



An
Coimisiún
Pleanála

Inspector's Report PL-501203-LS-26

Development	Demolition of existing shed and front boundary wall to provide car parking spaces and construct a two storey with single storey element extension to the rear of dwelling house.
Location	35 Borris Road, Portlaoise, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2560695
Applicant(s)	Sansao and Nereyda Maril Norton Silva
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Jack Conroy
Observer(s)	None
Date of Site Inspection	15 th July 2026
Inspector	Matthew O'Connor

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Appendix 1: Form 1 EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The appeal site is 0.030ha and located at No. 35 Borris Road on the eastern side of Borris Road (L-2133) to the northeast of the town centre of Portlaoise, Co. Laois. The subject site comprises an end-of-terrace two-storey brick house on an elongated rectangular plot. There is an access lane to the side (north) of the appeal site between the neighbouring house, No. 36 Borris Road, and there is also an internal alley with the adjoining dwelling to the south (No. 34 Borris Road). The dwellings on this part of Borris Road have front garden areas enclosed with low level walls with central pedestrian gates. There is on street parking along the eastern side of Borris Road. The rear of the site (east) contains a detached shed building within a long garden area which backs onto Portlaoise Prison.
- 1.2. The character of the surrounding area is predominantly residential with the majority of houses comprising established two storey terraced and semi-detached dwellings on the approach to the town centre. There are no Protected Structures or National Monuments on or immediately adjoining the appeal site. The site is not located within a Flood Zone.

2.0 Proposed Development

- 2.1. The proposed development, as originally applied for, comprises the following:
 - Demolition of existing shed and front boundary wall to provide car parking spaces;
 - Construction of a two storey with single storey element extension to the rear of dwelling and a front porch; and,
 - All associated and necessary site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission for the subject development, subject to 11 no. conditions. I note the conditions are generally standard in nature but are nevertheless summarised as follows:

- Condition 1: Development shall be carried out in accordance with submitted plans and particulars.
- Condition 2: External finishes.
- Condition 3: Dwelling/extensions be jointly occupied as a single housing unit.
- Condition 4: Surface water collection and disposal.
- Condition 5: External lighting cowled and directed away from the public roadway and neighbouring properties.
- Condition 6: Consult with ESB regarding overhead power lines.
- Condition 7: Comply with “Best Practice Guidelines for the Preparation of Resource & Waste and material from the site to be spread or deposited along the public roadway.
- Condition 8: No part of development shall encroach, oversail or otherwise physically impinge upon any adjoining property, and, all public and private property shall be adequately protected at all times particularly during demolition and construction works.
- Condition 9: Any damage caused to the adjoining public thoroughfare shall be made good at the developer’s expense.
- Condition 10: Any proposals to divert/build over existing services must be submitted to Uisce Eireann approval. Developer to submit details to Uisce Eireann for assessment of feasibility and have written Confirmation Of Feasibility of diversion(s) prior to connection agreement and/or works commencing. Development shall be in compliance with Uisce Eireann standards/practices.
- Condition 11: Financial contribution.

3.2. Planning Authority Reports

3.2.1. First Planner’s Report

- The first Planner’s Report had regard to the submitted documentation, locational context of the site, policy framework of relevant Development Plan; any inter departmental/referral reports; and, the submission received.
- In terms of assessment, the Planning Authority noted that the principle of development and considered the design and finish of this aspect of the proposal to be satisfactory.

- The proposed porch was deemed to be bulky and of excessive height and should be revised.
- No undue concerns regarding residential amenity were raised in terms of overlooking, overshadowing and visual impact.
- In terms of open space provision, the Planning Authority requested the applicants demonstrate that the required quantum of open space would be available for the dwelling having regard to the subject proposal including the works proposed under Reg. Ref. 25/60670 (for a childminding building to rear).
- With regard to the proposed parking in the front garden, the Planning Authority request that the applicant's demonstrate that the front property forecourt is sufficiently sized to cater for off-street parking.
- The Planning Authority noted the development description on submitted application form to be inaccurate and not matching public notices and should be rectified.
- With respect to access and parking, the Planning Authority noted the removal of the front boundary wall for on-site parking. Sight distances (3m x 50m) are not achievable from proposed entrance, especially when looking north-east. Further information required.
- In relation to services, the layout plan appeared to propose building over the mains sewer line to the rear of property. Further Information required and applicants requested to liaise with Uisce Eireann and submit confirmation of their acceptance of this build over sewer.
- No concerns raised in respect of Appropriate Assessment or Environmental Impact Assessment.
- Further Information was sought in relation to 6 no. items - 1. Description of proposal on application form is inaccurate and does not match the submitted public notices. Applicant requested to rectify inaccuracy and submit a revised application form. 2. Submit revised proposals of the proposed porch; 3. Applicant requested to demonstrate that the required quantum of open space would be available for the dwelling having regard to the subject proposal and works proposed under Reg. Ref. 25/60670; 4. Submit particulars showing

sight distances, written consents where works to achieve sight distances are outside applicant control and demonstrate sufficient car parking bays; 5. Applicant shall engage with Uisce Éireann by submitting a diversion enquiry regarding an existing foul line to rear of property or submit revised plans/layouts indicating distances as per Uisce Eireann's codes of practice have been achieved to accommodate the existing infrastructure within the site; and, 6. Address the points raised in the submissions by way of a response.

