedged open, and in any case, would frequently be open as people pass through going to bar etc; bar staff cannot force patrons to be respectful to neighbours
- Development should be refused on grounds of excessive noise generated and impracticality of attenuation measures
- Applicant says 110 parking spaces needed but only 39 proposed. If 110 car spaces are needed, they should be provided
- Railway Bar's original structure has some local vernacular interest but 'beer garden' has visual appearance of a temporary structure and is visually incongruous in this landscape
- Do not accept that tourism infrastructure policies of Laois Co Development Plan can be applied to this development

- Do not accept that Portarlington LAP supports a beer garden as a high-quality amenity space
- Applicants constructed beer garden during Covid 19 pandemic. However this developed into a music venue and was subsequently roofed to dampen noise of music, which wasn't effective.
- Many residents moved in beside a small local public house in 2004, a low intensity use, but they are now living beside a night-club/disco bar and music venue.
- Impact of the noise is extremely upsetting for the residents, who are entitled to high degree of residential amenity, as they had previously
- Ask that development be refused and the area returned to small local public house.

Letters accompanying the submission repeated many points in submission; some specific points raised are summarised below:

- Residents can no longer use gardens, or sleep at night at weekends and other nights when events are held, due to noise levels from the development
- Excessive noise from cars as patrons leave the car park at night
- Customers of Railway Bar park on footpaths in estate
- Litter including broken glass, vapes and cans are dumped inside entrance to estate and it is used for public urination
- Bar manager promised swift implementation of recommendations of sound engineering company. Some measures implemented, such as blocking gaps in wall and installing doors, however, no difference noticed in noise levels
- The structure is not fit for purpose, it's a wooden cabin structure with 'perspex' roof. Business operations have changed but premises has not been changed to meet requirements of the operations
- Noise interferes with quality of life if residents, due to level and duration of noise, including late into the night.

6.2. Applicant Response

Submission by Hughes Planning Consultants on behalf of applicant:

- Consider the appeal is without substance as appellants have brought forward no valid grounds of appeal beyond their initial observation to planning authority. Request the Board to have regard to Section 138 (1) and dismiss the appeal as being without substance
- Proceed to respond to points raised in initial submission
- FI clarified that development is not a 'disco bar and concert venue' but is to provide Railway Bar with an ancillary beer garden and bar which support the site's primary use as public house
- Intensity of use and noise mitigation measures: applicant has confirmed beer garden is an ancillary feature and does not function as a stand-alone music venue. Noise Impact Assessment submitted under FI shows how mitigation measures will significantly reduce noise impact
- Applicant notes that restrictions on live or loud music were implemented to respect residential amenities
- Council has included conditions to limit noise levels to 70dB, prohibit live and loud music, require noise logs and a complaint register.
- Noise management Plan further ensures compliance and addresses concerns about patron behaviour
- Railway Bar, while not in an urban centre, is zoned General Business, which permits such developments provided they meet local policies. Planners report notes ancillary beer garden is compatible with this zoning
- Planner's assessment has due regard to appellants concerns re alleged negative impact on residential amenity due to excessive noise and anti-social behaviour by requesting Noise Impact Assessment and mitigation strategies as referred to above.
- Therefore, applicant believes development will not harm residential amenities

- Does not accept development is visually incongruous. Use of wooden cladding and other specified materials aligns with surrounding environment and function; and it is single storey structure not significantly visible from street
- With reference to claims that 110 parking spaces are required, applicant submits that based on area to be retained, 50 spaces are considered acceptable. With existing 4 spaces, 43 spaces have been provided and bus service runs outside the public house, rail station is nearby, and as it's a public house use, clientele are less likely to drive.
- Car park will operate in hours to minimize disruption with security measures to manage patron behaviour.
- Site is not exclusively a tourist attraction but it is a location for local tourism and provides a local amenity
- Submits that in Portarlinton LAP, commercial uses which enhance locality are supported within General Business zoning, and the development of beer garden aligns with this objective by improving amenities associated with the Railway Bar, which supports economic development of the town.

