



An
Coimisiún
Pleanála

Inspector's Report ACP-323058-25

Development	Construction of 14 houses and all associated site works.
Location	Limegrove, Palatine, Carlow.
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	2460177
Applicant(s)	Dunneace Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Susan Morris and & Svitiana Snigur
Observer(s)	Jamie Cullen
Date of Site Inspection	7 th of January 2026
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1. The subject site, 1.219ha, is located in a village called Palatine which is 6km north-east of Carlow town. The appeal site is located on the northern approach to the village centre within an existing residential estate.
- 1.2. The site forms part of an unfinished housing estate called Limegrove which consists of 38No. dwellings, and all associated physical infrastructure. Limegrove is accessed off a local Road, L-4015. The subject site is positioned between a number of existing dwellings within the estate. The original construction compound associated with the estate is located in the adjoining field south of the subject site, see photo plates.
- 1.3. The topography of the site rises across the site from the east to the west. There is a row of mature lime trees along the eastern boundary of the subject site. Also on the eastern site boundary beside the trees is an ESB substation. There is a stone wall along the roadside boundary (north-west).
- 1.4. The roads, footpaths and open space areas have been provided throughout unfinished estate and are in place to serve the subject site.
- 1.5. Surrounding land uses include residential development to the east and the west, with lands to the north and south in agricultural use.
- 1.6. There is an exiting Open Space area to the south of the site, and a footpath bounding the site along the southern site boundary. Two semi-detached dwellings (11-12 Lime Grove) are positioned on the western site boundary and back on to the site. (Third Party appellants reside at this location)

2.0 Proposed Development

- 2.1. The proposed development is described as follows:
 - The construction of 14No. semi-detached dwellings (consisting of 6No. three bedroom houses, 8No. four bedroomed houses);
 - Connection to existing onsite services;
 - Carparking spaces;

- Boundary treatments;
- Streetlighting and all associated site works.

2.2 The planning authority requested Further Information on 16th of August 2024, and Clarification of Further Information on 31st of January 2025. Essentially it was concerned about the lack of detail accompanying the planning application in terms of design, layout and quantum of units to demonstrate compliance with the development plan. The applicant was requested to reduce the number of units in line with the settlement strategy for Palatine Table 2.7 Carlow County Development Plan. The open space design and provisions needed to be reconsidered. The applicant was requested to consider incorporating Houses 15-18 into the open space. Clarification on the trees and the ROW to the north of the site, and AA screening report and an Archaeological Impact Assessment

2.2. The further information was received on 19th of December 2024 from the applicant. It included soil test report and that it is proposed to manage all the rainfall runoff generated from the development at source i.e within the confines of the site. As part of the stormwater management, it is also proposed to incorporate Nature based SuDS into the development with the provision of tree pits to provide additional capacity. Please refer to drawing J965-PL01-001 Stormwater services layout indicating the location and detail. All soakaways have been designed in accordance with B.S. 8301:1985 and BRE Digest 365. An Arboriculture Report was also submitted and an Appropriate Assessment Screening Report prepared by Panther Ecology Ltd. A Road Safety Audit Stage 1/2, Lighting design, Landscaping proposals, revised site layout and additional drawings and details. An Archaeological Impact Assessment prepared by Icon Archaeology was also submitted. On the 7th of January 2025 revised public notices were submitted in relation to the significant further information received.

2.3. Clarification of Further information was received on the 23rd of May 2025 which included another revised site layout for 15No. dwellings and a design statement. It was stated the proposed units are in approximate positions as they were when they were previously granted under PL.05/267, subsequently appealed to An Bord Pleanála and planning permission was upheld. The final revised site layout includes

a detached single storey three-bedroom 6 No. two storey three bedroom semi-detached units and 8 No. two storey four-bedroom units.

3.0 Planning Authority Decision

3.1. Decision

Carlow County Council decided to grant planning permission for the development on the 19th of June 2025 subject to 28 No. standard planning conditions.

Of note are the following conditions:

No. 2 The permission is for 15 No. dwellings only.

No. 3 External finishes

No. 4 Landscaping and open space

No. 5 Boundary treatments

No. 6 Tree Protection

No. 7 Part V

No. 9 RIGHT OF WAY

The right of way identified on the site location map has not been extinguished and the applicant proposes the development of private residences that will interfere with this right of way (property boundaries of houses 1, 53 and 54). The applicant shall register a revised right of way with Tailte Eireann maintaining the right of way from the adjoining land south through the development outside the boundaries of the individual property and within the public realm of the development. A copy of same to be submitted to the local authority prior to the occupation of the houses proposed in this development.

Reason: In the interests of orderly development and to provide for an alternative right of way through the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are 3 No. detailed planning reports on the planning application file.

- Objections, development plan policies, planning history, site description etc are detailed.

Planning Report 1 (16/08/2024)

- The site is not within a flood zone.
- The First Planning Report details the extensive further information required based on the internal reports and third-party submissions received. In short a design statement is required, longterm plans for adjoining lands, the proposal exceeds the quantum required under the Core Strategy of the Plan, open space design and allocation to be detailed, tree survey to be carried out.
- The density of 11.4units/ hectare was considered to be acceptable. The Part V proposals are acceptable.
- Extensive further information was recommended.

Planning Report No. 2 (30/01/25)

- The layout broadly follows the layout of the parent permission for the overall scheme. There was no Design Statement or Masterplan provided, and a mix od dwelling types. The details submitted regarding the open space areas remains vague. Boundary treatments are not clearly stated.
- The right of way on the drawings does not correspond to the right of way on the land registry maps. The right of way needs to be clearly indicated so that it will not be interfered with.
- The roads, footpaths and EV charging have not been fully addressed
- The AA Screening report needs to reflect the revised scheme.
- Extensive Clarification of Further Information was recommended.

Planning Report No. 3 (19/06/2025)

- The Design Statement provides revised proposals and an acceptable mix of dwelling units, and a variety of finishes are acceptable. It largely follows the original scheme permitted on the site and the heights are similar. The floors plans meet with minimum standards and quantum of private open space.

- No masterplan is required because the current proposal will complete the estate.
- Exceeding the Core Strategy by 3No. units is marginal and it will complete the estate on lands zoned for residential development.
- The existing open space area to the south is outside of the red site boundary, and this area was to be reserved as open space under PL05/267.
- Landscaping proposals and boundary treatment are acceptable.
- The mass path is not clear on site or in the submissions received by the third parties. The right of way appears to run through proposed dwelling No. 53.
- Lighting and road surface proposal are acceptable
- EV, water and wastewater proposals are acceptable
- Updated AA screening report is acceptable.
- Permission is recommended.

3.2.2. **Other Technical Reports**

- **Roads Design:** Further information regarding footpath and parking layout. A public lighting design is required. Details of the internal service road, surface water management and a road safety audit is required.

- **Fire Office:** No objections.

- **Engineer Report**

Proposals for the completion of the final wearing course on the existing service road, including line marking and raised tables to manage traffic.

There are no details provided for the surface water management from the proposed new access road, while surface water drainage from the existing roads is shown to go to the existing system. No calculations for surface water have been provided for the scheme and no percolation tests or soakaway designs have been provided for the proposed management of surface water within the bounds of each property.

The existing footpaths in the scheme are very narrow and the proposed footpath for the new road shown in Section AA does not match those shown

on the layout drawing. (no verges shown on layout), footpaths as proposed of 1.2m are not to the required standard.

- **Environmental Report**

AA and EIA Screening carried out

3.2.3. **Conditions**

Condition No. 2 specifying the number of dwellings permitted i.e. 15No. units, and the realignment of Unit No.s 1, 2, 55 and 56.

Condition No. 6 Requires tree protection as per the Arboricultural Report, and the protection of Bee Orchids.

Condition 9 Right of Way The right of way identified on the site location map has not been extinguished and the applicant proposes the development of private residences that will interfere with this right of way (property boundaries of houses 1, 53 and 54). The applicant shall register a revised right of way with Tailte Eireann maintaining the right of way from the adjoining land south through the development outside the boundaries of the individual property and within the public realm of the development. A copy of same to be submitted to the local authority prior to the occupation of the houses proposed in this development.

3.3. **Prescribed Bodies**

3.3.1 ***Uisce Eireann***

The applicant has not obtained an updated Confirmation of Feasibility as previously requested. The COF submitted is over 18 months old and is out of date. An updated COF shall be obtained and submitted to the Planning Authority as a response to Further Information Request.