3.2.2. Second Planning Report

- The second Planner's Report provides an analysis of the applicant's response to the Request for Further Information.
- In relation to Item No. 1, the Planning Authority noted that an updated application form was submitted and deemed to be acceptable. In relation to Item No. 2, the Planning Authority acknowledged that revised drawings for the porch were submitted. However, the Planning Authority were not satisfied that the issues raised with the porch were addressed. With respect to Item No. 3, the applicants indicate 92sq.m of open space in the rear garden and this was deemed as acceptable. In terms of Item No. 4, the Planning Authority noted revisions to the parking and front curtilage area but noted that the Road Design Office is not satisfied that sight distances can be achieved as indicated. In relation to Item No. 5, the Planning Authority noted that the proposed extension is to be the rear of the sewer and passes under the existing extension to the house. There remains a potential build over sewer issue at the point where the proposed rear extension wraps around the existing element. With regard to Item No. 6, the applicants' response to the submissions was acknowledged.
- The Planner's Report requested that Clarification of Further Information be sought in relation to 3 no. items - 1. Submit revised proposals of the porch which is deemed to be bulky and of excessive height in the context of the original dwelling; 2. Submit a site layout plan and topographic survey showing sightlines of 50m either side of site entrance. At the proposed entrance the driver joining the road or turning right into the entrance shall be able to have full-unobstructed vision along the required sight line distance. Written

consents of the relevant third parties are required to be submitted in the event of works being required to facilitate sightlines outside of ownership or control;

3. Engage with Uisce Éireann by submitting a diversion enquiry regarding potential building over of sewer or alternatively, submit revised plans and layouts clearly indicating that separation distances as per Uisce Eireann's codes of practice have been achieved to accommodate the existing infrastructure within the site.

3.2.3. Third Planning Report

- The third Planner's Report provides an analysis of the applicant's response to the Request for Clarification of Further Information and forms the basis of the decision to grant permission.
- In relation to CFI Item No. 1, the Planning Authority noted the height of the porch was reduced to 2.8 metres and deemed to be acceptable. In terms of CFI Item No. 2, the Planning Authority noted that the proposal to provide parking within the front of the property has been removed. With respect to CFI Item No. 3, the proposal was revised showing a 3 metre setback from the main sewer and this was considered to be acceptable.

3.2.4. Other Technical Reports

- M.D Engineer - No response received.
- Planning Enforcement - No response received.
- Roads Section - Response received at Further Information stage recommended that permission be refused as access to public road does not meet Laois County Council Roads and Parking Standards 2007 in terms of sightlines; and, that the proposed access does not satisfy DM Trans 7 of the Laoise County Development Plan 2021-2027.

3.3. **Prescribed Bodies**

- Uisce Eireann - No response received.

3.4. **Third Party Observations**

- 3.4.1. 2 no. third party observations were received from the appellant and the issues raised are similar to those in the appeal. Nevertheless, the issues of concern

relating to the subject development were summarised by the Planning Authority as follows:

- Lack of clarity and appropriateness regarding entrance and access arrangements;
- The absence of fire safety provisions and emergency access;
- The potential impact on traffic and road safety in an already congested area;
- Privacy and safeguarding issues;
- Environmental and Community Considerations;
- Does the proposal comply with Childcare Guidelines for Planning Authorities;
- No consent from the owners of no. 34 to use the shared entrance;
- Parking and Traffic Issues;
- Noise and disturbance;
- Waste management issues;
- Repurposing and overburdening of the shared lane/public right of way;
- Child safety;
- Security and social impact.
- Health and Safety Concerns.
- Non-compliance with building regulations.
- Incorrect description of proposal within submitted application form.
- Non-compliance with Laois County Development Plan.
- Impact on residential amenity

4.0 Planning History

4.1. The following planning history is associated with the appeal site:

2560670 Application to construct a single storey stand alone child minding facility to the rear of our site and all associated and necessary site works. Applicants: Sansao and Nereyda Maril Norton Silva. Status: WITHDRAWN.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Laois County Development Plan 2021-2027 is the relevant Development Plan for the subject site.

5.1.2. Chapter 4: 'Housing Strategy' contains a number of policy objectives for housing development. There are also a number of Development Management Standards for Residential Development and the following are deemed relevant to the subject proposal:

- *DM HS 1 – Residential Housing Development*
- *DM HS 6 – Private Open Space in Housing Residential Development*
- *DM HS 14 – House Extensions/Alterations in Urban and Rural Areas*

5.1.3. Chapter 10: 'Infrastructure' contains the following Development Management Standards are considered to be of particular relevance in respect of parking:

DM TRANS 7 – Parking in Front Gardens

DM TRANS 8 – Car Parking Dimensions

5.1.4. Chapter 13: 'General Location and Pattern of Development' sets out the zoning principles and acceptability for County Laois and Table 13.2 contains the Zoning Objectives and Purposes. The subject site is zoned 'Residential 1' which has an objective 'to protect and enhance the amenity of developed residential communities'. According to the Development Plan, this zone is intended primarily for established housing development but may include a range of other uses particularly those that have the potential to improve the residential amenity of residential communities such as schools, crèches, small shops, doctor's surgeries, playing fields etc. It is an objective on land zoned 'Residential 1' to protect the established residential amenity and enhance with associated open space, community uses and where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area. Within this zoning category the improved quality of existing residential areas will be the Council's priority.

