



An
Bord
Pleanála

Inspector's Report

ABP-320897-24

Development

Permission consequent on grant of outline permission: 13 no. detached dwelling units with all associated site works (outline permission 22/156).

Location

Lakeview, Cullenagh, Ballina, Co. Tipperary

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

2360980

Applicant(s)

Lough Derg Marina Limited.

Type of Application

Permission Consequent.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Kevin O'Callaghan.

John Moloney and Anna Ryan
Moloney

Linda O'Neill

Jeremy Quaid

Donogh O'Brien

Observer(s)	Mark Jeffers and Triona McCaffrey. Cullenagh Residents Committee.
Date of Site Inspection	15 th January 2025.
Inspector	Jennifer McQuaid

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1.0 Site Location and Description

- 1.1. The proposed site (4.04ha) is located on the western side of Lakeview Estate, within the residential development of Cullenagh in Ballina, Co. Tipperary. The site is access via the R494. The proposed site consists of rough grasslands and trees and is considered as brownfield. The site bounds Lough Derg/River Shannon to the west. The proposed site levels drop from east to west, the existing housing estate rises considerably towards to the R494.

2.0 Proposed Development

- 2.1. The proposed development consists of permission consequent for:
- Provision of 13 no. detached dwelling with optional basements.
 - Substantial area of public parkland
 - All associated site works.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 21 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The proposal was assessed against the conditions of the original outline permission granted under planning reference 22156.
- A number of further information requests were made, these consisted of:
 - Phasing Scheme.
 - Contiguous elevations and long sections of the site from the front and rear.
 - Proposed finishes, brick is contrary to condition 5(a).

- Calculations and a design for the foundations of the houses having regard to the steeply sloping site and requirement to raise existing ground levels.
- Details of the proposed vehicular entrances, including works to the existing footpath.
- A proposal to extend the existing footpath along the northern side of the site to allow convenient pedestrian/wheelchair access.
- Revised public lighting scheme.
- Details of proposed levelling and any cut and fill proposed for the parkland.
- Details of “post and rail” fence along the northern boundary. A more permanent solution such as steel railings and rendered concrete piers should be considered.
- Details of boundary treatment for a section of the park along the northwestern side.
- Construction Traffic Management Plan.
- Submit a copy of Japanese Knotweed Management Plan.
- Submit an Ecological Impact Assessment.
- Submit an Updated AA screening and possible NIS.
- Concerns regarding the design, height, finished floor levels, visual amenity impact and outlook from the proposed public park and river/lake to the west. Request revised proposals to address.
- Concerns in respect of scale, bulk and heights of proposed dwellings by reason of the filling of the land to create “plinths” for each dwelling, in terms of its impact on the streetscape and visual amenity of the area. Revised plans requested having regard to the significant topographical changes of the land.
- House Type A design concerns in terms of its east elevation and impact of same on the streetscape and visual amenity of the area. Request revised plans.

- Concerns regarding plots 11 and 12, the overbearing scale of the dwellings from the public access entrance to the park, and the interface/active frontage of same to the proposed stepped entrance to the proposed park. Revised plans requested.

Further information submitted and the Planning Report made the following comments:

- Phasing plan submitted, houses to be completed in Phase 1 and parkland in Phase 2.
- Contiguous elevations submitted.
- Finishes submitted, red brick referenced for House Type C, a condition to be attached to omit brick.
- Revised finished floor levels submitted.
- Revised plans submitted for roads and footpaths and acceptable.
- Revised Lighting plan submitted and acceptable.
- 24.812m³ of soil required to facilitate development of footpaths.
- Boundary treatment will be concrete piers and railing.
- A 1.8m high fence to the northwest and northern boundaries of the site.
- Construction Environmental Management Plan submitted. A query from a submission was raised in relation to legal right to construction access through the road on the northern end. The Planner was satisfied that construction access can be achieved from the public road. Engineer recommended that material deliveries to the site should use temporary access road created internally on the site along the western extent of the housing development. Recommend a condition.
- Planner spoke to Biodiversity Officer regarding Japanese Knotweed and noted no map of identified stand of knotweed removed, no photos included of excavation or removal works, uncertainty in terms of treatment programme carried out to date, noting that it would be normal practice to treat knotweed prior to removal.