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Further Responses

- None on file

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, the report of the local

authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues to be considered in this appeal are as follows:

- Land Use Zoning
- Nature of development to be retained
- Residential amenities – noise impact arising from development
- Car parking
- Visual appearance
- Other Issues

7.2. Land Use Zoning

- 7.2.1. The site is zoned 'General Business in the Portarlinton Joint Local Area Plan 2018-2024 and in the Portarlinton Joint Draft LAP 2025-2031. Under the Land Use Zoning matrix (Section 18.2) a car park is a normally acceptable use and public house use is 'open for consideration' in such zoning, taking account of location within the town. On that basis, an extension of an established public house use can be considered, subject to other planning considerations such as the detail of the structure and specific use and impact on residential amenity in the particular location.

7.3. Nature of Development to be retained

- 7.3.1. There is some ambiguity in the nature of the structure and use to be retained. The application refers to retention of construction of a covered beer garden to rear of public house. The Planning Consultant's report submitted with the application states: "The proposed development seeks permission for the retention of an outdoor beer garden" and also refers to it as an outdoor seating area and subsequently as a "covered outdoor seating area". The signs on the entrance gates refer to 'The Sound Garden'.
- 7.3.2. The term beer garden is not defined but one would normally expect it to apply to an open or partially enclosed area ancillary to a public house. The Oxford English

Dictionary defines it as 'a garden or area of outdoor seating attached to a pub, bar, or similar establishment'.

- 7.3.3. The drawings submitted and the site inspection confirm that the structure is a fully enclosed building with roof and walls and solid floor, and is physically linked to the existing public house. It appears, based on the information on file, that it started as an outdoor beer garden during the Covid pandemic but was subsequently roofed over and walls upgraded. There is an adjoining open seating area/smoking area to the south of the main structure, which is partially covered with an awning, and partially enclosed by lightweight timber walls, but most of this outdoor area is not included in the area to be retained shown on drawings.
- 7.3.4. The new structure (the 'beer garden') has timber walls, as well as a composite panel walls on the northern side, a metal/composite panel pitched roof over the main area, and lightweight 'perspex' roof over other areas. As such the type of construction and materials are not what one would normally expect as a permanent extension to a public house. However, it includes a bar, a large screen with speakers, smaller speakers elsewhere, tables, seating, booths to the sides of the main area and appears to have acted as a music venue and as a de facto extension to the public house.
- 7.3.5. It is possible that the description of the development as retention of a covered beer garden and bar may have led to some lack of clarity as to the nature of the development by members of the public viewing the public notice. However, based on the submission representing local residents there appears to be widespread knowledge locally as to the nature of the structure and its use.
- 7.3.6. The new structure, stated to be 178sqm in area, has significant capacity and represents close to a doubling of floorspace of the original pub floorspace (total floor space including new area is 388 sqm). I note signs at the gate advertise the Railway Bar and Sound Garden as a party venue for large groups with a range of music options, including in-house sound system, DJ and live music. Third party submissions to the application and appeal describe the development as having become a disco bar/live music venue/concert venue and refer to noise nuisance from such live music events, particularly at weekends, and during a summer music festival.

- 7.3.7. The Planning Consultants report submitted with application, in making a case for the development, cites a number of pubs with a permitted outdoor beer garden with live music, most of which are located in the town centre. It also cites other pubs with beer gardens in the town centre and elsewhere.
- 7.3.8. The consultants in referencing Objective DMTC 2 of the Laois County Development Plan 2022-2027, which refers to discos and nightclubs, seem to confirm that the use of the 'beer garden' may be intended to include such activities. Objective DMTC2 recognises the importance of night Clubs and disco bars in as a night time use that adds to the attraction of a town, but states they will not be permitted in residential areas. Although this site has an existing public house and is zoned 'General Business' (where pubs are open for consideration), the surrounding uses are largely residential or zoned for future residential use and I believe the policy would be unlikely to support a night club or disco bar as a desirable use in this location.
- 7.3.9. The Planning Authority sought clarification via FI as to the nature of the use of the beer garden, raising concerns about the potential negative impact on residential amenities as 'the development description refers to use as a beer garden, however the use appears to be a standalone venue/bar/music venue'. The applicant responded that the nature of the structure is to provide the Railway Bar with an ancillary beer garden and bar, they are one entity and share washrooms etc and are used interchangeably and it is not a standalone venue/bar /music venue. They stated that in a typical week the public house and beer garden are open for 85.5 hours but the beer garden bar is only open for c 10 hours of this time, on Friday, Saturday and Sundays and less than this in quieter times of the year. I accept that the 'beer garden' and Railway Bar are one entity, although it is evident that the 'beer garden' structure has allowed an expansion of capacity which has facilitated much larger and diverse activities to take place, including large scale events with live music and DJs.
- 7.3.10. The further information stated that the 'Beer Garden' would not be used for live music, which would be a significant change from the use of the structure to date and if implemented would reduce the potential for adverse impact on residential amenities. This issue is further addressed in Section 7.4 below.
- 7.3.11. The Planning Officer considered that should planning permission be granted a suitable condition should be imposed to restrict the use of the 'beer garden' area. In