Following on from the request the applicant did engage with Uisce Eireann and new submission was received from it on the 3rd of June 2025 recommending the following condition be attached:

Uisce Éireann's Standard Condition(s):

The applicant shall enter into a Connection Agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater

collection network and adhere to the standards and conditions set out in that agreement. All development shall be carried out in compliance with Uisce Éireann's Standard Details and Codes of Practice. Uisce Éireann does not permit Build Over of its assets. Where the applicant proposes to build over or divert existing water or wastewater services the applicant shall have received written Confirmation of Feasibility (COF) of Diversion(s) from Uisce Éireann prior to any works commencing.

Reason: To provide adequate water and wastewater facilities.

3.3.2 Department of Housing, Local Government (Development Applications Unit)

The mature lime trees growing in the estate must be retained and damage to them should be avoided. Machinery should not be stored/parked in the immediate vicinity of the trees (to avoid damage, compaction of surrounding ground etc.). There are at least five Bee Orchids (*Ophrys apifera*), growing on the green (area marked with red circle on the maps below) near one of the lime trees.

A report on the results of the survey and investigative works should be submitted for review to the Planning Authority and this Department in advance of a planning decision being made in order to facilitate the formulation of an informed and appropriate archaeological recommendation. Archaeological Conditions recommended.

3.4. Third Party Observations

There were 11No. third party objections submitted expressing concerns about the proposal:

- The current planning application has houses (numbers 15 - 18) on a piece of land that was initially supposed to be a designated green space.
- The original planning permission included the provision of a tennis court, football pitch, and current proposal contains no facilities
- The density has been increased and not in keeping with the village.
- There are no proposals to protect the lime trees
- Bee orchids

- Health and safety, biodiversity
- Uneven road surface, sewage issues
- Local right of way, known locally as the 'mass path'
- No.s 15-18 has to be rejected and retained as open space
- Poor variety of house types
- It must assess the planning merits of Application in accordance with the Planning and Development Act 2000 (as amended) to ensure that the proposed development is in accordance with the proper planning and sustainable development of the area.
- Secondly, the Planning Authority is required to form and record a view as to the environmental impacts of the development, considering the EIA Report (EIAR) if furnished by the Applicant, the views of the public concerned and applying its own expertise or to screen the development for Environmental Impact Assessment. Thirdly, and different in nature to the first two tasks, the Planning Authority is the competent authority having responsibilities under the Habitats Directive.

4.0 Planning History

4.1 *Planning Ref; 05/267 (ABP 212950)*

Planning permission granted for 67No. dwellings, crèche and 4No. commercial units, soccer pitch, tennis courts and car-parking.

4.2 *Planning Ref; 08/157*

Permission sought to revise site boundaries previously granted under planning registered 05/267.

4.3 *Planning Ref: 08/210*

Permission granted to erect 10No. dwellings a change of house type from those permitted under 05/267 on sites 2, 3, 4, 5 and 6.

4.4 *Planning Ref: 09/189*

Permission granted for 11No. dwellings consisting of 2No. terraces and connection to services as granted under 05/267 on sites 2, 3, 4, 5.

4.5 **Planning Ref: 11/49**

Permission granted for extension of Duration of PL05/267

4.0 **Policy Context**

4.1. **National Planning Context**

5.1.1 The national policy context guiding future growth in Cavan town is determined by the National Planning Framework (NPF), Housing for All, and applicable section 28 Ministerial Guidelines.

5.1.2. These require the compact growth of existing settlements through the delivery of new homes in the existing built-up footprints of the settlements, and for both greenfield and infill sites, the consolidation of future residential development through increased densities and building heights.

National Planning Framework, Project Ireland 2040 (NPF)

5.1.3. Several national policy objectives (NPOs) are applicable to the proposed development, a residential scheme within a built-up area of a county town. I identify objectives NPO3, NPO4, NPO13, and NPO35, which support development (consolidated development on infill, backlands sites) in existing settlements such as Paladine village, as being applicable to the proposed development.

National Policy Objective 7: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.

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

Housing for All

5.1.4. Identifies four pillars by which to achieve universal access to quality housing options. The proposed development contributes to the achievement of Pillar 1, increasing new housing supply.

5.1.5 Section 28 Ministerial Planning Guidelines

The following Section 28 Ministerial Guidelines are considered to be of relevance to the proposed development.

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). Section Development standards for housing are set out in Chapter 5, including:

1. SPPR 1 in relation to separation distances (16 m above ground floor level), SPPR 2 in relation to private open space (2-bed 30 m² ; 3-bed 40 m² ; 4+bed 50 m²),
- SPPR 3 in relation to car parking (1.5 spaces per dwelling in accessible locations) and
- SPPR 4 in relation to cycle parking and storage.

Section 4.4 of the Guidelines set out Key Indicators of Quality Design and Placemaking. It considers that achieving quality urban design and creating a sense of place is contingent on the provision of an authentic identity that is specific to the settlement, neighbourhood or site in question. Section 4.4 (V) relates to responsive built form.

Policy and Objective 4.2 states that it is a policy and objective of these Guidelines that the key indicators of quality urban design and placemaking set out in Section 4.4 are applied within statutory development plans and in the consideration of individual planning applications.

Policy and Objective 5.1 relates to public open space provision and requires development plans to make provision for not less than 10% of the net site area and not more than a min. of 15% of the net site area save in exceptional circumstances. Sites with significant heritage or landscape features may require a higher proportion of open space.

5.1.6 Climate Action Plan, 2025

The Plan lays out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economywide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022. Climate Action Plan 2025 builds upon last years plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024. The Plan provides a roadmap for taking decisive action to halve Ireland's emissions by 2030 and achieve climate neutrality by no later than 2050, as committed to in the Climate Action and Low Carbon Development (Amendment) Act 2021.

5.1.7 National Biodiversity Action Plan.

The Nation Biodiversity Plan sets the national biodiversity agenda for the period 2023- 2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”. The following objectives are of note: Objective 1: Adopt a Whole of Government, Whole of Society Approach to Biodiversity. Objective 2 - Meet Urgent Conservation and Restoration Needs. Objective 3 - Secure Nature's Contribution to People. Objective 4 - Enhance the Evidence Base for Action on Biodiversity. Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.1.8 Regional Planning Policy

Regional Spatial and Economic Strategy for the Southern Region 2019-2031 (RSES). The Regional Spatial and Economic Strategy (RSES) for the Southern Region, 2020- 2032 identifies Carlow as one of fourteen 'Key Towns' in the region,

and one of four in the Mid-West sub region. The strategic framework in the RSES focuses on enhancing the strong network of towns in the region, with targeted population growth of 30% for the Key Towns. Carlow is also identified as being a regional centre for education.

5.2 Development Plan

5.2.1 In the **Carlow County Development Plan 2022-2028** the subject site is zoned as New Residential in Chapter 15, Palatine village, of the plan.

5.2.2 Table 2.1 Settlement Tier

4	Larger Serviced Rural Villages	Serviced villages with established populations circa. 200 and settlement structure which provide important local level services.	Palatine Ballinabrannagh Rathtoe Fennagh Myshall Clonegal Kildavin Tinryland
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Table 2.7 Core Strategy Table

In terms of Palatine it indicates:

Settlement Name: Palatine

Census Population 2016: 398

Census 2016(%): 0.7%

Projected Population Increase 2028: 57

Housing Target Units: 25

Housing Target 0.8%

Residual Provision (Units per Hectare) : blank

Housing Yield on Existing Undeveloped Land: N/A

Quantum of undeveloped zoned land: 2.34Ha

Quantum of Land Zoned New Residential:1.23Ha

Potential Units deliverable on town Centre / Village Centre Lands 2022-2028 :11

Quantum of Housing Units for land Zoned New Residential : 14

CS 07: Ensure that the future spatial development of County Carlow is in accordance with the National Planning Framework 2040, including the population targets set out under the Implementation Roadmap, and the Regional, Spatial and the Economic Strategy (RSES) for the Southern Region

2.8.4 Larger and Smaller Serviced Villages

This tier comprises eight Larger Serviced Villages of approximately 200-500 residents and ten Smaller Serviced Villages (for which no population is available as they were not defined in Census 2016). Population change ranged greatly in the Larger Serviced Villages between 2011 and 2016, from 19.8% growth in Ballinabrannagh to 9.6% decline in Tinryland.

