



An
Bord
Pleanála

Inspector's Report

ABP-321695-25

Development

Minor alterations to dwelling house, entrance and boundary treatments, site layout and all associated site works from the proposed works granted under planning file ref. no. 22/447.

Location

Ross, Ballyfin, Co. Laois.

Planning Authority

Laois County Council

Planning Authority Reg. Ref.

2460645

Applicant(s)

Connor O'Shaughnessy

Type of Application

Permission for Retention

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

Shaun Fitzpatrick

Observer(s)

None.

Date of Site Inspection

15th April, 2025

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Ross at Ballyfin, Co. Laois, approximately 4.7km west of Portlaoise town centre and c. 1.0km north of Ross Bog, where it occupies a position along a minor local tertiary roadway in an area characterised by a rolling patchwork of agricultural fields interspersed with one-off rural housing, farmyards and associated outbuildings, along with instances of commercial forestry and cutover bog.
- 1.1.1. The site itself has a stated site area of 0.707 hectares, is broadly 'L'-shaped, and originally formed part of a larger agricultural field prior to its occupation by a recently constructed single-storey dwelling house with an attached car port and garage. It is bounded by agricultural lands to the north and east, the public road to the west, while the lands to the immediate south include an existing bungalow and associated agricultural outbuildings / barns.

2.0 Proposed Development

- 2.1. The proposed development involves the retention of alterations to the dwelling house, garage, entrance, boundary treatment, site layout and associated site works previously permitted under PA Ref. No. 22/447, including the following:
- The repositioning of the dwelling house to the north and east of the location previously approved under PA Ref. No. 22/447.
 - The substitution of the 'A'-frame pitched roof over the car port with a flat-roof construction.
 - Minor elevational changes to the house and garage, including the alteration of some window heights, the replacement of a doorway (leading from the hallway) in the rear elevation of the dwelling house with a window, and the provision of a single double-width door to the garage (as opposed to a pair of doors).
 - An amended site entrance arrangement, including its repositioning northwards.

- The removal of the roadside (western) front boundary ditch / hedgerow and its replacement with a timber post and rail fence.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 18th December, 2024 the Planning Authority issued a notification of a decision to grant permission for the retention of the proposed development, subject to 5 No. conditions which can be summarised as follows:

Condition No. 1 - Refers to the submitted plans and particulars before further stating that apart from departures authorised by this grant of permission, the development shall be carried out in accordance with the terms and conditions of PA Ref. No. 22/447 and any agreements entered into.

Condition No. 2 – Refers to external finishes.

Condition No. 3 – Refers to landscaping of the site and entrance.

Condition No. 4 – Requires the site to be used for domestic-related purposes only.

Condition No. 5 – Refers to surface water drainage.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Details the site context, planning history and the relevant policy considerations before analysing the proposal in the context of the development previously permitted under PA Ref. No. 22/447. It states that the alterations proposed for retention are minor and do not significantly affect the overall design or appearance of the development while the relocation of the dwelling house from its position as originally permitted is not considered to impact on the overall layout, site functionality, or the amenity of neighbouring properties. The changes to the entrance arrangement have been determined to be broadly consistent with the original design and it is also noted that although the roadside hedgerow was purportedly removed to achieve adequate sightlines, it will be replaced by new hedging planted behind the front boundary

fence. It was subsequently recommended that detailed drawings of the site entrance be sought by way of further information, however, an addendum report considered the details already submitted to be sufficient and recommended a grant of permission, subject to conditions.

3.2.2. *Other Technical Reports*

Planning Enforcement: Advises that a Warning Letter was issued to the registered owner of the site on 8th July, 2024 in respect of unauthorised development consisting of, but not limited to, non-compliance with Condition Nos. 1, 4, 13(a), 13(b), 13(c), and 11(c) of the grant of permission issued for PA Ref. No. 22/447.

Planning Technician (SSA): States that the SSA approved under PA Ref. No. 22/447 remains the same for the subject application.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A single submission was received from the appellant and the principal grounds of objection / areas of concern raised therein can be summarised as follows:

- Detrimental impact on the residential amenity of the neighbouring dwelling house to the immediate south by reason of overlooking and a loss of privacy.
- The proximity of the dwelling house and garage as constructed undermines the future development potential of the appellant's property.
- The development as constructed has an adverse impact on the use and enjoyment of the appellant's dwelling house.
- The overall size and scale of the dwelling house is excessive while its design is out of character with the surrounding pattern of development.
- The hedgerow along the western (roadside) site boundary has been removed in its entirety contrary to the terms and conditions of PA Ref. No. 22447 and in contravention of Policy Objectives BNH27, BNH28 & BNH30 and Policy DM BNH4 of the Laois County Development Plan, 2021-2027.
- Permission should not have been granted for the dwelling house in the first instance as the percolation tests conducted in the adjoining field failed.