my opinion, if permission is to be granted, the condition should be more explicit than that attached by the Planning Authority, and indicate that certain uses are not covered by the permission, including music venue, disco bar, or nightclub, due to ambiguity as to what the terms 'retain beer garden and bar' represents in terms of the intended use in this case.

7.4. Residential Amenity and Impact of Noise

- 7.4.1. The principal concern raised in submissions on the planning application and appeal relates to excessive music and patron noise emanating from the 'beer garden' and car park, which is alleged to impact negatively on resident's amenities.
- 7.4.2. Following complaints from residents, the applicant commissioned a Noise Impact Assessment (May 2023) from Wave Dynamics Acoustic Consultants, which was completed prior to submission of the planning application in October 2023. Noise levels were surveyed at a weekend evening in April, within the 'beer garden', at nearby locations, including Noise Sensitive Locations (NSLs) close to adjacent dwellings, and at a selected background noise location. The noise impact at the nearest Noise Sensitive Location was assessed (in accordance with BS4142, designed to assess commercial and industrial noise to quantify its impact on a person standing outside a residential dwelling) and the report stated "it is predicted that the noise emanating from the Railway Bar beer garden will likely have a significant adverse impact". The study also found that low frequency music noise levels from the beer garden significantly exceed the residual low frequency noise levels in the area.
- 7.4.3. A series of mitigations measures were recommended in the report. These included the following fabric upgrades:
- Blocking of gaps/holes in the existing building fabric where the 'plexiglas' roof met the timber fencing
 - Walkways/entrances should be lobbied with doors which should remain normally closed while beer garden is in operation
 - Upgrade fence panel walls to achieve better sound insulation performance

- As there is a considerable amount of noise breakthrough through the main composite roof, a roof upgrade consisting of a suspended plasterboard ceiling is recommended
- The section of roof which is thin 'Plexiglas' should be upgraded to achieve a recommended sound insulation performance

7.4.4. As music noise was the main contributor, the report recommended that music noise limiter be installed on the sound system to control upper limit of live music or loud music in the beer garden, as well as limits on low frequency noise levels. Creation of a Noise Management Policy was also recommended, which should include upholding music noise levels as recommended, no music in the smoking area of beer garden, a noise complaint policy and signage in smoking areas and car park to remind patrons to keep noise down. The report concluded that implementation of all mitigation measures would result in beer garden noise levels complying with appropriate levels.

7.4.5. The cover letter to the Noise Impact Assessment Report states that implementation of mitigation measures was in progress and it appears work to upgrade the walls and erection of a noise barrier to dampen noise levels on a container to the west of the 'beer garden' structure occurred in advance of the submission of the application. I note that the residents' submission on the planning application which raised concerns re noise was made after these improvements and that one resident stated that in her opinion the improvements made to date had led to no improvement in noise levels.