5.2. Portlaoise Local Area Plan 2024 – 2030

5.2.1. The Portlaoise Local Area Plan 2024 – 2030 (LAP) was adopted on 16th December 2024 and came into effect on 5th February 2025. The LAP sets out an overall strategy for the proper planning and sustainable development of Portlaoise, in the context of the Laois County Development Plan 2021 – 2027 and the Eastern and Midland Regional Spatial & Economic Strategy 2019 – 2031. In the full interpretation of all objectives for Portlaoise, it is essential that both the County Development Plan (CDP) and the Local Area Plan are read together. Where conflicting objectives arise between the two, the objectives of the former shall take precedence. It is also indicated that the general development management standards applicable to the plan area are included in the CDP.

5.3. Relevant National or Regional Policy / Ministerial Guidelines

5.3.1. The following planning policy and guidance is relevant:

- *National Planning Framework - First Revision (2025)*
- *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).*
- *Development Management: Guidelines for Planning Authorities (2007).*
- *Design Manual for Urban Roads and Streets (DMURS) (2019).*
- *Eastern & Midland Regional Assembly: Regional Spatial & Economic Strategy (RSES) 2019 to 2031.*

5.4. Natural Heritage Designations

5.4.1. The appeal site is not located on or within any designated Natura 2000 sites. The nearest designated site is the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) which is approximately 7.96km to the north (at its closest point). Other Natura 2000 sites include: the Slieve Bloom Mountains Special Protection Area (Site Code: 004160) which is approximately 8.65km to the west; the Mountmellick Special Area of Conservation (Site Code: 002141) which is approximately 9.66km to the north; the Slieve Bloom Mountains Special Area of Conservation (Site Code: 000412) which is approximately 10.92km to the northwest; the Ballyprior Grassland Special Area of Conservation

(Site Code: 002256) which is approximately 11.73km to the southeast; and, the River Nore Special Conservation Area (Site Code: 004233) which is approximately 13.13km to the southwest. In addition, the Clonreher Bog Natural Heritage Area (Site Code: 002357) is situated approximately 3.6km to the northwest and the Ridge of Portlaoise Proposed Natural Heritage Area (Site Code:000876) is approximately 0.4km to the northwest and south of the site.

6.0 EIA Screening

- 6.1. The subject development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The third party appeal was lodged by the resident of the neighbouring dwelling to the north of the appeal site. The grounds of appeal are summarised as follows:

Obstruction of Documented Right of Way

- Laois Co. Co. confirmed the access lane constitutes a Right of Way serving Nos. 34-36 Borris Road.
- A Right of Way does not require registration to exist in law and there is no evidence of extinguishment.
- Planner's Report contains no assessment of impact of constructing building on Right of Way.
- Section 34(13) does not authorise development infringing the legal rights of others.
- The P.A has issued permission that cannot be lawfully implemented.

Life Safety and Fire Service Access

- Access lane is only means of escape for several dwellings and blocking or narrowing this route removes a fire escape path

- Existing residents must retain a safe and unobstructed means of escape under Part B of Fire Regulations.
- Planner's Report contains no assessment of life-safety implications.

Procedural Unfairness and Lack of Transparency

- Freedom of Information request seeking clarification on the legal status and management of Council-owned access route was refused and refused again on internal review despite Council confirming the Right of Way.
- The information sought was relevant to site's material constraints.
- The refusal prevented meaningful public participation and undermined transparency which constitutes procedural unfairness.

Parking, Intensification and Overburdening of Shared Lane

- Six parking spaces serve six houses between Nos. 34-38 Borris Road and two households occupy four spaces daily, including the applicants.
- The development will intensify use of shared space, increase traffic movements, increase emissions in a confined area, reduce residential amenity and concentrate parking demand on public spaces.
- These issues were not addressed in the Planner's Report.

Health and Safety (Emissions in a Confined Space)

- The shared land is a confined space where emissions are unlawfully discharged by the applicants beneath overhead powerlines and into the breathing zone.
- Already adverse impacts requiring medical attention.
- Development would increase intensity of use and exacerbate hazards.
- No assessment was undertaken.