- Discrepancies noted between the Japanese Knotweed Invasive Management Plan and the Ecological Report which showed 6 locations of Japanese Knotweed not one small stand. Clarification required.
- Ecological Impact Assessment recommended mitigation measures for the construction stage and concluded no long-term negative impacts to the biodiversity.
- Revised Appropriate Assessment Screening submitted and concluded that significant effects are not likely to arise, either individually or in combination with other plans or projects to the Natura 2000 network.
- The revised house design, ridge heights, finished floor levels and increased setback from the road are acceptable and accords with the outline permission.

Clarification of further information in relation to Invasive Species. The following comments were made:

- The revised Invasive Species Report refers to ongoing monitoring of the site and treatment of the invasive species. However, site visit dates are unclear. There is still a presence of Japanese Knotweed and spread of same presents a significant risk.
- The boundary walls on plots 11 and 12 at the proposed park entrance will be 1.8 metres high open railings with smooth plastered piers at 3 metre centres.

3.2.2. Other Technical Reports

- **District Engineer:** Concerns raised regarding the house foundations and placement of extensive filling on a steeply sloping site. Insufficient information provided on the earthworks and foundations. The design should have regard to the use of SUDS measures for the proposed site.

Require a Construction Management Plan.

Japanese Knotweed noted on site, a detailed Management and Treatment Plan is required.

Details required for works to the existing footpath to allow for vehicular access to the dwellings. And the existing footpath should be extended to the main access to the Biodiversity Park to allow for wheelchair access.

Further information submitted and the following comments were received:

- Revised road layout submitted showing modifications to the existing footpath to allow for vehicular access, proposal is satisfactory. Revised footpath along the north perimeter of Plot 1 connects with the internal footpaths of the biodiversity park.
 - Construction and Environmental Management Plan submitted with some generic details on the Control of Traffic.
 - Height of the houses has been significantly lowered; this will reduce the volume of fill material required. Material deliveries to the site should use a temporary access road created internally on the site along the western extent of the housing development.
 - The Invasive Management Plan submitted should be referred to the biodiversity officer for comment.
- Environment: Clarification sought for number of lighting bollards proposed.

3.2.3. Conditions

- Condition 1(c):

Prior to development commencing on the site a Japanese Knotweed Management Plan for the proposed development shall be submitted for the written agreement of the Planning Authority. As part of the Japanese Knotweed Management Plan a detailed survey of the area should be conducted and a location map indicating the species distribution on the site, including the appropriate buffer zones for potential growth should be indicated. The plan should identify the most appropriate management option to eradicate the invasive species from the site and the timescales involved should be presented together with an appropriate monitoring period to address regrowth. A detailed method statement outlining the treatment proposed should be included. In addition, all relevant staff will be required to be briefed and made aware of Japanese Knotweed issues, the management plan and their responsibilities.

Construction of the development authorised by this grant of permission shall not commence until the Planning Authority is satisfied that Japanese Knotweed has been fully eradicated.

Reason: To clarify the terms of the permission and in the interest of proper planning and sustainable development.

Condition 2:

No development of the proposed dwelling houses shall commence until the upgrading works at the Ballina Wastewater Treatment Plant to facilitate the development are completed, and the developer has obtained a Connection Agreement from Irish Water to connect into the upgraded Wastewater Treatment Plant.

Reason: To ensure there are no adverse effects on the integrity of the Lower River Shannon Special Area of Conservation.

3.3. Prescribed Bodies

- Department of Housing, Local Government and Heritage: Requesting all hedgerows/mature trees to be retained on site where possible. Any hedgerow removed shall be replaced. Note the nesting season runs from 1st March to 31st August. The area of Riparian Woodland to the west should be fenced off from the site before any works take place and no work should take place within this area.

3.4. Third Party Observations

14 no. submissions were received. The following concerns were raised:

- The site is zoned as Amenity.
- The design and layout are at odds with the Masterplan and the existing development in the estate.
- No CEMP prepared with the application.
- A Japanese Knotweed Management Plan referred to in the Outline permission and Appropriate Assessment Screening were not submitted.