7.4.6. The second Noise Impact Assessment (dated September 2024) submitted in response to the Further Information Request, confirms certain mitigation measures had been carried out since the first noise survey was carried out on 1st April 2023, namely:

- Gaps in and holes in the walls have been filled and sealed
- All walls have been upgraded in line with the first acoustic report
- The noise barrier had been retained (note: the noise barrier was not in place during my site inspection, apparently removed due to storm damage)
- No live music with limited background music in 'Beer Garden'

- 7.4.7. This second Noise Report, which was carried out when there was no live music playing in the 'beer garden', found noise levels in and close to the beer garden to be much reduced. It stated: "The noise levels from the beer garden in operation were assessed using a BS4142 assessment which predicted an unlikely adverse impact based on the already implemented mitigation and no live music (as proposed by Railway Bar), building fabric upgrades and no loud music. The noise levels at all NSLs were found to achieve the recommended noise limits". The report also pointed out that "changing the mitigation measures observed during the survey has potential to increase noise levels above the project criteria".
- 7.4.8. I note that the 'beer garden' was 50% occupied on the September Friday night when the sound survey took place, although the report indicates a full occupancy was factored in to the assessment. There was a significant increase noted in the background noise levels in the area and this was attributed to noise from the operations at the Odlum Mills premises, some 150m away. This noise source was not recorded or referenced in the April 2023 assessment, nor the Planning Authority Reports or in any submissions on the application. There is no information available as to whether the noise from the mill is a regular/ongoing occurrence or is intermittent or seasonal. It has implications for establishing what the 'normal' background noise in the area is, when noise from 'beer garden' activity is absent, and further noise surveys and investigations might be required to establish typical background noise levels. However, the survey also measured background noise levels at a selected residential location in the area which recorded what is more likely to be a typical background noise level.
- 7.4.9. I note that the roof upgrades, which were identified as important to limit noise breakthrough from the existing inadequate roof materials, have not been carried out. The second Noise Report states: "this mitigation was based on Live Music which will not be taking place in the beer garden going forward as confirmed by Railway Bar". In the absence of the roof upgrade, I would be concerned that there may still be a risk of significant noise emanating from the beer garden when it is fully occupied for a large event, unless there is rigorous implementation of the Noise Management Plan referred to below.
- 7.4.10. It is not clear that the mitigation measure requiring walkways/entrances to be lobbied with doors which should remain normally closed while beer garden is in use,

has been fully implemented. For example, the principal entrance door in the south elevation of the premises appears to be designed to be fixed either fully open or act as fully closed nighttime security door; and the door from the 'beer garden' to the open smoking area is a folding door which may not meet the requirement to remain closed when not in use.

- 7.4.11. The Noise Management Plan requested and received under further information includes an extensive series of measures including setting of limits to music volume, no live music in the 'beer garden', measures for monitoring and logging noise levels, logging noise complaints, and a customer dispersal policy to reduce noise when patrons are leaving the premises, including closing the car park at 11.00pm.
- 7.4.12. Based on the information provided in the initial noise assessment report and the drawings and information on file, and the site visit, I believe that the form of construction of the 'beer garden,' in particular the roof, renders it unsuitable for the hosting of live music or loud music events, despite some fabric upgrades having taken place. It is clear from the first noise survey that previous live events have resulted in excessive noise breakthrough from the structure with resultant negative impacts on amenities of nearby residences, particularly at nighttime. Therefore, the measures in the noise management plan, including no live music or loud music in the 'beer garden', are welcome and indeed essential if undue impact on residential amenities is to be avoided.
- 7.4.13. It is somewhat concerning that advertising signage outside the premises continues to promote the Sound Garden and Railway Bar as a venue for large parties (up to 300), with live music/DJ and it seems unlikely that such large events could be accommodated solely in the pre-existing pub premises. Signage remaining on the front pedestrian gates to the 'Beer Garden' for a large event (titled The Fake Wedding), which included a DJ, and took place in December 2024, which indicates noise mitigating measures as outlined in the Noise Management Plan may not have been fully in place at the time.
- 7.4.14. The importance of the Noise Management Plan being implemented fully in order to protect residential amenities cannot be over emphasised. In addition, conditions restricting noise levels and other mitigation measures are recommended.