Carlow's serviced villages will play an important role in delivering housing including low density housing / serviced sites as a viable alternative to rural one-off housing. However, service provision including water and wastewater capacity is a challenge and constraint for some villages.

Serviced Villages – Policies

It is the policy of the Council to:

CSP 12: Promote Serviced Villages as an attractive housing option for rural areas of the county through the promotion of quality of life, placemaking, and sufficient local service and infrastructure provision.

Chapter 3: Housing Policy

HS.P1: Support provision of 3,107 new homes to meet expected future housing demand as identified in the HNDA. New homes shall be provided in a planned and coordinated manner in accordance with the aims and policies of the Core Strategy, the RSES, and the National Planning Framework

Section 3.7 - Quality Design and Placemaking in Residential Developments

Policy DP.P1 Seek to ensure that residential developments are of a high-quality design cognisant of context and inclusivity with a focus on healthy placemaking, enhancing the public realm and are informed by the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' and the 'Design Manual for Urban Roads and Streets'.

Policy DP.P2 Require all residential schemes to be design led, to address urban design, landscape and building design issues clearly explaining the development process, the design options considered and the rationale behind the proposed development strategy.

Policy DP.P3 Encourage high quality design and innovation in architectural design that delivers buildings of a high quality that positively contribute to the built environment and local streetscape.

Policy DP.P4 Encourage building design and layout that maximises daylight and natural ventilation and incorporates energy efficiency and conservation measures that will improve the environmental performance of buildings in line with best practice.

Policy DN.P1 To promote compact urban growth through the consolidation and reintensification of infill/ brownfield sites.

Policy WS.P6 Require new developments where public water supply and network infrastructure is available to seek a connection to existing public water mains where viable

Chapter 16 : Development Management Guidelines

4.2. Natural Heritage Designations

The site is 2.6km southeast of the River Barrow Nore SAC and 400metres from the nearest watercourse (Killyshane) and Palatine stream is 250metres to the east.

4.3. EIA Screening

The development does fall within a class of development set out in Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended).

However, the scale of the proposed development does not exceed the thresholds set out and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers to EIA screening

5.0 The Appeal

5.1. Grounds of Appeal

The appeal has been brought by two third parties, Susan Morris and Svitlana Snigur who reside at 11 and 12 Lime Grove, Palatine, Carlow. A summary of their appeal is outlined below.

6.1.1 The grant of planning permission is fundamentally flawed, procedurally unsound and contrary to the proper planning and sustainable development of the area. The procedural errors render the planning application invalid, there is a material contravention of the development plan and the proposal causes severe and unacceptable harm to residential and environmental amenities.

6.1.2 *Description of Site and Relevant Context*

- The subject site is known locally as 'Knockarda Field'. It boasts a significant frontage approximately 135m to the main road and is bounded to the west by a detached bungalow. There are a number of mature trees that are key natural features within the subject site. Most notably a prominent line of five ancient and attractive mature lime trees, estimated to be around 250 years old, running north-south through the centre of the site, marking the alignment of an established Right-of-Way.
- There is a planning history to the site which is complex. In 2005 a developer was granted for 67 dwellings (Ref 05/267) on a large agricultural landholding on the edge of Palatine, encompassing both the 'Knockarda Field' and the adjoining 'Long Mile Field'. An Bord Pleanála's own inspector recommended refusal of this original permission solely due to potential damage of the ancient Lime Trees. Despite the recommendation, the Board granted permission for the development under reference PL01.212950.

- The site was abandoned after the financial crisis of 2008, and the developer went bankrupt. Only 29No. houses were completed and occupied, and 8No. were left at various stages of incompleteness.
- The current applicant purchased the site in 2022, and is now seeking permission for 15No. dwellings, using the lapsed parent permission from 2005 to justify their proposals.
- The historical context of an unfulfilled original vision, interrupted development, and selective of past permission is central to the arguments presented in the following grounds of appeal.

6.1.3 ***Procedural Invalidity of Application- Lack of Demonstrated and Publicly Verifiable Applicant Authorization for Agent Submission***

- The planning application fails to comply with the mandatory requirement for a valid and properly authorised application, particularly the agent's authority to act on behalf of the applicant.
- The planning application form electronically submitted to Carlow Co. Co. stated that 'Dunneace Construction Ltd' is both the applicant and the declared owner of the land concerned. There is no 'Applicant Consent to Agent' letter or any equivalent form of specific, written and signed authorisation from 'Dunneace Construction Ltd' to Mr. James Kealy.
- The agent's credentials authenticate the agent and not the applicant/landowner. Mr. James Kealy (the agent) submitted the application. It does not provide any independent, verifiable evidence of the applicant's express consent, instruction and formal authorisation to Mr. Kealy to make the planning application on their behalf. The mere act of an agent submitting a planning application electronically does not demonstrate that the principal, the applicant, has sanctioned that specific action. It is a standard and essential procedural requirement with the applicant's authorisation of the agent. This typically takes the form of an 'Applicant Consent to Agent' letter. An agent cannot simply declare authority without providing the underlying proof of authority from the principal.

- Carlow Co. Co. planning administration stipulates the applications must be complete and fully compliant with legal requirements. The Council warns that failure to provide the necessary documentation or omission of required information will lead to invalidation of the application. The absence of the Applicant's Consent to Agent falls within that category.
- The absence of the 'Applicant Consent to Agent' letter from the public file constitutes a significant procedural deficiency. The Commission is requested to refuse the development on the basis it is invalid.

6.1.4 ***Procedural Invalidity of Application -Material Non-Compliance with Statutory Mapping Requirements and Misrepresentation of Land Interests***

- Articles 22(2)(c) and Article 23 of the Planning and development Regulations require mandatory maps for a valid planning application. The applicant's agent used a 'Planning Pack' procured from Tailte Eireann.
- The agent committed two critical errors:
 - (i) Failure to Delineate Contiguous Land on the correct map: The agent failed to draw the compulsory blue line on the 1:1000 map constituting a direct breach of Article 22(2)(c) and rendering the primary map materially deficient;
 - (ii) Attempted Delineation on Unsuitable Historic Map: The agent has attempted to satisfy the 'blue line' obligation by delineating contiguous land on C component B (1:10560 scale).
- The use of the historic 1:10560 Topographical Map to delineate land ownership or control is patently invalid and fundamentally misleading. The map contains an explicit and unequivocal warning stating they never show legal boundaries nor do they show ownership. This warning renders the blue line presented devoid of credible or verifiable basis for demonstrating ownership or control for planning purposes.
- The agent downloaded the maps, scanned in red line which required efforts and was not a mistake. It demonstrates a deficient and misleading application relying on the hope the planning officials will not scrutinise past the first page of the 'planning pack'. The planning authority committed a material and grave

error in failing to identify such a basic and profound procedural flaw from a professional agent, thereby unlawfully validating and invalid application.

6.1.5 **Conclusion**

- The applicant had failed to meet the most basic and mandatory statutory mapping requirements. They have submitted a modern map with a material and critical omission (the blue line) and simultaneously relied upon a historic map that is entirely irrelevant, at a grossly incorrect scale and explicitly states it cannot be used to show ownership. This renders the application invalid.

6.1.6 **Material Procedural Error – Unlawful validation following submission of doctored maps and failure to invoke article 35 re-notification**

- On the 19/12/2024 the applicant submitted a site layout by further information that was doctored. These maps deliberately and falsely altered the established and legal route of the Public Right of Way to make it appear. its ran safely adjacent to the proposed dwellings thereby avoiding apparent conflict.
- Three of the proposed dwellings (House Nos. 1, 53 and 54) are directly sited upon the legal and established alignment of the public right of way. This is significant new information and not a trivial clarification and fundamentally alters the nature and impact of the development. The proposed development would directly obstruct and extinguish the public amenity.
- The fact the three dwellings are to be constructed on a public right of way is 'significant new information. This is not a trivial clarification and it fundamentally alters the nature and impact of the development by introducing a major planning and legal conflict, it raises serious legal implications concerning the extinguishment of the public right of way, and the development is materially different to that presented. There should have been a re-notification under Article Planning permission was unlawfully granted for a development that obstructs a public right of way, and the public had no legal right to make informed submissions or observations on the changes to the scheme. The planning system has rewarded the applicant for submitting false information.