- There has been a loss of water pressure within the group scheme since the construction of the dwelling house.
- The roof to the car port should be finished in accordance with the approved plans in order to ensure continuity and to assimilate the building into its setting.
- External finishes, including the roof slates and guttering, diverge from the approved plans.
- Concerns arise as regards the adequacy of the separation distance between the percolation area and a neighbouring well.
- Excessive light pollution.
- Adverse impact on telecom and broadband reception since the development was constructed.
- The site entrance arrangement gives rise to a traffic hazard.
- Concerns as regards the ownership and occupancy of the dwelling house.

4.0 Planning History

4.1. On Site:

- 4.1.1. PA Ref. No. 22/447. Was granted on 10th October, 2022 permitting Connor O'Shaughnessy permission to construct a dwelling house, septic tank treatment system, percolation area, new site entrance and all associated site works.

4.2. On Adjacent Sites:

- 4.2.1. PA Ref. No. 23276. Was granted on 12th February, 2024 permitting Gary Molloy & Miriam Barrett permission to construct a two-storey dwelling house with a single storey element, domestic garage, install a proprietary treatment system and polishing filter, new site entrance and all associated site works, at Ross, Coolnamona, Ballyfin, Co. Laois, R32 AK27.
- 4.2.2. PA Ref. No. 22542. Was granted on 25th January, 2023 permitting Connor Magee and Karyn Lynch permission to construct a dwelling house, domestic garage, secondary treatment system and polishing filter with new site entrance, along with all

ancillary site services and associated site works, all at Ross / Coolnamona, Ballyfin, Co. Laois.

5.0 Policy and Context

5.1. Laois County Development Plan, 2021-2027:

Chapter 13: General Location and Pattern of Development:

Section 13.3.4: Design and Rural Development:

Laois County Council has produced Rural Housing Guidance (Appendix 7) for all those who are thinking of building a house in the countryside. It has been prepared to show the importance of good siting and sensitive design for one-off houses in the rural areas of County Laois. The aim of the Guidance is:

- To describe the site planning and design issues that need to be addressed; and
- To clearly set out what is acceptable and what is not acceptable in terms of one-off houses in County Laois.

Laois County Council recognises the need to improve the quality of house design in the countryside and, in particular, that new houses are better related to their surroundings. The Guidance does this by identifying crucial site planning and design principles that need to be taken into account when considering building a new house.

This does not mean that all one-off houses should look the same. Instead the Council promotes a creative interpretation of the key principles so that individual and contemporary house designs are achieved.

The Council will require all planning applications for one-off houses to demonstrate how these guidelines have been taken into account. Proposals which fully reflect the guidelines are likely to reduce requests for further information, while those that do not are unlikely to be successful.

Rural Design Policy Objectives:

RD 1: Encourage the creation of attractive, usable, durable and adaptable structures, spaces and places in order to foster the development of sustainable and cohesive communities.

RD 2: Encourage successful coordination of proportions, material, colour and detail. Proposed new buildings should be fit-for-purpose and use internal and external space efficiently. Particular attention will be given to form, emphasis, building lines, eaves and rooflines as these elements have a significant effect on the impression of a building.

Appendix 7: Rural Design Guidance

5.2. Natural Heritage Designations

5.2.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- Clonreher Bog Natural Heritage Area (Site Code: 002357), approximately 3.3km to the northeast.
- Slieve Bloom Mountains Special Protection Area (Site Code: 004160), approximately 3.5km to the northwest.
- Ridge of Portlaoise Proposed Natural Heritage Area (Site Code: 000876), approximately 4.3km to the east.

5.3. EIA Screening

5.3.1. The development proposed for retention does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, and therefore does not require preliminary examination or environmental impact assessment. See Form 1 (attached).