Invalidity of Application (Jurisdictional Defects)

- The application is invalid ab initio. The defects are jurisdictional and cannot be cured by assessment, by conditions or on appeal.
- The application form, the statutory definition of the development, described a childminding facility with associated parking.
- The site notice and newspaper notice described a different development

- The Council ultimately granted permission for a third, unrelated development – a domestic extension
- This is a jurisdictional defect, not a procedural irregularity.
- The application form, site notice, and newspaper notice were inconsistent and the planning authority permitted the applicants to permit a new application form mid-process without re-advertisement or reopening submissions. This is a breach of Article 22 (b).
- An application that is not properly advertised is not a valid application.
- Proposal underwent material changes such as the removal of commercial childminding use, removal of car park, transformation to a domestic extension, introduction of a layout capable of independent occupation.
- Reference made to regulations and a legal case that material changes must be readvertised.
- The Council's refusal to reopen submission constitutes a breach of statutory procedure.
- Planner's report appears to have disregarded submission on basis that proposal had changed and is contrary to Section 34 (3) which requires all submission to be considered.
- A decision made without considering mandatory material is void.
- The final design proposed construction on an established Right of Way. An application that requires the extinguishment of third party rights is invalid from outset.
- Under Section 34(13), a planning permission cannot authorise development that infringes legal rights.
- The Board's jurisdiction is appellate only, it cannot validate an application that was not valid when lodged.
- As the application was invalid, the P.A's decision is void, the Board has no jurisdiction to consider its merits and the only lawful outcome is refusal.

Illegal Repurposing and Intensification of the Access Lane

- The Conditions prohibiting subdivision and commercial use are ineffective given forthcoming legislation permitting subdivision and the original application being for a commercial childminding facility.

- The lane is not designed for use as a primary entrance due to its width, absence of passing spaces, blind corner by applicant's boundary wall, inability of pram/pedestrian to pass vehicle and need for vehicles to reverse onto road.
- The proposed extension is designed for independent living creating a new dwelling in all but name.
- The only possible entrance is via the shared access lane and this constitutes intensification, change of use, and illegal repurposing of a Right of Way into a primary residential entrance.
- The Planner's Report contains no assessment of repurposing, intensification, pedestrian safety, vehicle conflict, blind spot geometry, emergency access. This is a material omission.

Legal Addendum

- Attached separately to the appeal is a legal addendum reiterates jurisdictional defects rendering the application invalid ab initio and incapable of being legally granted.

Appendix 1 – Technical Analysis of Lane Geometry, Vehicle Movements and Pedestrian Safety

- This is a technical annex prepared by the appellant and submitted as an objective assessment of the physical characteristics, safety constraints and operational limitations of the shared access lane on Borris Road.
- The report evaluates:
 - lane width and geometry,
 - pedestrian and vehicle conflict points,
 - blind spot creation,
 - reversing hazard,
 - emergency access and egress constraints, and
 - the safety implications of repurposing the lane as the primary entrance to a new dwelling unit.
- The lane would be intensified and repurposed as a result of the subject development and is not designed for this type of use. It is not safe for vehicle-pedestrian coexistence and cannot accommodate increased movements.

7.2. Applicant Response

7.2.1. Correspondence was received from the applicants in the form of a letter and is summarised as follows:

- Neighbour (Appellant) has not been happy with their presence since moving into property.
- Letter received from Laois County Council stating that there were no illegal renovations to property.
- Letters have been placed on site making the same accusations.
- Gardaí have been contacted
- Engagement was tried with the neighbour (appellant)
- Car parking occurs on the street in front of the property which is a public space. The shed to the rear cannot be used for car parking as it is too old and the access is too narrow.
- The supposed access between Nos. 34-37 Borris Road has not existed for applicants as owners. The subject property is private. No. 34 Borris Road has its own access and there is a shared alley with two separate gates at the end.
- The lane is shared with No. 36 Borris Road and there is no access with No. 37 Borris Road. There is no sense in having access to No. 37 Borris Road when the subject property is sited between Nos. 34-36 Borris Road.
- It is believed that there racial discrimination and intimidation is occurring.

7.2.2. A response to the appeal has also been received from the applicants' agent and is summarised as follows:

- **Obstruction of documented Right of Way** – The proposed extension to a private dwelling is fully contained within the site owned by the applicants. There is no works proposed that will affect the right of way/access road.
- **Removal of Critical Fire Escape Route** – The proposal does not affect any fire escape route.. The wall referred to in photographs was in place years prior to applicant's purchasing property. The photograph of a white

van parked in the Right of Way/shared access is not the applicants and they use on-street parking to the front of the house.

- **Failure to assess material site constraints** – The proposed extension is in compliance with the Council guidelines for available recreational space for a 4-bed house (75sq.m) as the development has in excess of 150sq.m. The shared access/Right of Way is not being interfered with and there are no proposals to alter it.
- **Procedural unfairness and lack of transparency** – Applicant had every opportunity to examine the file during the planning process which also included two FOI requests and a request to the Chief Fire Officer. The applicants complied with Further Information requests from the Local Authority which included resizing the porch and not removing the front boundary
- **Intensification and unsafe repurposing of a shared access lane** – There is no repurposing of the shared access lane as the access remains the same as when the applicant's purchased the property.
- **Invalidity of application process and incompatible with proper planning** – The Planning Authority made available all information on the application to the appellants and insisted on further Information request that no on-site parking be allowed and that porch area be reduced. A daylight study was also submitted . The appellant appears to have a misconception that the proposal is to be a separate apartment but if the drawings were examined properly it would have been seen that the extension includes an enlarged kitchen area at ground floor and a master bedroom/en-suite and closet at first floor level to accommodate a growing family.

7.3. Planning Authority Response

- None.