- The Commission should determine the decision to grant permission by Carlow Co. Co. is procedurally invalid and void.

6.1.7 **Material Procedural Error – Unlawful conditioning of public right of way interference and imposition of ultra vires and unworkable requirements.**

- Condition No. 9 purports to address the existence of an established public right of way but this is legally unsound, ultra vires and imposes an unworkable and unimplementable requirement that renders the entire development incapable of lawful occupation.
- The condition acknowledges the core conflict: *The right of way identified on the site location map has not been extinguished and the applicant proposes the development of private residences that will interfere with this right of way (property boundaries of houses 1, 53 and 54).* Despite the recognition the proposed development Houses, 1, 53 and 54 directly obstruct an active and unextinguished public right of way, the planning authority has sought the applicant to register a revised right of way with Tailte Eireann maintaining the right of way from the adjoining land south through the development outside the boundaries of the individual property and within the public realm of the development. A copy of same to be submitted to the local authority prior to the occupation of the houses proposed in this development.
- Condition No. 9 is legally flawed for 3No. reasons:
 - (i) The power to extinguish the public right of way rests with the Roads Authority acting under Section 73 of the Roads Act 1993. The private applicant possesses no legal power to unilaterally extinguish or divert a public right of way.
 - (ii) Tailte Eireann has no legal jurisdiction or mechanism to register or extinguish or divert a public right of way. It is impossible for the applicant to fulfil this requirement.
 - (iii) The condition is ultra vires and unenforceable. Only the local authority can lawfully undertake to register or delivery a public right of way.
- The condition effectively authorises the unlawful obstruction of an established right of way. The conditions permits 3No. dwellings to be constructed on a

PROW. A public right of way must be lawfully extinguished or diverted before any physical development would obstruct it. The condition also states that the issue must be resolved prior to occupation of dwellings within the proposed scheme. Therefore, none of the 15No. dwellings can be occupied until Condition No. 9 is satisfied with.

- The local community, the Lime Grove residents are strongly opposed to any interference with the public right of way. The diversion process could take 12-24months, and may be refused by the elected representatives. The permission is fundamentally unviable.
- The permission should be refused on the grounds the proposal facilitates the unlawful obstruction of an established public right of way. If the Commission grant the development, then condition No. 9 should be removed

6.1.8 *Material Contravention of the Carlow CDP -Overprovision of Housing, Disregard for Regulator advise, subversion of Core Strategy.*

- The 15No. dwellings permitted significantly exceeds the allocation in the County Development Plan Core Strategy for Palatine village. There is no evidence based justification. Table 2.7 page 39 states there is a Palatine village cap of 14No. units for the entire plan period. With 2No. units already constructed, the additional 15No. units will amount to 17No. units, with an over provision of three units.
- The 21.4% over provision represents a material contravention, not a marginal deviation. The excessive increase will strain local services, undermine plan-led development and public trust and breach orderly development. This will set a dangerous precedent.
- The planning authority's process of assessment and approving overprovision is fundamentally flawed. The applicant was asked by the planning authority repeatedly to reduce the number of units in line with the Core Strategy. The Planner's Report makes astonishing attempts to rationalise the over provision of housing. The statutory procedures for a material contravention under Section 34 (6) of the Planning and Development Act were not followed, and no public notice of the intention to materially contravene the plan.

- The CDP's Table 2.7 explicitly details 'Residual Provision' figures for individual settlements. For Palatine village the column is conspicuously blank (page39). Without a quantified residual capacity figure, there is no transparency to support the 21.4% increase.
- The planner's reliance on Footnote 7 is a severe misapplication of policy. There are no other zoned parcels in palatine that might remain undeveloped or in reserve. Estate completion is an invalid justification. The developer must comply with the development plan and not use 'completion' as a means to contravene the development plan.
- The planning authority's decision to permit the development conflicts with the Planning Regulator's advise of 23rd of March 2022. The letter stated there is no clear justification for additional provision of smaller settlements, so that smaller settlements might grow disproportionately resulting in a less compact and more car dependent patter of development.
- The proposed should be refused or if the Commission is mindful to grant permission for the development, it should be for 12No. units only.

6.1.9 ***Unacceptable Piecemeal Development***

- For a prolonged period of 11months the planning application was misleadingly presented as a self-contained development often couched in terms of such as 'completing the estate'. The framing even found its way into the Planning Report. The true context of the application is Phase 1 of a much larger undisclosed scheme which was meticulously obscured.
- In the applicants submission of the 23rd of May 2025 it states the applicants own a larger part of land and it may be developed at a later stage. This is a profound and undeniable confession of piecemeal development. The public was denied the opportunity to make informed observations on the applications true intentions and cumulative impacts.
- The parcel of land formally designated 'Public Open Space' under the parent permission, Planning Ref. 05/267 has been continuously used by the local community for over 17years. When confronted the applicant strategically redrew the red line boundary to remove public open space as a protected

amenity. They redrew the red line boundary to remove the public open space entirely from current applicant's scope, reserving it for their future plans. The strategy of concealing the true future development plan was made worse by the applicant's failure to comply with the statutory mapping requirements as detailed in Ground 2. The red line, current application site was not illustrated property, the blue line and excised public open space made it impossible to discern the bigger picture and to fully understand the true purpose and implications of boundary manipulation until the very last stages of the assessment of the planning application.

6.1.10 ***Fundamental Procedural Deficiency and severe harm to residential amenity – Failure to provide mandatory contiguous elevation drawings***

- The planning application is procedurally deficient to submit contiguous elevational drawings. This was to deliberately conceal the true and adverse impacts of the development, particularly Houses 11 and 12 Lime Grove.
- Article 23(1)(d) includes drawings of the main features of buildings that would be contiguous. This is a mandatory requirement. To assess considerations of overshadowing, loss of light, overlooking, visual dominance and overall integration.
- The finished Floor Level of House Numbers 7 and 8 will be approximately 3metres higher than the FFL of House No.s 11 and 12 Lime Grove. This will impact negatively on residential amenity in terms of overshadowing and loss of daylight, overlooking and loss of privacy, and visual dominance.
- There are blatant irregularities and inconsistencies in Carlow Co. Co. decision making process, particularly in terms of planning applications made by the applicants, Dunneance Construction Limited. On another site, under reference PL23/119 the planning authority refused for the absence of contiguous elevation drawings, as a reason for invalidation. On another planning application, PL23/156, Hanover Road, the planning authority requested contiguous drawings. The same applicant, the same omission, invalidating applications or requesting further information, demonstrate clear inconsistencies. It is procedurally unfair and undermines public confidence.

6.1.11 ***Substandard Design, inappropriate layout and fundamental original design intent.***

- The overall design is substandard and it is an inappropriate layout that inverts the original design for the landholding. The Carlow CDP consistently emphasises the need for high quality, well design, housing developments in line with the Core Strategy.
- The proposed dwellings are essentially a copy and pasted models from over 20 years ago, originating from the 2005 parent permission. These features are fundamentally incompatible with modern standards, consisting of chimneys, fireplaces and incompatible with energy efficiency. There is no explanation how these outdated designs can meet with contemporary airtightness requirements. There was no meaningful site specific design process.
- The current proposals represents a radical and detrimental inversion of the original design. The parent permission in 2005 was specifically designed to achieve harmony in Palatine village. It included a small number of large detached dwellings on generous plots, each with varied designs. The semi-detached dwellings were to be centrally located, effectively hidden from external views by the detached units.
- Specifically the Knockarda Field portion of the development was originally planned to feature 6No. detached dwellings including one bungalow along with 4No. semi-detached units.
- The continuous row of 8No. semi-detached dwellings built in a straight line on elevated ground running parallel with the main road will create an unacceptable visual impact. It undermines the planned character of the existing estate.
- Palatine is a designated larger serviced village in the Core Strategy of the CDP. The proposed design and layout fails to respect the established character. The 8No. houses in a continuous row introduces and incompatible scale, massing and density that is inconsistent with the prevailing settlement patterns. The proposal will set a n undesirable precedent for poor quality design.

- The Commission needs to refuse the development or impose strict conditions for a new design and layout.