6.0 The Appeal

6.1. Grounds of Appeal

- Despite the appellant having previously raised concerns in relation to the scale, design and proximity of the development originally proposed (and

subsequently approved) under PA Ref. No. 22/447 with a local elected representative, those representations would not appear to have been recorded by the Planning Authority.

- The planning history submitted in support of PA Ref. No. 22/447, which includes references to invalid planning applications and locations at a considerable remove from the subject site, is misleading and gives the incorrect impression of ample sites / planning applications having been approved in the locality.
- Contrary to an earlier assertion that the site entrance as originally proposed under PA Ref. No. 22/447 could achieve adequate sight distance while retaining the front boundary roadside hedgerow, that hedging has since been removed in its entirety so as to achieve sightlines at the new entrance (in contravention of Policy Objectives BNH27, BNH28 & BNH30 and Policy DM BN14 of the Laois County Development Plan, 2021-2027).
- It was mistakenly indicated during the assessment of PA Ref. No. 22/447 that the site is in a '*Stronger Rural Area*' despite its actual location in an '*Area under Strong Urban Influence*' where more stringent rural housing policy provisions apply as regards adherence to local needs criteria. By extension, concerns arise as regards the applicant's compliance with the requirement to establish a demonstrable local or economic need / a genuine local need.
- Conflicting information has been provided as to whether any pre-planning consultations were held in advance of the lodgement of PA Ref. No. 22/447.
- A detailed site suitability assessment should have been undertaken as part of PA Ref. No. 22/447 given that it is the appellant's understanding that the (percolation) test holes failed.
- Non-compliance with the terms and conditions of the grant of permission issued in respect of PA Ref. No. 22/447 as follows:
 - Condition No. 3: The entirety of the existing development was not constructed in accordance with the plans and particulars received by the Planning Authority on 19th July, 2022.

- Condition No. 4: Failure to submit an amended Site Layout Plan and Sightline Plan, for written approval, prior to commencement of development, showing the retention of the roadside (western) site boundary and the required sightlines.
 - Condition No. 7: The camber at the site entrance would appear to allow surface water runoff to drain onto the public road.
 - Condition No. 8: Adequate sightlines would not appear to be available from the site entrance in a northerly direction onto the public road.
 - Condition No. 11: The Site Characterisation Form submitted with PA Ref. No. 22/447 does not identify a nearby well and, therefore, concerns arise as to whether there is sufficient separation distance between that well and the percolation system.
 - Condition No. 13: Site boundary screening was removed without consent and new planting undertaken.
- The cover letter submitted with the subject application mistakenly refers to the dwelling house as having been moved approximately 5m west when in fact it has been relocated eastwards.
 - Development should not have commenced without the written consent of the Planning Authority for the various alterations (proposed for retention) or in the absence of the information required by specified planning conditions.
 - The changes to the design originally approved should not be permitted in line with proper planning considerations.
 - Condition No. 2 of the notification of the decision to grant permission for the subject application is in direct contravention of the Laois County Development Plan, 2021-2027 and also conflicts with the conditions attached to PA Ref. No. 22/447.
 - Condition No. 3 does not protect the rural character of the area and is contrary to both the Development Plan and the recommendations made in respect of PA Ref. No. 22/447. The removal of the roadside boundary hedgerow and the associated provision of suburban style lawns undermines rural character and gives rise to an urbanising impact.

- There would appear to a noticeable camber at the site entrance which allows runoff to discharge onto the public road in contravention of Condition No. 5 as attached to the subject grant of permission.
- The Laois County Council Development Contribution Scheme, 2023-2029 does not allow for any exemptions or waivers as regards the retention of development while Section 9.10 of the Scheme states that where permission is sought for the modification / revision of a permitted development, including a change of site layout, it will be treated as a separate planning permission. The subject proposal does not fall under the caveat for exceptional circumstances, and it appears that no development contributions have been imposed on this grant of permission for retention.
- The proposed development does not accord with the requirements of the Laois County Development Plan, 2021-2027, including Appendix 7: *'Rural Design Guidance'*.
- The appeal site is located in close proximity to flood zones identified in the Development Plan further east.
- The appellant has experienced a loss of water pressure at certain times of the day since the occupation of the dwelling house.
- The overall size and proximity of the development obstructs the short distance views available from within the appellant's neighbouring property.
- Much of the vegetation on site has been removed against the advice of the original case planner.
- The County Development Plan states that the most intrusive form of new development is the suburban style plot that bears no resemblance to the rural character of the locality.
- The dwelling house exacerbates a pattern of ribbon development contrary to the provisions of the County Development Plan.
- The proposed development has a detrimental impact on the residential amenity of the appellant's dwelling house by reason of overlooking and a loss of privacy.