- The site was cleared by mulching in Nov/Dec 2022, any construction traffic on site now risks spreading knotweed to other developments.
- Excessive noise and traffic and risk to public health.
- The proposal will require the raising of land by anything up to 5 metres or possibly more. The proposal ignores the natural fall of the landscape and will cause traffic hazards, and risks to the health of the residents through excessive noise and dust.
- No Landscape and Visual Impact Assessment.
- Negative visual impact for anyone travelling on Lough Derg and the existing dwellings.
- Lack of details provided of contiguous elevations and building heights.
- The proposed access road resembles a city or urban environment and is not in keeping with the character of this scenic rural village.
- Overlooking and overshadowing to existing dwellings.
- The house designs are inappropriate and should be lowered in height and better integrated into the natural slope of the site.
- Implications of condition 10 of outline permission.
- Updated AA screening required.
- Arboriculture Assessment should have been prepared and submitted.
- Significant difference in house design between outline and permission consequence, most notably house form and levels.
- No public lighting proposed for the public park. And a more comprehensive plan is required for the park, to include play areas, outdoor fitness facilities and replacement planting.
- Archaeological assessment should have been carried out.
- Health and safety risks from high level of heavy construction truck journeys through Cullenagh. And health and safety risks if the ongoing Management and Maintenance of the proposed parkland are not clearly defined.

- Details required for construction timeline and process of site selling.
- Other sites in Cullenagh owned by applicant and put up for sale without building them.
- Flood risk
- No details on distance to boundaries.
- No EV charging points.
- Requests a link between Lakelands and Marine Village.
- Developer should incorporate the recommendations of DMURS in the design of footpaths and drives.
- Minimum of 3 car parking spaces should be provided.
- Irish Water do not restrict the use of private gardens for pipelines.

9 further submissions were received following the submission of the further information. The following comments were received:

- Not in line with Cullenagh master plan.
- Impact on residential amenity – light.
- Impact on visual amenity of road users & Lough Derg.
- Japanese Knotweed control and accuracy of information.
- Ecological impact in terms of previous mulching.
- Construction Traffic Management.
- House design, scale, finished floor levels, ridge heights.
- Proximity of houses to public road.
- Depth of back gardens.
- Boundary treatments.
- Fill material required.
- Public lighting to the park area.
- Delivery of the parkland.

- Landscape design and Tree removal.
- Zoned as “amenity”.
- Alignment of the sewer wayleave and implications in terms of siting of the houses close to the road.
- Housing density.
- Phasing and completion of the development.
- Legal basis to use land on northern end of the site for construction access, and impact of same on pedestrian access to the lake.
- Improved pedestrian access to Ballina via link to Marine Village.
- Active travel/pedestrian infrastructure.
- Landscape characterisation and heritage context.

4.0 Planning History

22156: Outline permission granted for 13 no. detached dwellings, a substantial public parkland area and all associated site works. Decision on 6th July 2022, Final grant on 9th August 2022.

ABP PL22.225284 (PA Ref: 07510247): Permission granted for 27 no. dwellings and all associated site works.

Adjacent sites:

ABP PL92.319877 (PA Ref: 2360938): refused for 2 no. houses for the following reason:

Having regard to the location, scale and design of the proposed development, the sloping gradient on the site and level difference to adjoining properties, it is considered that the proposed development would result in negative impacts on adjoining residential amenity by reason of overbearing and loss of privacy and associated residential amenity. The proposed development would be contrary to the requirements of Policy 5-5 and Section 4.10 of Volume 3, Appendix 6 (Development Management Standards) of the Tipperary County

Development Plan 2022-2028, and would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

Tipperary County Development Plan 2022-2028.

The subject site is located in the settlement boundary of Ballina and linked with settlement of Killaloe in County Clare.

The subject site is zoned as Amenity and located directly adjacent Lough Derg pNHA. The objective for Amenity is to provide, preserve and enhance open space and amenity uses. Parks/playgrounds are permitted in principle. Residential is not permitted.

Lough Derg is designated as Flood Risk Zone A and Zone B and part of the site is located in this area.

The general objectives for development in the town are:

1. To work in partnership with Clare County Council in co-ordination with balanced development and the promotion of Killaloe and Ballina as linked settlements, including the development of a Town Enhancement and Mobility Plan for the twin towns.
2. To promote Ballina as a key tourism destination as part of Ireland's Hidden Heartlands and the development of tourism infrastructure and facilities.
3. To support the implementation of the Lough Derg Visitor, Experience Destination Plan & Shannon Tourism Master Plan.
4. To work in partnership with Clare County Council to secure the implementation of the Killaloe Bypass, the Shannone Bridge Crossing and R494 Improvement Scheme.
5. To seek the development of high-quality residential schemes, which provide a range of house types to meet the needs of the population, supported by community facilities and services.