6.1.12 *Cumulative Deficiencies and Omissions – Subversion of open space, undisclosed design evolution, lack of community gain, abandonment of responsibility and persistent non-compliance*

- The provision of adequate, usable and high quality open space is a requirement for sustainable residential development. There were discrepancies regarding the red line site boundary and a portion of Knockarda Field.
- Upon purchasing the entire estate, including the Knockarda Field, the applicant has brought an additional 10 houses to completion. Crucially no provision for public open space was made for these 10 newly completed houses, nor for the 29 houses that existed before the applicant acquired the estate. This is a continuance of the piecemeal approach.
- In December 2024 the applicant updated open space calculations presenting 16%. The entire Knockarda Field was included in the calculations. The P.A. pointed out discrepancies. In response to the Clarification of F.I. in May 2025, the applicant changed the base calculation again, based only on the area inside the reduced red line boundary, and this has excised the previously built 10 houses in the Knockarda Field and controversial public open space. This isolates the new proposal. By moving the red boundary lines across the assessment of the planning application, the applicant has artificially inflated the percentage of open space, avoided the true calculation of public open space. The planning authority should not have allowed the applicant to cherry pick parts of the estate for open space calculations to suit their own narrow commercial needs.
- The changes to the layout and the proposal in May 2025 should have triggered new public notices as it is significant new information, under Article 35 of the Planning Act. This undermines public participation and transparency.

- The original planning permission was granted planning permission because there was to be a community gain from it. It included substantial open space, a football pitch, tennis courts, match day parking. None of the community benefits have transpired. Granting additional housing under these circumstances is contrary to proper planning.
- The proposed development fails to adequately address critical pedestrian safety issues on a dangerous northern boundary of the Knockarda Field along the main road into Paladine village. There was a footpath to be provided inside of the wall. The current proposal allocates a useless winding path that goes nowhere within the site's green space.
- The proposed development continues to pose an unacceptable threat to a significant natural feature in the area, the row of lime trees. In 2005 the Board's Inspector recommended a refusal due to potential damage to the lime trees, which run along the alignment of the public right of way. The current proposal is designed in such a manner that will cause the same damage to the ancient trees.
- The application fails to provide adequate and up to date information regarding surface water run-off, creating an unacceptable risk to increased flooding and sewerage overflow. There is no up to date or accurate calculations of surface water run-off that account for the full extent of the proposed development. The residents are vulnerable to adverse weather conditions, and it was not assessed.
- The elevation drawings are materially incomplete.
- The drawings include chimneys.
- The applicant has not complied with permission 23/60202 for Houses 51 and 52.
- The open space provision for a number of the proposed dwellings is not stated on the drawings
- The applicants failed to provide a Housing Quality Audit.

6.2 Applicant Response

The applicant's response to the third-party appeal is summarised as follows:

- There are issues raised in the appeal that are not relevant to the decision i.e. the applicant's total landownership.
- The objectors lives in No. s 11 and 12 Lime Grove, closest to where the proposed development will be constructed.
- There is an obvious lack of knowledge of the validation process and documentation requirements. There are a lot of contradictions in the statements.
- The planning application contained all of the information required to validate the planning application. Some information was not made public and could not been seen by the objectors.
- Maps showing the right of way were submitted for an alternative right of way were not marked or doctored by the applicant's agent.
- The Core Strategy in the development plan relates to Census 2016 only. There is no accounting for homeless increases, a massive population increase since the previous census, and the new planning Framework targets for 2040.
- The current development plan has seen the area of zoned land owned by the applicant, greatly reduced. The land the subject of the planning application is all zoned.
- All proposals are on zoned lands and are in compliance with current guidelines, yet the objectors do not want more houses near their houses.

6.3 Planning Authority Response

6.3.1 The planning authority had nothing further to add to the appeal.

6.4 Observation

6.4.1 There is misrepresentation of the on-site Public Right of Way or 'mass path'. This microtransaction has created a false premise that the public ROW is a trivial matter, and yet the historical record shows it has always been a signifigant planning issue.

- The Board's Inspector under PL01.212950 referenced the mass path. The history and its route were discussed in the report. It concluded the heritage value of the path would be diminished by the development.
- Condition NO. 31 of the planning authority's original permission required a management company to manage items such as the pedestrian route along the mass path.
- The applicant downplays and tries to dismiss the significance of the heritage feature, This may have influenced the planning authority's assessment of the case.
- The mass path are classic examples of vernacular heritage.
- The Comision should wholly disregard the applicants misleading claims regarding the public right of way and is contrary to the robust protective policies for both public rights of ways (RW P1, P2 P4) and vernacular heritage (VA, P7, P10).
- There should have been a Social Infrastructure Assessment mandated by the Carlow CDP for a development of this scale and location. Policy DP P5 , which clearly exceeds the 10 units threshold. It is procedurally invalid without the correct documents and information.
- The Des Statement submitted by the applicant is not a correct design statement and is the root cause of many substantive flaws in the overall proposal. The reason the housing mix is so monoculture and the density is inappropriate is because a proper design process was not undertaken.
- The planning authority should have required a masterplan from the applicant, as the current proposal ignores the applicant's longterm intentions for the adjoining lands. The decision facilitates a piecemeal approach that is discouraged in the CDP. The PA has lost the logical assessment of the future development of all the lands owned by the applicant and has thus created an incoherent and poorly integrated development.
- The proposal does not meet with the minimum 15% Public Open Space provision. The entire assessment was flawed, when the initial application indicated 53% open space, then there was a revised provision submitted which

was claimed to be 16%. The planning authority issued clarification of further information, with a submission on the 23rd of May 2025 claiming 34.9% Public open space. The planning report did not assess these revisions in the final planning report, and it reverts back to the wrong methodology.

- The applicant should be made submit a revised definitive plan with detailed calculations demonstrating a minimum of 15% of the entire estate area (2.955ha) as useable public open space.
- The applicant proposal to divert the public right of way is an indirect and unambiguous contravention of mandatory practice in the county development plan. The policies to protect the public ROW are written in the county development plan. The Comision is faced with a clear choice to uphold the integrity of the CDP or set it aside for the commercial benefit of the developer. There should be a condition imposed to preserve the POW in its entirety along with it existing acknowledged historical alignment in accordance with Policies RW P1 and RW P4.
- There should be revised landscape plans submitted that show the pathway protected and enhanced and integrated into the overall design.
- The proposed development creates a monoculture that is 91% semi-detached dwellings which clash with the character of the wider village and fail to create a neighbourhood for people of different ages and lifestyles as required by section 3.9 and Policy PL P3 of the CDP.
- The proposal represents an extreme over concentration of 86% of the villages' semi-detached dwellings into less than 10% of its land area in direct violation of the housing mix requirements of Policies HS P2 and MX P1. It constitutes over development. The overall scheme should be reduced to 10No. units with a mix of house types.
- The applicant's justification for the scheme is solely on market trends , focused on speed of sales and not proper planning. It is a not a sustainable development. The applicants deisgn justification comes from an estate agent's letter regarding semidetached starter homes, and this is flawed. The proposal

does not provide for changing family needs and will create a transient community in Paladine.

- The planning authority was rigorous in its initial assessment of the case, and then granted planning permission for an inferior scheme.

7.0 Assessment

7.1 I have inspected the subject site and considered the appeal file, I intend examining the appeal under the following headings:

- Procedural Matters
- Compliance with Planning Policy
- Design and Layout
- Technical Issues
- Department Applications Submission
- Other Matters

7.2 Procedural Matters

7.2.1 The appellants claim the planning is invalid because the applicant's agent did not provide consent from the applicant to submit the planning application. Having examined the relevant Article 22 of the Planning and Development Regulations 2001 as amended. The planning authority validated the planning application based on the information contained in the planning application form submitted on the 24th of June 2024. It is not the remit of the Commission to adjudicate on these matters. I am satisfied the information provided is clear and acceptable as regards the agent acting, Mr. James Kealy, acting on behalf of the applicant.

7.2.2 The appellant's also expressed concern that contiguous elevation drawings were not submitted with the application, however there was a contiguous elevation drawing submitted on the 24th of June 2024 with the submission documents. Essentially, the elevation treatment is similar in design and scale to the existing 2No. semi-detached dwellings contiguous to the proposed 6No. semi-detached units. In my opinion, there are no significant material issues arising from the existing and proposed

elevations to warrant detailed drawings of same. I am satisfied the drawing provided is satisfactory./

7.2.3 There were two OS maps provided with the original documentation. The first scale 1:10,000 depicted the site boundaries and the 2nd OS map scale 1:10560 depicts the site boundaries in red and the applicant's residual landholding in blue. The mapping complies with essence of the relevant articles of the Regulations.