- The overall scale of the development is excessive and its siting in close proximity to the appellant's dwelling house and agricultural buildings prohibits the future development of his property. In this regard, it is submitted that the overall siting, design and scale of the development does not accord with Policy DM RH 1 or Appendix 7 of the Development Plan.
- The surface treatment of the access and parking areas should be sympathetic to rural character, however, the subject entrance has been surfaced in tarmac while precast concrete kerbing is used throughout the site frontage.
- The removal of the mature hedgerow from along the front site boundary has led to a potential traffic hazard by inviting parking directly along the roadside.
- Most of the site frontage is lawn which does not provide suitable habitat for wildlife. In addition, laurel hedging has been planted to the south despite hedgerows being preferred.
- Although the original planning application (PA Ref. No. 22/447) proposed the use of traditional materials such as natural roof slates, painted hardwood soffits and fascia, and cast-iron gutters & downpipes, the external finishes to the dwelling house as constructed include PVC weatherboards & downpipes as well as fibre cement slates.
- There has been a loss of biodiversity in the locality due to the construction works, light pollution, and the increased level of activity on site.
- The overall house design is not in keeping with the surrounding pattern of development and is unsympathetic to the adjoining property.

6.2. Applicant's Response

- It appears that the appellant is seeking to use the subject application as a means by which to raise concerns with respect to the development already approved on site under PA Ref. No. 22/447 despite those matters (such as the overall principle of the development on site, compliance with local need considerations, the design & scale of the construction, wastewater treatment, flood risk assessment, and lighting impacts) being of no relevance to the

current proposal and not having been assessed by the Planning Authority. The appellant did not avail of the opportunity to make a submission on PA Ref. No. 22/447 nor did he seek leave to appeal that decision as a neighbouring property owner.

- The principle of the development on site has already been considered and accepted. Therefore, the scope of the appeal should be based on a review of those aspects of the development for which permission for retention has been sought i.e. the repositioning of the dwelling house on site; the provision of a flat roof to the car port; revisions to the boundary treatment as regards the achievement of sightlines; and associated works.
- Further aspects of the grounds of appeal were already assessed in the determination of PA Ref. No. 22/447 and thus do not fall to be considered as part of the subject proposal. Examples include the following:

- *Legal interest in the land:*

The Planning Authority would have been satisfied that the necessary landowner consent had been submitted in its assessment of PA Ref. No. 22/447. The developer does not have to be the owner of the land in order to lodge a planning application with a letter of consent being acceptable for planning purposes.

- *Impact on the amenity of the appellant's property:*

The appellant's concerns in this regard are unclear given that both properties have defined boundaries and no encroachment occurs. Any application for development on the appellant's land would be assessed on its own merits by the Planning Authority.

- The revised positioning of the dwelling house as constructed is no closer to the appellant's property. The development continues to comprise a bungalow-type dwelling located more than 30m from the appellant's dwelling with a boundary between the two properties. Accordingly, there are no concerns as regards overlooking or a loss of privacy.
- With respect to the size of the subject house, including in comparison to the appellant's property, all properties are relative to an individual's needs and

there are no policy provisions in this regard pertaining to property size. The submitted design and scale would be considered the norm in rural Ireland. Furthermore, the subject proposal does not involve the regularisation of the scale or size of the property and thus there is no need to assess same.

The primary issue requiring assessment is any impact attributable to the revised positioning of the dwelling house as constructed. Overlooking, privacy, light and encroachment have not been brought into the development and, therefore, this aspect of the retention application should be considered acceptable.

- The revised entrance arrangement and roadside boundary treatment improve the available sightlines and the safety of the adjacent road. It is also proposed to replant a hedgerow behind the new fence line. In this regard, it should be noted that neither the case planner nor the road engineer with Laois County Council raised any concerns over road safety.
- Neither the Planning Authority nor the grounds of appeal have raised any concerns as regards the amended car port roof construction. Moreover, it is apparent that no negative impacts arise as a result of the car port as constructed.
- The principle of the development accords with national and local policy, namely the National Planning Framework and the Laois County Development Plan. The site is suitable for residential development in a rural area as established by PA Ref. No. 22/447.
- With respect to alleged non-compliance with conditions attached to PA Ref. No. 22/447, it should be noted that the applicant has five years from the date of the original grant of permission to carry out the development or a substantial part thereof. Given that this timeframe has yet to pass, the appellant is premature in referencing purported non-compliance.
- The application is for the retention of amendments which could be considered so minor that they are non-material and thus do not require permission. Nonetheless, the subject application has been lodged to ensure that the site is regularised.