7.4. Observations

- None.

8.0 Assessment

Having examined the application details and other associated documentation on file, the third party appeal, having conducted an inspection of the site, and having reviewed relevant local policies and guidance; I consider the main issues in this third party appeal can be addressed under the following headings:

- Principle of Development.
- Right of Way
- Access & Parking
- Other Matters
- Appropriate Assessment (Screening).

8.1. Principle of Development

8.1.1. In assessing any development, I consider that a key consideration is the principle of development. The proposed development seeks to construct a part-single, part-two storey rear extension to the rear of the existing end-of-terrace house. The extension is indicated as comprising a dining and kitchen area at ground floor level (22.9sq.m) and a master bedroom at first floor level (17.7sq.m). There will be minor internal modifications to the house in order to facilitate the works. The front porch was revised from the initial plans and is indicated as being 1.55 metres in depth, 2.3 metres in width and has a height of 2.8 metres. The floor area is indicated as being 2.1sq.m. The proposed development also seeks to demolish an existing mono-pitched storage shed (approximately 70sq.m) in the rear garden. It is also noted that the originally proposed development sought to demolish the front boundary wall in order to provide on-curtilage car parking however, this particular element of the development was removed at Clarification of Further Information stage.

8.1.2. The site is zoned 'Residential 1' in the Laois County Development Plan 2021-2027 which has an objective '*to protect and enhance the amenity of developed residential communities*'. Dwelling is permissible in this land use zone and so I am satisfied the proposal for a domestic extension is acceptable in principle -

subject to the parameters set out in DM HS 14: 'House Extensions/Alterations in Urban and Rural Areas' of the Laois County Development Plan 2021 - 2027.

8.1.3. DM HS 14: 'House Extensions/Alterations in Urban and Rural Areas' of the Development Plan is relevant in considering the subject proposal. In brief, this Development Management Standard requires that domestic extensions/alterations be of a scale and position which would not be unduly incongruous with its context; should harmonise with the principal building and fit into the site and surrounding area in terms of scale, bulk, form and materials; the design and finishes of extensions need not necessarily replicate or imitate the design/finish of the existing dwelling and more contemporary designs/finishes often represent a more architecturally honest approach to extensions of a property and can better achieve other objectives, such as enhancing internal natural light; shall not adversely impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact; shall be positioned to ensure the privacy and adequate sunlight and daylight to key habitable rooms; and, site coverage should be carefully considered to avoid unacceptable loss of private open space.

8.1.4. I have had regard to the configuration of the proposed extension in terms of height, scale and depth along with the positioning of window opes and I consider the layout and design of the extension to be acceptable. I am also satisfied that there would be sufficient private open space remaining for the enjoyment of the occupants. From a residential amenity perspective, I consider the extension is sufficiently set back from the neighbouring properties and it is my view that the proposed development would not result in any undue overlooking of neighbouring properties. In addition, having reviewed the proposal, I do not consider that any significant shadowing impacts or loss of light arise from the subject development. I have formed this view on the basis of the depth of the proposed part single, part two-storey extension. I also consider that the flat roof design of the extension is subservient to the main roof profile of the dwelling and would still allow for natural daylight and sunlight to penetrate neighbouring properties. To this end, I consider that any potential changes in shadowing from the extensions would be minimal and confined largely to the side and rear curtilage of the appeal site property. I acknowledge that the dwellings on this

section of Borris Road are generally west facing and therefore the path of the sun casts shadows predominantly westwards in the morning, northwards in afternoon and eastwards in the evening for large parts of the year. Therefore, I do not consider that the proposed development, on account of its scale and siting, would significantly alter the current shadow situation and it is my opinion that any potential changes in the shadow effect or would be minimal from that of the existing built environment in this established residential area.

- 8.1.5. Overall, the proposed development, in my view, constitutes relatively minor extensions and modification to the rear of an existing residential property in a built-up urban area, where extensions to modify and improve houses are common. I am satisfied that the design and layout of the proposed development to be acceptable and would not result in undue overlooking, overshadowing or loss to adjacent residences that would be below reasonable anticipated levels. To this end, I consider that the proposed development would be in accordance with the parameters set out in DM HS 14: 'House Extensions/Alterations in Urban and Rural Areas' of the Laois County Development Plan 2021 - 2027.

8.2. Right of Way

- 8.2.1. The appellant states that the shared access lane between No. 35 Borris Road and No. 36 Borris Road constitutes a Right of Way. This has been confirmed in an email from Laois County Council which states that it owns the lane and that it provides rear access to Nos. 34-35 Borris Road and would have also been a Right of Way for the properties of No. 34 and No. 37 Borris Road across the rears of Nos. 35 and 36 Borris Road respectively. The appellant states that Right of Ways do not require registration to exist in law and that there is no evidence of this Right of Way being extinguished. It is contended in the appeal that the assessment of the Planning Authority has not assessed the impact of constructing a development on the on Right of Way and refers to Section 34(13) of the Planning & Development Act 2000 (as amended) which does not authorise development infringing on the legal rights of others. The appeal response submitted by the applicants' agent states that the proposed extension to a private dwelling is fully contained within the site which is owned by the applicants and indicates that there are no works proposed that will affect the Right of Way/access.