7.2 Compliance with Planning Policy

7.2.1 The appellants claim the proposal materially exceeds the number of housing units to be granted in Palatine during the Plan period as set out in Chapter 2 of the Core Strategy of the Carlow County Development Plan 2022. The appellants do not acknowledge or reference two important national planning policy revisions that have been introduced since the adoption of the development plan, and planning authorities must have regard to these revisions in the assessment of planning applications.

7.2.2 In April 2025 there were revisions to the National Planning Framework introduced to reflect the findings of the 2022 Census and revised migration scenarios, the ESRI updated population and housing projections. It is National Policy Objective 7 to deliver at least 40% of all new homes nationally within existing settlements and to ensure compact sequential pattern of growth. The subject site is zoned for residential development within the village footprint, and within an existing residential estate. The second change in planning policy as the introduction of *Sustainable Compact Settlement Guidelines 2024* which sees increased densities on suitably zoned lands with a reduction in a number of development standards such as separation distances and open space provision.

7.2.3 According to Table 2.7 on page 39 of the Carlow County Development Plan the Quantum of Housing Units for land zoned **New Residential** in Palatine village: is 14No. units. The appellants' argue there are 2No. units already constructed within the village since the adoption of the development plan. The additional 15No. units permitted under the scheme will amount to 17No. additional units, creating an overprovision of three units extra units to the 14No./ prescribed in the Core Strategy for Palatine during the Plan period. This is considered to be, as submitted by the appellants, a material contravention of the development plan due to the overprovision of dwellings which contravenes the Core Strategy of the Plan.

7.2.4 I disagree with these grounds of appeal, having regard to the current planning policy introduced since the adoption of the development plan. The Core Strategy outlined in Table 2.7 is derived from the 2016 Census. The Core Strategy does not reflect the updated Census which revealed a significant increase in population in particular along the eastern border and commuting towns and villages of Dublin. Effectively, the Core Strategy needs to be updated to reflect the 2022 Census, ESRI projections and the revised National Planning Framework 2025. The 2016 figures and projections are outdated and do not represent current and projected population growth and housing needs.

7.2.5 Furthermore, the subject site is zoned as New Residential within the current development. It is a brownfield, infill site, with a planning history for residential development on the subject site. In my opinion the proposal is in full compliance with national and local planning policy. Furthermore, the *Sustainable Compact Settlement Guidelines 2024* requires higher densities on serviced site within existing settlements, in particular brownfield/ infill sites. In line with national planning policy, I consider the proposed density under the current scheme to be too low. According to Section 3.3.5 Rural Towns and Villages, the density of development at such locations should respond in a positive way to the established context. The key priorities for compact growth in Rural Towns and Villages in order of priority are to: (a) strengthen the existing urban core through the adaptation, re-use and intensification of existing building stock, (b) realise opportunities for infill and backland development, and (c) provide for sequential and sustainable housing development at the edge of the settlement at suitable locations that are closest to the urban core and are integrated into the existing built up footprint. In my opinion, there is scope to provide an increased density on the subject site in line with the Guidelines.

7.2.6 In conclusion, the proposed development of 14No. dwelling units on the subject site does not materially contravene the current development plan for the area. The proposal is acceptable in principle on this residentially zoned infill site.

7.3 Design and Layout

7.3.1 The initial documents received on the 24th of June 2024, indicated 14No. dwellings, with 4No. units positioned on an existing open space area to the south of the site,

6No.units positioned alongside Nos 11-12 Limegrove along a similar front building line, and 4No. dwelling units to the rear of the 6No. dwellings along a new cul-de-sac road. The extensive further information issued from the planning authority signified the substandard design and layout presented in the original submission documents. The in the revised proposals received by further information, the site boundaries were adjusted to exclude the existing open space area to the south of the site (I note from the planning report on file, this area formed part of the open space area associated with the parent permission, PL05/267). The revised open space area is divided into 2No. main areas, a) a plot between proposed dwellings 1-9 and the roadside boundary wall, and b) and area containing 3No. large Lime trees. I would accept the proposed open space quantum and layout. Each public open space area will have the benefit of passive surveillance. The 792sq.m. of public open space where the old lime trees are positioned is located along the eastern boundary of the site, fronting existing dwellings No. s 46-48 and includes an ESB substation box.

7.3.2 The further information which issued on the 16th August 2024 was detailed and reflected the scant and substandard documentation received with the planning application. In my opinion, the letter of further information practically re-designed the entire scheme. The poor documents presented protracted the planning assessment process, leading to further extensive clarification of further information. There are still serious omissions or anomalies associated with the submitted documentation. Most notably, in my opinion, the issues relating to the open space, the design of dwelling houses, and information omitted from ammeters arising from statutory referrals.

7.3.3 The *Department of Local Government, Planning and Heritage* made 2No submission on the planning application. I note the Archaeological information requested by the Department was provided in full by the applicant. However, the site layout did not acknowledge, as requested by the Department, the five Bee Orchids (*Ophrys apifera*), growing on the green (area marked with red circle on the maps below) near one of the lime trees. I note two different circled areas where provided in the submission. The Arboricultural Report submitted relates to the original site layout submitted and not the revised layout. Any mitigation measures during the construction and operational phase should relate to the revised site boundaries and revised site layout. These are important outstanding matters that would require further consideration by the applicant.

7.3.4 I accept the issue arising regarding **Right-of-Way** is a civil matter. However, the third parties are correct in stating the imposition of Condition No. 9 may be unenforceable and, in my opinion, should not form part of the planning conditions for the completion of the housing estate. In my opinion, the outstanding issue the right of way needs to be clarified and clearly indicated on maps and drawings prior to planning permission being permitted.

Condition 9 Right of Way

The right of way identified on the site location map has not been extinguished and the applicant proposes the development of private residences that will interfere with this right of way (property boundaries of houses 1, 53 and 54). The applicant shall register a revised right of way with Tailte Eireann maintaining the right of way from the adjoining land south through the development outside the boundaries of the individual property and within the public realm of the development. A copy of same to be submitted to the local authority prior to the occupation of the houses proposed in this development

In the response to the further information received on the 19th of December 2024, the covering letter stated the right-of-way was as per the attached land registry map. I examined the old map and there is a yellow wayleave highlighted on the map, which does not correspond to a highlighted line on the revised site layout drawing. In addition, I noted the existing pathway in place traversing the adjoining field to the south. This pathway is fenced off and maybe the 'Mass Path' referred to by the third parties submissions on appeal. This path appears to be extinguished at Limegrove, however, it is unclear from this file, its relationship to the existing estate and future development. The yellow line on the old mapping, would appear to follow the estate road within Limegrove to the public road. In the letter of Clarification issued on the 31st of January 2025, the planning authority stated in Item 6, the right of way indicated on the site location map submitted with the further information does not correspond with the right of way on the land registry maps. The existing right of way is to be clearly indicated on the site layout plans. The Drawing No. 08-05-DA-25 submitted on the 23rd of May 2025, indicates the right of way whereby footprint House No. 53 appears to obstruct it, and the right of way is incorporated into the curtilage of two other dwellings. This overlap or potential obstruction, or anomalies in the submission documents, most likely became the justification for Condition No. 9 of the planning authority's decision to grant permission. However, I consider Condition No. 9 is an unacceptable outcome, and the condition may compromise the

overall permission for the development or future sale of the dwellings in the event they were permitted and constructed. In my opinion, the issue of the right of way, and the site layout and correct mapping and drawings need to be in place prior to granting permission for the proposed development. In my opinion, the Comision may be precluded from granting planning permission for the proposed development due to the conflicting information associated with the right of way in the submission documents.