- None of the amendments proposed for retention have altered the development in such a way as to give rise to a negative impact on the site, neighbouring properties, or the environment.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- The nature of the proposed amendments
- Impact on the amenity of neighbouring property
- The proposed entrance arrangements
- Other issues
- Appropriate assessment

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

7.2.1. The proposed development is described in the public notices as comprising the retention of minor alterations to the development previously permitted on site under PA Ref. No. 22/447. Accordingly, I am satisfied that the subject application can be reasonably described as amending an extant grant of permission and the development approved thereunder and thus there is no need to revisit the wider

merits and overall principle of the development already granted on site. Indeed, it is clear that the subject proposal is intrinsically linked to the grant of permission issued in respect of PA Ref. No. 22/447 and that the amendments detailed in the subject proposal are reliant on the implementation of that grant of permission and cannot be carried out in isolation of same. Therefore, as the overall principle of the development of this site has already been established under PA Ref. No. 22/447, it would be inappropriate to revisit any issues of principle (including the validity of the planning application, the applicable rural housing policy, the adequacy of the wastewater treatment arrangements, or matters pertaining to flood risk) which have all already been considered in the assessment of PA Ref. No. 22/447.

7.3. The Nature of the Proposed Amendments:

- 7.3.1. The amendments proposed for retention are of a comparatively minor nature and include the repositioning of the dwelling house to the north and east of the location previously approved under PA Ref. No. 22/447; the substitution of an 'A'-frame pitched roof over the car port with a flat-roof construction; and minor elevational changes to the house and garage, such as the alteration of some window heights, the replacement of a doorway in the rear (eastern) elevation with a window, and the provision of a single double-width door to the garage (in place of a pair of approved doors). Other modifications to the development from that originally approved include the amended site entrance arrangement (which has involved repositioning the entrance northwards as well as revisions to its splayed design) and the removal of the roadside (western) boundary ditch / hedgerow along with its replacement by a timber post and rail fence which is to be supplemented by the planting of new hedging behind same. In my opinion, the changes proposed for retention to the site layout and the building design are generally of a relatively cosmetic nature and are consistent with the broader design of the permitted development.
- 7.3.2. Perhaps the most significant change from a visual perspective is the removal of the roadside boundary ditch / hedgerow and its replacement with a timber post and rail fence. The loss of the original ditch is regrettable as regards a diminution in rural character and would not be supported by the '*Rural Design Guidance*' contained in Appendix 7 of the Development Plan, however, given the specifics of the site context and the surrounding pattern of development, it is my opinion that the replacement timber post and rail fence, when taken in combination with the supplementary

hedging to be planted behind same, is acceptable in this instance. In support of the foregoing, I would draw the Board's attention to the site location within a landscape of lower sensitivity i.e. the '*Lowland Agricultural Landscape Character Area*', which is described in Table 11.6: '*Landscape Sensitivity*' of the Development Plan as comprising '*Areas with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area*'. More particularly, it is of relevance to note the variety of roadside boundary treatments in the immediate site surrounds, including several examples of timber post and rail fencing. Indeed, the front boundary of the dwelling house to the immediate south of the application site is defined by a low rendered wall with piers (part of which includes a section with metal railings erected atop same) while the roadside boundary to the neighbouring agricultural outbuildings comprises high timber panel fencing (constructed in place of a hedgerow). Further along the roadway, the roadside boundary of the dwelling house opposite those outbuildings consists of timber post and rail fencing comparable to that proposed for retention while there are other instances of such fencing elsewhere in the locality. It is also of note that the section of ditch removed is comparatively short and located along a minor and lightly trafficked road which terminates in a cul-de-sac and thus its wider impact on rural character, particularly when taken in combination with the surrounding pattern of development, is relatively limited. Accordingly, I am satisfied that the retention of the existing fencing and the mitigatory planting proposed alongside same is acceptable from a visual amenity perspective.