6. To facilitate the development and enhancement of the town centre and to encourage the development of vacant and derelict sites for a range of retail, tourism, residential and complementary uses.
7. To promote the sustainable development of public amenities and local recreational uses, in harmony with the lake setting and natural environment.
8. To promote high quality in the built environment, which reflects the unique quality of the natural environment, and lakeside setting of the town.
9. To support the delivery of an upgraded wastewater treatment plan to facilitate new development.

The growth and expansion of the tourism sector will be supported in line with the Shannon Tourism Master Plan 2020-2030, and the Lough Derg Visitor Experience Development Plan 2021-2024, with a focus on town centre and opportunity sites and the provision of year-round tourism facilities.

Chapter 2.0 Core Strategy describes Ballina as a local town.

Chapter 11, Section 11.5 refers to Flood Risk Management

Volume 3 Landscape Character Areas.

The site is located in Archetypes B The Lakelands – these are working landscapes containing settlements that enclose and adjoin lake and river areas of national significance for tourism and recreation. This landscape also contains many historic sites.

Landscape Character Types - B1 Watersides and B2 Lakeland Enclosures

Sensitivity for Waterside is Class 3 and for Lakeland Enclosure is Class 4.

Class 4 guideline control unavoidable new developments or uses unless it can conclusively demonstrate capacity to conform to existing appearance and character. And control the unavoidable intensification or expansion of established patterns of use and settlement to sustain existing appearance and character.

Landscape Character Area – LCA 13 Arra Mountains.

Principles for Landscape Management

- Sensitive siting and design of individual buildings and groups of buildings as well as site treatment appropriate to the area will be of particular importance

in this landscape. Specific design guidance should be provided to facilitate these outcomes. Tourism uses require monitoring and management in order to minimise erosion and degradation on landscape resources. This specifically applies to the use of the Lough Derg walking route and the four scheduled viewpoints (which include parking and picnic facilities) at the edge of the lake. The impact of similar activities in the adjacent County of Clare in the form of the East Clare Way need to be considered as this route is linked to the Lough Derg Way.

- Agricultural practices should be managed in a manner that safeguards the water quality associated with Lough Derg.
- Design guidance in respect of commercial forestry in upland areas should be provided in order to integrate this land use into the landscape.
- Monitoring and management regime for protection and enhancement of the blanket.

5.2. National Policy

National Planning Framework – Project Ireland 2040

Sustainable residential Development and Compact Settlement Guidelines 2024.

Design Manual for Urban Roads & Streets (DMURS) 2019.

5.3. Regional Policy

Regional Spatial and Economic Strategy for the Southern Region

5.4. Natural Heritage Designations

The site is partially located within the Lough Derg NHA (site code 000011). The proposed biodiversity park is located within the NHA area. The following designated sites are in close proximity to the subject site:

- Lough Derg (Shannon) SPA (site code 004058) located 200 metres north of the site.
- Lower River Shannon SAC (side code: 002165) located 1km south of the site.

- Slieve Bernagh Bog SAC (site code: 002312) located 2km northwest of the site.

5.5. EIA Screening

- 5.5.1. The proposal relates to a 13no. dwelling with connection to public services in Ballina development boundary. The site is located on amenity zoned lands and not within a designated European area and adjacent a Lough Derg pNHA. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Please refer to Form 1 and Form 2 as per Appendix 1 below.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been received from 5 no. appellants. The concerns raised are:

- The dwellings are not built into the site slope and will appear as 9.8m in height when viewed from the rear (from Lough Derg & Brian Boru's fort).
- Access to rear lawns is not age friendly and the lawns are accessed by steps. The houses should be set into the sites so that the back door is no higher than 150mm above lawn level. The proposed houses have a rear elevated terrace, and the rear lawn is almost inaccessible.
- Light to the lower ground floor windows at the roadside is proposed by light wells or shafts. The drawing provides no details for the retaining wall required nor does it show how these shafts will be protected or drained.
- The proposal is at 20m over water level and will spoil the view from the river and appear as a wall of concrete and glass 20m above the water. In order to comply with Cullenagh Master Plan, the entire development should be re-

designed, and the ridge heights reduced. For sloping sites, split level houses are encouraged, and single or 1.5 storey houses are suggested in the plan as being the most suitable.