7.3.5 The Design Statement submitted on the 23/05/2025 describes the proposed development in vague detail. There is no detailed analysis in the Design Statement of how the design response is reflected in the existing built environment and topography of the site. The applicant appears to follow the same pattern and design permitted as permitted on the site over twenty years ago. In my opinion, the proposed layout and design is basic and lacks imagination, and does not comply with the requirements of the development plan as detailed below. The subject site presents a number of opportunities and constraints that could be reflected in a more sympathetic design and layout. In terms of the development plan, Section 3.7 - *Quality Design and Placemaking in Residential Developments*, I would concur with the third parties that the house design does not reflect contemporary housing and energy rated dwellings. Whilst, I accept the proposed houses present ample floor areas, parking and private amenity areas, there is no detailed description of how the house design was formed, apart from citing the planning history of the site. Essentially, the design is been replicated from what was permitted over twenty years ago, and there has been signifigant change in design, energy ratings, and standards since 2005. There is no palate of external finishes provided. The bungalow inserted at the end of the planning application process, it's a basic design, in terms of its internal layout and fenestration design, and in my opinion, may have originated decades ago and bares no relationship to the existing and proposed dwellings in Limegrove.

7.3.6 The applicant presented a basic proposal, and the planning authority in its letters of requests of further information practically redesigned the entire development, including bringing basic infrastructure proposals up to modern day standards. However, in my opinion this is not acceptable and does not comply with the following policy statements in the Carlow County Development Plan:

Policy DP.P1 *Seek to ensure that residential developments are of a high-quality design cognisant of context and inclusivity with a focus on healthy placemaking, enhancing the public realm and are informed by the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' and the 'Design Manual for Urban Roads and Streets'.*

Policy DP.P2 *Require all residential schemes to be design led, to address urban design, landscape and building design issues clearly explaining the development process, the design options considered and the rationale behind the proposed development strategy.*

Policy DP.P3 *Encourage high quality design and innovation in architectural design that delivers buildings of a high quality that positively contribute to the built environment and local streetscape.*

Policy DP.P4 *Encourage building design and layout that maximises daylight and natural ventilation and incorporates energy efficiency and conservation measures that will improve the environmental performance of buildings in line with best practice.*

In the event a subsequent planning application is submitted on the subject site, a design concept is required, with the site constraints and opportunities presented, providing an informed design, energy efficient construction and house design, and serious consideration of the public realm to create a sustainable village community in line with current Residential guidelines and standards.

7.4 Technical Matters

- 7.4.1 The further information received on the 19th of December 2024 included details of the proposed surface water management system. There were infiltration tests carried out on the site. The proposed stormwater soakaways have been designed following BRE Digest 365 guidelines. Each dwelling will require a soakaway with a volume of 2.3m³. This includes an additional 20% capacity to accommodate potential climate change impacts, ensuring resilience against future variations in rainfall intensity. In accordance with SUDS principles, it is proposed to manage all the rainfall runoff generated from the development at source i.e within the confines

of the site. Site layout plan J965-PL01-001 includes the proposed details and location of permeable paving and soakaways.

- 7.4.2 Irish Water confirmed connections to the public water supply and public sewerage system is feasible. A wayleave through third party lands to provide a connection to the public sewerage system was provided. In addition, the public sewerage network will have to be extended 26metres at the expense of the applicant.
- 7.4.3 The planning authority requested a public lighting system in line with BS 5489:2013 and EN 13201:2003. In addition, there were anomalies between the site layout plan and section AA of the roadway and footpath construction verge widths of 1 m with footpaths of 1.2m are shown on the section where no verges are shown on the layout plan, equally it is noted that footpaths of 1.2m are not to the required minimum widths. These issues were adequately revised in the applicant's response to the further information.
- 7.4.4 Furthermore insufficient detail was provided with regard to car parking spaces and the proposed raised tables including compliance with the appropriate design standards. A Road Safety Audit was also to be provided given the scale of the proposal. When the Road Safety Audit was submitted by the applicant, the planning authority noted that concerns raised in the audit were not addressed in the site layout, and it was advised the 12No.items in the Road safety Audit should be dealt with by condition. There were EV charging stations provided, and this complies with Section 16.10. 12 of the County Development Plan.

7.5 Department of Housing, Local Government (Development Applications Unit)

- 7.5.1 This issue has been mentioned earlier in the report. The DAU expressly stated the mature lime trees growing in the estate must be retained and damage to them should be avoided. Machinery should not be stored/parked in the immediate vicinity of the trees (to avoid damage, compaction of surrounding ground etc.). There are at least five Bee Orchids (*Ophrys apifera*), growing on the green (area marked with red circle on the maps below) near one of the lime trees. These are to be within an exclusion zone. There are two maps submitted with the referral, and one of them indicates a proposed dwelling positioned on the referenced Bee Orchid plants. In addition, one of the proposed dwellings appears to be constructed on the root

system of one of the old lime trees. These outstanding issues require further consideration and investigation and may require revisions to the layout of the overall scheme.

7.8 Other Matters

7.8.1 Archaeological Issues: The Department of Housing, Local Government (Development Applications Unit) requested an archaeological impact assessment report, which formed Item 16 in the request for further information. No features of archaeological potential or interest were noted from the site inspection. There were 4No. trenches dug across the site as per Figure 9 and found no features or finds of archaeological significance. The proposed development will have no known direct impact on cultural heritage assets. The proposed development will have no indirect impact on cultural heritage assets.

7.8.2 Arboricultural Report : This report was prepared by Arbtech Ireland in August 2024. The findings indicated the majority of the identified trees on site are remote from development works, and should be unaffected, although tree protection measures must be taken to protect the rooting areas, stems, and crowns of certain trees. The mature horse chestnut T1087 (fig. 7) has an extensive RPA (as indicated in the TPP) and will require protection for the duration of the works. The over-mature limes T1090 & T1094 (fig. 8) have extensive RPAs (as indicated in the TPP) and will require protection for the duration of the works. The RPA of the mature lime T1103, T1104 and T1105 (fig. 14) lie marginally within the footprint of the foundations for the dwelling number 1. Excavations to the section of the RPA will need to be supervised by the project arboriculturist. The garden and boundary wall also lie within the RPA, and therefore protection measures must be taken as per the attached method statement. The installation of the wall must not disturb the roots, so must be built on piles, or consist of pillars and wooden panels. As stated above it may be a more appropriate solution to move the proposed dwellings away from the protected root system.

7.8.3 The appellant's claim because the applicant's own more land that the proposed development, is piecemeal and is only Phase 1 of a much larger undisclosed scheme. I would totally disagree with these grounds of the appeal. In my opinion, the proposed development is plan-led and zoned under the current development plan as '**New Residential**' development. There is a planning history for an in-depth

residential development on the site. Due to economic downturn in 2008 onwards, the estate was left unfinished. The overall estate will be complete under the current scheme, which is a welcome planning gain for the village.

- 7.8.4 The appellant's submitted that the original permitted scheme in 2005 provided a host of amenities such as tennis courts and a football pitch. This was twenty years ago, and planning policy and the need for housing and the type of housing has radically changed. The applicant is under no legal requirements to provide these amenities under the current scheme.
- 7.8.5 The appellants are concerned the proposed development will impact negatively on their existing residential amenities in terms of overshadowing, overlooking and overbearance. They have provided no technical evidence to support their claims. Given that this is a residential estate, a certain level of obtuse overlooking is to be anticipated. The orientation and separation distances ensure there will no undue loss of light. I consider the appellant's claims to be unsubstantiated and unfounded given that this is an infill site within an existing residential housing estate.

8.0 AA Screening

- 8.1 I am satisfied that the information on file which I have referred to in my assessment allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites. I have reviewed the applicant's 'Screening for Appropriate Assessment', the screening undertaken by the Planning Authority, and I have carried out a full Screening Determination for the proposal. It is attached to this report in Appendix 3. The applicant is seeking permission for the construction of 14 no. dwellings on a site located within an existing residential housing estate, Lime Grove, Palatine, Co. Carlow. The proposed development is not located within or immediately adjacent to any European site. The subject site is located c. 2.7km to the southeast of the River Barrow and River Nore SAC (Site Code 002162). The site is also location c.6.8km to the west of the Slaney River Valley SAC (site code 000781). There are no watercourses running through the site and the proposed development would connect to existing public services in terms of water supply and wastewater/drainage. No measures designed or intended to avoid or reduce any

harmful effects of the project on a European Site have been relied upon in this screening exercise. The measures to be employed at construction stage are standard practices for urban sites and would be required for a development on any built up site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.

- 8.2 The proposed development was considered in light of the requirements of section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites, including (but not limited to) River Barrow and River Nore SAC (Site Code 002162), the Slaney River Valley SAC (site code 000781) in view of the sites' Conservation Objectives, and Stage II Appropriate Assessment is not, therefore, required.