- 8.2.2. Having examined the appeal file and reviewed the planning drawings, I note that the proposed extension does not extend or encroach over the existing access lane between the appeal site and No. 36 Borris Road (to the north) and I have no concerns with the siting or location of the proposed development in this regard. The proposed rear extension is evidently set to the immediate rear of the dwelling and I observed that there is a low level metal gate adjoining the rear building line of the dwelling which suggests further access from the shared laneway to the rear extent of the appeal site. It is claimed by the appellant that this gate is part of the undisputed Right of Way and was left by the original owners as a safety feature. Additionally, it is claimed by the appellant that boundary/party walls have been erected between the appeal site and No. 34 Borris Road. Conversely, the applicants have indicated that the subject property is private and the supposed access to the rear of the neighbouring properties at Borris Road has not existed for them as owners.
- 8.2.3. In relation to the above, I have already outlined my satisfaction that the proposed development would not encroach upon the shared access lane to the side (north) of the appeal site. The development of the rear extension will increase the depth of the dwelling where there is an existing metal gate; however, the demolition of the shed would still allow enable access from the shared lane to the rear extent of the subject property. Notwithstanding, I note that issues to do with title or Rights of Way are not matters which can be adjudicated by the Commission. I refer to Section 5.13: 'Issues relating to title to land' of the Development Management Guidelines for Planning Authorities (2007) which state that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. I also refer to Section 34(13) of the Planning and Development Act 2000 (as amended) which states that '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*'. As such, it is my opinion that the Commission has no role in this matter in so far as it relates to any Right of Way which may exist over the land at the appeal site. It is a civil matter between the respective affected parties.

8.3. Access & Parking

- 8.3.1. The grounds of appeal claim that the proposed development will intensify use of a shared space between No. 35 Borris Road and No. 36 Borris Road, increase traffic, increase emissions in a confined space, reduce residential amenity and concentrate parking demand on public spaces. The appellant further states that the laneway is not designed for use as an entrance due to its width, blind corner and requirement for vehicles to reverse onto the public road. According to the appeal, the Planning Authority did not assess the repurposing, intensification, pedestrian safety, vehicle conflicts, geometry and emergency access which constitutes a material omission. In relation to parking, it is also indicated in the appeal that there are 6 no. parking spaces between Nos. 34-38 Borris Road and that two households (including applicants) occupy four spaces daily.
- 8.3.2. The applicants' response to the appeal informs that the access lane is shared with No. 36 Borris Road and that there is no access other properties. It is also stated that car parking occurs on the street in front of the appeal site which is a public space. It is further claimed in the applicants' response that the shed to the rear of the subject site cannot be used for car parking as it is too old and the access lane is too narrow for access by vehicles. The appeal response submitted by the applicants' agent states that there is no repurposing of the shared access lane and the access remains the same as when the applicants purchased the property. It is also claimed that the photograph of vehicle(s) parked in the Right of Way/shared access is not the applicants and that the applicants use on-street parking to the front of the house.
- 8.3.3. In my consideration of the proposal, I note the subject development, as initially applied for, sought permission to demolish the front boundary wall in order to provide on-curtilage car parking spaces to the immediate front of the dwelling. The Planning Authority sought Further Information and subsequently Clarification of Further Information in relation to the provision of car parking on the site and demonstrating sightlines of 50 metres in both directions from a setback of 3 metres from the road edge. I note that a response received at Further Information stage from the Roads Section of Laois County Council recommended that permission be refused as it was deemed that the proposed access to the public road did not meet Laois County Council Roads and Parking Standards (2007)

guidelines in relation to sightlines; and, that the proposed access did not satisfy DM TRANS 7: 'Parking in Front Gardens' of the Development Plan. The applicants omitted the proposed on-curtilage parking from the proposed development and sought to retain the front boundary wall in response to Clarification of Further Information and this measure was accepted by the Planning Authority.

- 8.3.4. Having regard to the above, I am satisfied that no car parking or access arrangements are proposed as part of the subject development and consequently, in my view, consideration of the suitability/capability of the shared lane to accommodate vehicles, traffic safety and vehicular parking do not require further assessment in the appeal before the Commission. With respect to traffic generation and parking overspill, I do not consider that the proposed extension to an existing dwelling would result in significant additional vehicle movements or exceptional traffic volumes to and from the site given the urban location of the proposal and given that there is existing on-street parking to the front of the site along this section of Borris Road. In my opinion, the control/management of car parking along established residential streets/road is the responsibility of the Local Authority and not a matter to be considered by the Commission in this instance.