- 7.3.3. In the event the Board does not agree with my assessment as regards the roadside boundary treatment, it would be feasible to require the reinstatement of a boundary hedgerow / ditch as a condition of any decision to grant permission.

7.4. Impact on the Amenity of Neighbouring Property:

- 7.4.1. The primary concern raised in the grounds of appeal relates to the positioning of the dwelling house as constructed relative to the appellant's dwelling house and farm buildings to the immediate south and the intervening site boundary. In this regard, the main points of contention are an alleged loss of residential amenity attributable to overlooking and an associated loss of privacy along with the potential for the proposal to undermine the future development of the appellant's property.

7.4.2. Given that the dwelling house as constructed has been relocated to the north and east of the position originally approved under PA Ref. No. 22/447, it is apparent that the separation distances between it and the neighbouring property have increased accordingly. For example, the separation between the southernmost elevation of the existing dwelling house and the site boundary shared with the appellant's property is shown on the corresponding site layout plans as having increased from 8.216m (as per PA Ref. No. 22/447) to 10.229m. The dwelling house has also been constructed approximately 5m east of its original location thereby further lessening any perceived impact on the adjoining property. It is also of note that there are no notable changes proposed for retention to the fenestration treatment (such as additional or significantly enlarged windows) within the southern elevation of the dwelling house which faces onto the appellant's residence.

7.4.3. Therefore, on the basis of the foregoing, it is reasonable to conclude that the subject proposal will not give rise to any significant additional impact on the residential amenity of the appellant's property over and above that already attributable to the development as approved under PA Ref. No. 22/447.

7.5. The Proposed Entrance Arrangements:

7.5.1. The amended site entrance arrangement proposed for retention includes for the repositioning of the entrance northwards as well as revisions to the design of the splayed entrance walls along with the removal of the roadside boundary ditch / hedgerow and its replacement with a timber post and rail fence. In this regard, it has been asserted in the grounds of appeal that the new entrance arrangement does not comply with the terms and conditions of the grant of permission issued under PA Ref. No. 22/447, with particular reference to Condition No. 4 which required the submission of an amended Site Layout Plan and Sightline Plan for the written agreement of the Planning Authority, prior to the commencement of development, which clearly showed the then existing roadside (western) boundary hedgerow / ditch being retained up to that point at which its removal would not be required to achieve 60m sightlines in both directions.

7.5.2. By way of explanation, the applicant has acknowledged his failure to adhere to the requirements of Condition No. 4 of PA Ref. No. 22/447, however, it has also been

submitted that the removal of the entirety of the roadside boundary hedgerow was necessary in order to achieve the required sightlines.

- 7.5.3. Following a review of the available information, and having conducted a site inspection, given the likelihood of comparatively low traffic speeds and volumes along this lightly trafficked rural road (which terminates in a cul-de-sac), I am satisfied that the sightlines available from the entrance as constructed are within acceptable limits and that the development proposed for retention would not endanger public safety by reason of traffic hazard. Furthermore, it is my opinion that the overall design of the splayed entrance as constructed along with the retention of the existing roadside fencing (which will be supplemented with new planting) are acceptable from a visual perspective and do not unduly detract from the prevailing rural character of the surrounding area.

7.6. Other Issues:

7.6.1. Previous and / or Potential Future Non-Compliance:

In relation to the appellant's concerns as regards non-compliance with the terms and conditions of the grant of permission issued for PA Ref. No. 22/447, it should be noted that the Board has no function in respect of issues pertaining to enforcement and that the pursuit of such matters is generally the responsibility of the Planning Authority. It is also of relevance to note that the subject application has been purposively lodged in an effort to regularise certain unauthorised works which have been carried out on site.

- 7.6.2. Furthermore, while I would acknowledge the concerns raised in the grounds of appeal as regards the possibility of further non-compliance with the terms and conditions of any grant of permission issued on site, in my opinion, it would be inappropriate for the Board to speculate on such matters and I would reiterate that issues relating to unauthorised development, including any breach of condition, should be referred to the Planning Authority in the first instance.

7.6.3. Development Contributions:

The subject application involves the amendment of an extant grant of permission and the development approved thereunder and in this regard the appellant has drawn attention to Section 9.10: *'Revisions / Modification to a Permitted Development'* of

the Laois County Council Development Contribution Scheme, 2023-2029 which states the following:

‘An application for permission for modification or revision to a permitted development, including a change of house type or amendment to a site layout will, where material, be treated as an independent/separate permission for development, and will be assessed on the full proposal for the floor area permitted in such a permission, at the rate of development contributions in operation on the date of issue of the decision to grant permission’.