9.0 Water Framework Directive Screening

- 9.1 The development site is located in Palatine, Co. Carlow with residential areas to the south, east and west. The site will be accessed via the existing shared entrance within the Lime Grove residential development off the L4015 main road. The site slopes gently to the south-east. The proposed development is located within a semi-urban setting with residential dwellings in the immediate vicinity and agricultural lands in the wider environment. The Palatine Stream is the closest watercourse located approximately 437m to the east.
- 9.2 I note that Uisce Eireann, who's responsibility it is to ensure municipal wastewater treatment plants are operating without causing impact, have issued the applicant a Confirmation of Feasibility (CoF) for the proposed development. This COF has been issued subject to upgrade works being undertaken to the applicant extending the public sewer connection at their own expense.
- 9.3 The proposed development is located within the Barrow Catchment (ID 14), Sub Catchment Lerr_SC_010 (ID: 14_6). The nearest mapped watercourse to the proposed development site is the Palatine Stream (EPA Code: 14P04 – Order 2) located approximately 437m to the east of the development site. This watercourse flows in a northwest direction for approximately 3km before joining the Lerr (EPA Code: 14L01 – Order 4). The Lerr flows in a westerly direction for approximately

4.4km until it joins the River Barrow (EPA Code: 14B01– Order). The River Barrow discharges into the sea to the southeast of Waterford. The River Barrow is designated as part of the River Barrow and River Nore SAC (Site Code: 002162).

Other watercourses of note in the vicinity of the development site include the Killyshane stream (EPA Code: 14K52 – Order 1) located approximately 431m to the south of the development site. The Barnhill East (EPA Code: 14B69 – Order 3) joins the Killyshane stream approximately 528m to the northeast. The Lerr River and the Palatine Stream are mainly achieving a water quality status of between Q3 (Poor) and Q4 (Good) in recent years.

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

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Nature of works
- The context of the surrounding area.
- Location-distance from nearest water bodies
- Proposals for surface water disposal on site

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

10.0 Recommendation

I am recommending the Commission overturn Carlow Co. Co.'s decision to grant planning permission for the proposed development, and **REFUSE** planning permission for the proposed development for the following reasons.

11.0 Reasons and Considerations

1. Having regard to policies DP P1, DP. P2 and DP P3 of the Carlow County Development Plan 2022-2028 which aims, inter alia, to ensure that residential developments are of a high-quality design informed by good urban design principles, it is considered that the proposed development by reason of its design and layout, including non-energy efficient house designs, and fails to have regard to the Department of Housing, Planning and Local Government (Development Applications Unit) submission, would result in a poor design layout that would fail to integrate into the existing neighbourhood character. The proposed development would not result in a responsive built form at this location contrary to good urban design principles, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The Commission noted the proposed development may interfere with a public right of way which traverses through the subject site, it would appear from the submitted drawings and maps that there are a number of proposed dwellings and curtilages to be erected on the subject right -of-way. The Commission are precluded from considering the proposed development any further until the outstanding issues associated with the mapping of the right of way and its relationship with the proposed development are clearly defined.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Caryn Coogan
Planning Inspector

18/03/2026

Form 1 - EIA Pre-Screening

Case Reference	ACP 323058-25
Proposed Development Summary	14No. dwellings
Development Address	Limegrove , Palatine, Co. Carlow
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA? (For the purposes of the Directive, “Project” means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>S 5 P.2 10(b)(ii) construction of more than 500 dwelling units.</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ACP 323058-25
Proposed Development Summary	14No. dwellings
Development Address	Lime Grove, Palatine, Co. Carlow
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<p>Characteristics of proposed development</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 proposed development is for 14 no. dwelling houses. The subject site is currently infill in nature within an existing residential housing estate. Wastewater and Water connection is being proposed via the mains within the immediate vicinity of the site. The proposed development would not be exceptional in the context. The development would not result in the production of significant waste, emissions, or pollutants</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 subject site is bounded to the west by a local road within the village footprint of Palatine. It is also within an established residential estate, Lime Grove</p> <p>The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan</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>There are no other locally sensitive environmental sensitivities in the vicinity of relevance</p>

Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____

Appendix 3

Appropriate Assessment Screening

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project	Construction of 14 no. houses and associated site works Lime Grove Palatine, Co. Carlow			
Brief description of development site characteristics and potential impact mechanisms	<p>The subject site which has a stated area of c1.2ha is situated on the approach to Palatine village within an existing residential estate. Palatine is located c.5km to the east of Carlow.</p> <p>The subject site is not located within or is not adjoining any Natura 2000 Sites. The closest Natura 2000 site is the River Barrow and River Nore SAC (Site Code: 002162) located approximately 2.7km northwest of the proposed development site.</p>			
Screening report	Yes, received at the Planning Authority office on 25 th of May 2025			
Natura Impact Statement	N			
Relevant submissions	None			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
[List European sites within zone of influence of project in Table and refer to approach taken in the AA Screening Report as relevant- there is no requirement to include long list of irrelevant sites.]				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
River Barrow and River Nore SAC	1016 Desmoulin's whorl snail Vertigo moulinsiana	c.2.7km Northwest	None	N

(Site 002162)	Code	<p>1029 Freshwater pearl mussel <i>Margaritifera margaritifera</i></p> <p>1092 White-clawed crayfish <i>Austropotamobius pallipes</i></p> <p>1095 Sea lamprey <i>Petromyzon marinus</i></p> <p>1096 Brook lamprey <i>Lampetra planeri</i></p> <p>1099 River lamprey <i>Lampetra fluviatilis</i></p> <p>1103 Twaite shad <i>Alosa fallax</i></p> <p>1106 Atlantic salmon (<i>Salmo salar</i>) (only in fresh water)</p> <p>1130 Estuaries</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1310 <i>Salicornia</i> and other annuals colonizing mud and sand</p> <p>1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>)</p> <p>1355 Otter <i>Lutra lutra</i></p> <p>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>1421 Killarney fern <i>Trichomanes speciosum</i></p> <p>1990 Nore freshwater pearl mussel <i>Margaritifera durrovensis</i></p> <p>3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation</p> <p>4030 European dry heaths</p>	<p>The Proposed Development site is located within the boundary of an existing serviced residential housing estate. There are no protected or annexed habitats on site.</p>	
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	<p>6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> <p>7220 Petrifying springs with tufa formation (Cratoneurion)</p> <p>91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>91E0 * Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)</p>			
Slaney River Valley SAC (site code 000781).	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritima) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion</p>	c.6.8km EAST	None	N

	<p>incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Phoca vitulina (Harbour Seal) [1365]</p>			
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Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*			
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	Impacts	Effects
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<p>Site 1: Name (code) River Barrow and River Nore SAC (Site Code 002162)</p>	<p>Direct None</p> <p>Indirect: None</p> <p>The Proposed Development site is located within the boundary of an area of intensive agricultural land. There are no protected or annexed habitats on site.</p>	<p>The Proposed Development will be connected to the public sewer and wastewater treatment plant maintained by Uisce Eireann, which has the capacity to assimilate the additional load; Organic Capacity (PE) - Remaining 4676, AER; 2021. There is no real likelihood of any significant effects on European Sites in the wider catchment area. The facility is located at a distance of removal such that there will be no disturbance to</p>
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		qualifying interest species in any European sites.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? N	
	Possibility of significant effects (alone) in view of the conservation objectives of the site: None	
	Impacts	Effects
Site 2: Name (code) Slaney River Valley SAC (site code 000781).	<p>Direct None</p> <p>Indirect: None</p> <p>The Proposed Development site is located within the boundary of an area of intensive agricultural land. There are no protected or annexed habitats on site.</p>	<p>The Proposed Development will be connected to the public sewer and wastewater treatment plant maintained by Uisce Eireann, which has the capacity to assimilate the additional load; Organic Capacity (PE) - Remaining 4676, AER; 2021. There is no real likelihood of any significant effects on European Sites in the wider catchment area.. The facility is located at a distance of removal such that there will be no disturbance to qualifying interest species in any European sites.</p>
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
<p>I conclude that the proposed development (alone) would not result in likely significant effects on the River Barrow and River Nore SAC (Site Code 002162) or the Slaney River Valley SAC (site code 000781). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.</p> <p>No mitigation measures are required to come to these conclusions.</p>		