8.4. Other Matters

- 8.4.1. Having regard to the grounds of appeal, I shall consider a number of other matters raised under a series of sub-headings set out below:

Procedural Considerations

- 8.4.2. The appellant has raised a number of procedural concerns with respect to the application. It is claimed that the application is invalid and that issues cannot be reconciled by assessment, conditions or through the appeal. The grounds of appeal refer claim that the statutory notices are inconsistent and that the definition of the development described on the application form relates to a childminding facility with parking which differs from the newspaper and site notices. The appellant states that the Planning Authority have ultimately granted permission for an unrelated development and claims that the applicants were permitted to change application form mid-process, without re-advertisement or reopening submissions which constitutes a breach of statutory procedure. It is

also claimed in the appeal that the Planner's report appears to have disregarded the third party submission and is contrary to Section 34(3) of the Planning & Development Act 2000 (as amended). The appellant further informs that the Board's (Commission) jurisdiction is "appellate only" and that it cannot validate an application that was not valid when lodged. To this end, as the application was invalid, the Planning Authority's decision is void and the Board (Commission) has no jurisdictions to consider its merits and so the only legal outcome is refusal.

8.4.3. I have had regard to the appeal file and I note the development description contained on both the Site Notice and Newspaper Notice were consistent and accurate insofar as they related to the primary elements of the subject proposal. I acknowledge that the development description contained on the submitted Application Form was not consistent with those of the public notices however the other items on this Application Form related to the proposed development. The applicants were requested at Further Information stage to submit an updated Application Form to rectify the error of the wording on the application form and were satisfied with the response received. Laois County Council validated the application and in doing so implied that the Council was satisfied with the submitted particulars, the including the application form and were satisfied that the public notices readily informed the public as to the nature and extent of the development. I am satisfied that third parties/members of the public could reasonably engage with the planning process in accordance with planning legislation and were not prevented from making comments on the application within the submission period.

Lack of Transparency

8.4.4. The appellant claims that the repeated refusals of Freedom of Information requests in relation to the legal status and management of the Council-owned access route prevented meaningful public participation and undermined transparency which constitutes procedural unfairness. In my opinion, the requests under the Freedom of Information Act 2014 are covered under legislation which is separate to that of the application/appeal process set out in planning legislation and therefore, I consider that matters relating to the

appellant's Freedom of Information requests are outside of the remit for consideration by the Commission in this appeal. As previously indicated, I am satisfied that the appellant's right to participate in the planning process has been vindicated.

Health & Safety

- 8.4.5. The appellant claims that the shared lands is a confined space whereby emissions are being unlawfully discharged by the applicants below existing overhead powerlines and into the 'breathing zone'. The appeal states that no assessments were undertaken and that the development would increase the intensity of use of the site and further exacerbate hazards and that there are already adverse impacts which requiring medical attention. The appellant also states that the access lane is the only means of escape for a number of dwellings and that the blocking/narrowing of the route removes a fire escape path and references Part B of Fire Regulations in relation to means of escape.
- 8.4.6. In my review of the appeal file, I note that the emissions referred to by the applicant relate to both vehicles in the shared access lane and that of a supposed gas vent on the front face of the subject dwelling. I note that no reports, assessments or any other supporting evidential materials have been submitted which detail and demonstrate that there are harmful/hazardous emissions emanating from the appeal site or that same are resulting in persons in the immediate vicinity requiring medical attention. In the absence of substantiating, I recommend that this grounds of appeal be dismissed. In relation to the claims regarding the potential blocking of the access lane as a fire escape route, I have already indicated that the access lane between No. 35 Borris Road and No. 36 Borris Road will not be impacted by the proposal. As also previously noted, the proposed development to the rear of the dwelling will partially extend over a portion of lands in the garden area No. 35 Borris Road which potentially facilitated rear access across the site to the adjoining No. 34 Borris Road. Other than an email received from Laois County Council to the appellant which stated *'this access would also have been a right of way for properties 34 and 37 Borris Road, Portlaoise to access the rear of the properties through the access laneway across the rear of properties No. 35 and 36'*, there is no evidential material confirming the status of same and the applicants have indicated that the wall referred to in

the appeal was erected prior to their ownership of the property. In any event, issues to do with title or Rights of Way are not matters which can be adjudicated by the Commission and so I do not consider it reasonable to comment further on this subject. Having inspected the site and reviewed the submitted particulars, I note that there is also a shared internalised alley between No. 35 Borris Road and the adjoining property at No. 34 Borris Road and so there are alternative means of access to and from the rear of No. 34 Borris Road. In addition, I note that the Chief Fire Officer of Laois County Council did not raise any concerns in relation to the proposed development. In terms of compliance with the Fire Regulations, it is my consideration that should permission be granted any conditions which may/may not be attached to the decision would not free the applicants from their responsibilities under other applicable codes.

Conditions and Proposed Use

- 8.4.7. The appeal makes reference to the conditions prohibiting subdivision and commercial use as being ineffective on the basis of forthcoming legislation which will permit sub-division and that the original application was for a commercial childminding facility. It is further claimed that the proposed extension is designed for independent living creating a new dwelling in all but name and the layout is capable of independent occupation.
- 8.4.8. I am satisfied that the subject development does not relate to a commercial childminding facility and I am of the view that this matter was sufficiently addressed by the Planning Authority at Further Information stage. In relation to the conditions, I have reviewed the submitted drawings and I consider the proposed extension and associated internal modifications form an integrated part of the overall dwelling with a new open plan kitchen/dining area at ground floor level and the provision of a new master bedroom at first floor level. It is not apparent, from the submitted planning particulars, that the development is designed for the dwelling to be subdivided or used for separate independent living. Furthermore, Condition No. 3 of the Planning Authority's decision to grant permission relates to existing dwelling and extension being jointly occupied as a single housing unit. I acknowledge the basis of the condition which is generally standard in nature to restrict sub-division of the dwelling in the interests of regulating and controlling development. I am satisfied that such a condition is