- 7.4.15. Section 6.1.3 of the second Noise Assessment report (dated 27th September 2024) recommends the music noise levels LAeq (dBA) shall not exceed 70dB in the 'beer garden.' The planning authority decision includes a condition regarding noise controls (Condition 4(b)) which states: "Background music only is permitted in this area, for which the Upper Limit for music noise levels LAeq (dBA) shall not exceed 70db at the noise sensitive receptors". I consider this to be inadequate to protect residential amenities and recommend an alternative condition which would restrict noise levels to a lower level at the noise sensitive receptors, i.e. adjacent housing areas.
- 7.4.16. On the basis that the recommended mitigation measures and Noise Management Plan are fully implemented on an ongoing basis and subject to the recommended conditions relating to noise level limitations, I consider that the development would not unduly impact on residential amenities.

7.5. Car Parking

- 7.5.1. The application refers to retention of 39 space car park, and the appeal submission queries whether this is adequate for the development to be retained. Based on the Development Plan standards, the floor area to be retained of 178sqm would require 51 car parking spaces. There are 4 existing spaces along the road frontage which serve the pre-existing public house business. There is, therefore, a shortfall of 11 spaces to serve the new space.
- 7.5.2. The Planning Authority agreed to a relaxation of the standards, given the nature of the development where customers are less likely to drive and the location on the edge of the town within walking distance of a wide area of the town, and with taxi services available. It is also close to the train station. Taking these factors into account, I consider the level of parking provision to be acceptable.
- 7.5.3. The car park layout includes a number of spaces directly abutting the western boundary with adjacent houses. This could result in excessive late-night noise from patrons and vehicles departing the premises resulting in a negative impact on residential amenities. I therefore recommend inclusion of a condition requiring the car park layout be revised to relocate these spaces to the centre of the car park, away from the boundary with the houses. The car park surface is in poor condition

and heavily potholed. I therefore also recommend a condition requiring installation of a surface water disposal system, resurfacing of the car park and marking out of parking spaces, to the satisfaction of the planning authority.

7.6. Visual Appearance

- 7.6.1. As outlined above, the covered 'beer garden' is located to the rear of the of the public house and has a composite corrugated pitched roof over part and flat or 'lean-to' 'perspex' roof over the remainder, with timber and metal sheeting walls. It has a somewhat ad hoc arrangement of materials and forms and could not be considered to be wholly in character with other more conventionally constructed buildings in the area. However, it is largely screened by the existing public house and by the front boundary fencing and I believe it has a limited visual impact on the surrounding area.

7.7. Other Issues

- 7.7.1. Hughes Planning and Development Consultants, on behalf of the applicant contend that the appeal is without real substance "and that the appellants have brought forth no valid grounds of appeal, beyond their initial observation submitted at the application stage" and request the Board to dismiss the appeal. I note that the Board responded to the applicant's consultant on 7th January 2025 and advised that "the Board is satisfied the appeal meets all the provisions as set out through Section 127 of the Planning and Development Act 2000, (as amended)" and that the appeal process shall continue until determination.

8.0 AA Screening

- 8.1. I have considered the project in light of the requirements S177U of the Planning and Development Act 2000 as amended. The development to be retained comprises an enclosed 'beer garden' and bar to the rear of an existing public house, car parking and entrances.

The subject site is located 1.25km from the River Barrow and Nore SAC.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there was no conceivable risk to any European Site. The reason for this conclusion is as follows

- Nature and limited scale of the works
- Distance from and lack of connections to the nearest European site

I conclude that on the basis of objective information, that the development to be retained would not have had a likely significant effect on any European Site either alone or in combination with other plans or projects.

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

9.0 Recommendation

9.1. Permission to retain the development is recommended subject to conditions below.

10.0 Reasons and Considerations

Having regard to the provisions of the Laois County Development Plan 2021-2027 and the Portarlington Joint Local Area Plan 2018-2024, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area,