7.6.4. Contrary to the appellant’s interpretation of the foregoing, it is my opinion that as the amendments proposed for retention are of a minor nature, they can be reasonably held to be non-material and thus are not required to be treated as *‘an independent / separate permission for development’*. Notwithstanding any debate as to whether the amendments in question are actually ‘material’ for planning purposes (i.e. whether they require planning permission in the first instance), it is apparent that Section 9.7 of the Scheme is specific to planning applications and that there is an intent contained within same to draw a distinction between ‘material’ and ‘non-material’ modifications or revisions as regards the application of development contributions. Therefore, as a matter of judgement, I am satisfied that the changes to be retained do not warrant treatment as a separate permission and are not subject to development contributions. In this regard, I would also advise the Board that the subject proposal does not involve any increase in floorspace over that previously permitted under PA Ref. No. 22/447.

7.6.5. By way of further comment, given that the nature of the development proposed to be retained would not attract development contributions for the reasons set out above, the provisions of Section 9.7: *‘Retention Permission’* of the Scheme as regards the absence of any exemptions or waivers for the retention of development are not of relevance in this instance.

7.7. Appropriate Assessment:

7.7.1. **Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive):**

I have considered the development proposed to be retained, which comprises minor alterations to a dwelling house, entrance and boundary treatments, site layout and all associated site works from the proposed works granted under planning file ref. no. 22/447, all at Ross, Ballyfin, Co. Laois, in light of the requirements S177U of the Planning and Development Act, 2000, as amended.

7.7.2. The subject site is located approximately 3.5km southeast of the Slieve Bloom Mountains Special Protection Area (Site Code: 004160).

7.7.3. The proposed development comprises the retention of alterations to the dwelling house, garage, entrance, boundary treatment, site layout and associated site works previously permitted under PA Ref. No. 22/447, including the following:

- The repositioning of the dwelling house to the north and east of the location previously approved under PA Ref. No. 22/447.
- The substitution of the 'A'-frame pitched roof over the car port with a flat-roof construction.
- Minor elevational changes to the house and garage, including the alteration of some window heights, the replacement of a doorway (leading from the hallway) in the rear elevation of the dwelling house with a window, and the provision of a single double-width door to the garage (as opposed to a pair of doors).
- An amended site entrance arrangement, including its repositioning northwards.
- The removal of the roadside (western) front boundary ditch / hedgerow and its replacement with a timber post and rail fence.

7.7.4. 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.

7.7.5. The reasons for this conclusion are as follows:

- The small scale and nature of the proposed development;
- The distance between the appeal site and European sites and the absence of hydrological or other ecological pathways to any European site; and

- The contents of the appropriate assessment screening report and determination completed by Laois County Council.

7.7.6. 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.

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

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission for the retention of the proposed development be granted for the reasons and considerations, and subject to the conditions, set out below:

9.0 Reasons and Considerations

9.1. Having regard to the planning history of the site, with particular reference to planning register number 22/447, the pattern of development in the area, the scale, form and design of the development proposed for retention, and to the provisions of the Laois Development Plan, 2021-2027, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, 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 and

the development shall be retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be retained, carried out and completed in accordance with the terms and conditions of the permission granted on the 10th day of October, 2022, under planning register reference number 22/447, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. Landscaping of the site, including the front roadside boundary, shall be carried out in accordance with a landscaping scheme which shall be submitted to and agreed in writing with the planning authority within three months of the date of this Order. This landscaping shall be implemented not later than one year of the date of this Order. Any planting that is diseased or fails within two years of planting shall be replaced.

Reason: In the interest of the visual amenities of the area.

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.

Robert Speer
Senior Planning Inspector

23rd April, 2025

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

An Bord Pleanála Case Reference	ABP-321695-25			
Proposed Development Summary	Retention of minor alterations to dwelling house, entrance and boundary treatments, site layout and all associated site works from the proposed works granted under planning file ref. no. 22/447.			
Development Address	Ross, Ballyfin, 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	✓	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	✓		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	✓	N/A		No EIAR or Preliminary Examination required
Yes		Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____