appropriate and in the interests of common good. To this end, should the Commission be minded to grant permission a similarly worded condition could be attached. Additionally, I have reviewed the appeal file and considered the assessment of the Planning Authority along with the reasoning for recommending a grant of permission. In terms of the conditions, I note the Development Management Guidelines (2007) set out the basic criteria for deciding to impose conditions which include – necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable. In my view, many of the conditions are generally standard in nature for urban development and I consider that most of the conditions are justified and seek to achieve a satisfactory standard of development. Therefore, I recommend that should permission be granted that the conditions of the Planning Authority be included in similarly worded conditions.

9.0 Appropriate Assessment (Screening)

- 9.1. I have considered the subject development in light of the requirements S177U of the Planning and Development Act 2000 (as amended). The subject development seeks permission to demolish existing shed, construct a rear extension and erect a porch to the front facade at No. 35, Borris Road, Portlaoise, Co. Laois. The appeal site is located in an urban area and is not located within or immediately adjoining any designated Natura 2000 sites.
- 9.2. The subject site is approximately 7.96km from the nearest designated site which is the River Barrow and River Nore Special Area of Conservation (Site Code: 002162). Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:
 - The small scale and nature of the development;
 - The location of the site on serviced lands in an urban area and distance from nearest European site and lack of connections.
 - Taking into account the screening determination by the Planning Authority
- 9.3. I conclude, on the basis of objective information, that the subject development would not have a likely significant effect on any European Site either alone or in

combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Water Framework Directive

- 10.1. The subject site is in a serviced urban area and is to connect to the existing sewer network. There are no water courses in the immediate vicinity of the appeal site which is situated within a established urban area.
- 10.2. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.
- 10.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive. Accordingly, the subject development is considered to be compliant with the requirements of Article 4 of the Water Framework Directive.

11.0 Recommendation

- 11.1. I recommend permission be GRANTED subject to the conditions set out in the following reasons and considerations.

12.0 Reasons and Considerations

- 12.1. Having regard to the established residential location in a built-up urban area, pattern of development in the vicinity, provisions of the Laois County Development Plan 2021-2027 in terms of residential extensions (DM HS 14: 'House Extensions/Alterations in Urban and Rural Areas'); and, the design, layout and scale of the subject development, it is considered that, subject to compliance with conditions below, the proposed extension would provide for a reasonable upgrade of accommodation on the site, would not have an adverse impact on the amenities of neighbouring properties, would be wholly in keeping

with the pattern of development in the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 23/10/2025 and as amended by further information submitted on 30/01/2026 and subsequently amended by clarification of further information submitted on 11/03/2026, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Coimisiún Pleanála for determination.

Reason: In the interest of clarity.

2. The dwelling and extension(s) shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: In the interests of clarity and development control.

3. Prior to commencement of development the applicant shall submit for the written agreement of the Planning Authority details of materials, colour and texture of all the external finishes to the proposed house and garage.

Reason: In the interest of visual amenity and to ensure an appropriately high standard of development.

4. No part of the subject development shall overhang or encroach onto any neighbouring properties.

Reason: In the interest of the proper planning and sustainable development of the area.

5. The disposal of surface water shall comply with the requirements of the Planning Authority for such works and services. Prior to the commencement of any works on the site, the developer shall submit details for the disposal of surface water from the site for the written agreement of the Planning Authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

6. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

7. (a) Any proposals by the developer to divert or build over any existing water or wastewater services must be submitted to Uisce Eireann for written approval prior to works commencing. Uisce Eireann request the developer to submit details to Uisce Eireann for assessment of feasibility and have written confirmation of feasibility of diversion(s) from Uisce Eireann prior to connection agreement and or works commencing.
(b) All development shall be carried out in compliance with Uisce Eireann Standards codes and practices.

Reason: In the interests of public health.

8. All necessary measures should be taken by the applicant and contractor to prevent the spillage or deposit of clay, rubble or other debris on the public road network, repair any damage to the public road arising from carrying out works and avoid conflict with between construction activities and pedestrian and vehicular movements on the surrounding public roads.

Reason: In the interest of traffic safety and amenity.

9. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Details of the ducting shall be submitted to and agreed in writing by the planning authority prior to the commencement of development.

Reason: In the interests of visual and residential amenity.

10. Site development and building works shall be carried out between the hours of 07:00 to 18:00 Mondays to Fridays inclusive, between 08:00 to 14:00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Matthew O Connor
Planning Inspector

23rd July 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501203-LS-26
Proposed Development Summary	Demolition of existing shed and front boundary wall to provide car parking spaces and construct a two storey with single storey element extension to the rear of dwelling house.
Development Address	35 Borris Road, Portlaoise, Co. Laois
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
8. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
(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)	
9. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
10. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	The development is not a Class.

☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☐ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	
11. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____