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 27th September 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>The development to be retained shall be used solely for the purposes detailed in the approved plans and particulars, namely an enclosed 'beer garden' with bar, ancillary to the public house. For clarity, the permission does not include use of the 'beer garden' as a music venue, disco bar or night club. No change of use shall take place without a prior grant of planning permission (notwithstanding the exempted development provisions of the Local Government Planning and Development Regulations, 2001, as amended)</p> <p>Reason: In the interests of clarify and to control the use of the development in order to protect the residential amenities of the area</p>
3.	<p>(a) All noise mitigation measures set out in the Noise Management Plan and the Post Mitigation Noise Impact Assessment, received by the Planning Authority on 27/09/24, shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this permission.</p> <p>(b) No live or DJ or loud music shall occur in the 'beer garden' with bar area. Background music only is permitted in this area.</p> <p>(c) No background music or other music shall be permitted in the outdoor smoking/seating areas or car park.</p> <p>(d) Noise resulting from operations affecting nearby noise sensitive locations shall not exceed the background level by 10 dB(A) or more or exceed EPAs NG4 limits (Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities), whichever is lesser (as measured from the facade of the nearest noise sensitive location). EPA NG4 limits:</p> <p>i) Daytime (0700-1900) 55 dB LAr, T (rated noise level, equal to LAeq during a specified time interval *EPA NG4)</p> <p>ii) Evening (1900- 2300)- 50 dB LAr, T</p> <p>iii) Night-time (2300- 0700)- 45 dB LAr, T.</p> <p>As measured from the facade of the nearest noise sensitive location.</p>

	<p>Clearly audible and impulsive tones at noise sensitive locations during the evening and night shall be avoided irrespective of the noise level.</p> <p>(e) There shall be no outbreak of amplified music from any activities, at nearby noise sensitive locations.</p> <p>(f) The operator shall keep a log of all noise and disturbance complaints from neighbouring properties. The recorded log of all complaints shall be retained on site and shall be readily available for inspection by the Planning Authority should it be so required</p> <p>Reason: To protect the residential amenities of property in the vicinity of the site.</p>
4.	<p>No advertisements, signs or advertising apparatuses shall be erected on the structure, on the site or adjoining public thoroughfare without a separate grant of planning permission, notwithstanding the provisions of Part 2 of Schedule 2 of the Planning & Development Regulations 2001 as amended.</p> <p>Reason: In the interests of visual amenity and traffic safety.</p>
5.	<p>(a) The car park layout shall be redesigned to remove spaces numbered 29-39 from the western boundary with the adjacent houses and to relocate them to the centre of the car park or elsewhere. No parking spaces shall be within 6m of said boundary. The revised layout shall be submitted to and agreed in writing with the planning authority within 3 months of the date of this order.</p> <p>(b) The car park surface shall be repaired, parking spaces marked out and a surface water disposal system installed, to the satisfaction of the planning authority.</p> <p>Reason: In the interests of residential amenity, patron safety and public health.</p>

6.	<p>Arrangements for disposal of surface water from roofs, entrances, paved areas and parking areas shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interests of environmental protection and public health.</p>
7.	<p>(a) Lighting shall be LED technology luminaires with minimum 10 year warranty. Lighting levels shall conform to IS EN 13201.</p> <p>(b) Any external lighting shall be cowled and directed away from the public roadway and adjoining properties.</p> <p>Reason: In the interests of traffic safety and residential amenity.</p>
8.	<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 within 8 weeks of this order 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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

Ann Bogan
Planning Inspector

24/03/2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	321295-24		
Proposed Development Summary	Retain covered beer garden and bar to rear of public house, car parking to east, and pedestrian and vehicular entrances to beer garden and car parking.		
Development Address	The Railway Bar, Station Road, Cooltederry, Portarlinton, Co Laois		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X.
		No	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	X	Class 10 (b) (iv)	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		.	EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10 (b) (iv) Urban Development 10 hectares.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: Ann Bogan Date: 24/03/2025

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-321295-24
Proposed Development Summary	Retain covered beer garden and bar to rear of public house, car parking to east, and pedestrian and vehicular entrances to beer garden and car parking.
Development Address	The Railway Bar, Station Road, Cooltederry, Portarlinton, 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</p> <p>(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 development is modest in scale, consisting of a 178sqm structure and 39 car parking spaces. It does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. 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.</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 close to the edge of an urban area to the rear of an existing public house and is linked to existing services. It is not close to designated sites and landscapes of identified significance in the County Development Plan, being 1.25km from the nearest designated site (Barrow and Nore SAC)</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, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>	
<p>Conclusion</p>		
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>	<p>Yes or No</p>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>	<p>No</p>

Inspector: Ann Bogan_____Date: 24/03/2025

DP/ADP: _____Date: _____

(only where Schedule 7A information or EIAR required)