- The proposed dwellings are too close to the public road, and consideration should be given to relocating the sewer running along the rear of the houses.
- The horizontal space occupied by the houses is excessive and needs to be reduced to either reduce the size of the house or the number of houses. The proposed dwellings are not suitable for local housing demand.
- The depth of the rear gardens is deficient. The depth appears to be 5 to 6 metres, and this appears to be dictated by the location of the sewer, which should be moved.
- The landscaping plan indicated 1.8m high railing to the rear of the sites, but the material is not specified.
- A substantial amount of fill material will be required to be imported into the site. This is not a sustainable or environmentally friendly approach to house building and would require significant movements through the estate road with consequence disturbance, dust, dirt and also significant health and safety risks to the families in the estate.
- The site is zoned as “Amenity” in the current Tipperary County Development Plan 2022-2028 and objective to provide, preserve and enhance open space and amenity uses. Residential development is not permitted. Therefore, the granting of the permission consequent on foot of planning permission 22156 would materially contravene the zoning objective.
- Site was cleared in winter 2022, no record of an Ecological Impact Assessment or any tree survey. Japanese Knotweed was identified and no details of how this is to be treated and managed in line with National Management Strategies for this invasive species. The further information requested an Invasive Plant Report, but the works have already been carried out and most likely spread Japanese Knotweed around the site.

- The site is both visually and ecologically sensitive, a natural habitat where Lough Derg narrows to continue its journey as the River Shannon towards the sea.
- The Landscape Design Statement submitted states that “no trees, hedgerows or woodland corpse areas need to be removed to accommodate development” and that “we present a straightforward biodiversity gain proposal for this development”. This statement is misleading as it ignores the landscape character history of the site and surroundings, and neglects to mention the drastic site clearance that was undertaken in Winter 2022.
- The site is 170metres from Lough Derg SPA. The proposal should sensitively fit into the landscape and topography as well as how it impacts in terms of rainfall, water, soil and damage is handled.
- The site is located in the Lakeland Enclosure – Arra Mountains – Lower Lough Derg. The sensitivity rating is noted as Class 4 “Transitional Vulnerable” and defined as:

“A landscape’s capacity to absorb new development, without exhibiting a significant loss of character or change of appearance is referred to as its “sensitivity”. This depends on factors that include elevation, slope, as well as the types of land cover and soil. The area is classified as being increasingly sensitive as more of these factors are present in the same place”.

Class 4 is categorised as “Special Landscape – very low capacity for change: Areas requiring significant care during design and assessment – including consideration of alternatives – to determine whether development or use can be accommodated without causing significant change of appearance or character”.

The guidelines further recommend:

“Control unavoidable new developments or uses unless it can conclusively demonstrate capacity to conform to existing appearance and character”.

And

“Control the unavoidable intensification or expansion of established patterns of use and settlement to sustain existing appearance and character”.

- The proposed design is out of character for the area. The report submitted with the outline permission stated the vision “the land, the building shall respectively settle into their environment. Roofs, walls juxtaposed against a tree lined and rolling landscape with Lough Derg in the background”.

The current Design Statement refers to the site as “infill”, the site is not an “infill” site. The proposed design is not suitable for the site and will be visible from elsewhere in the estate and from across the water and the hillsides and mountains of Ballycuggaran and Moylussa.

6.2. Applicant Response

The applicant has submitted a response to the appeals submitted. The following comments were made:

- In relation to zoning – Section 36(4) of the Planning and Development Act 2000 as amended (the Act) states that “where an application for permission is made to a planning authority consequent on the grant of outline permission, the planning authority shall not refuse to grant permission on the basis of any matter which had been decided in the grant of outline permission, provided that the authority is satisfied that the proposed development is within the terms of the outline permission”.
- Section 36(5) of the Act states “no appeal may be brought to the Board against a decision of a planning authority to grant permission consequent on the grant of outline permission in respect of any aspect of the proposed development which was decided in the grant of outline permission”.
- Cullenagh masterplan is no longer referenced within the CDP and no longer has any statutory significance.
- Finished floor levels are in line with the outline permission. The changes in levels allow the development to work with the existing site levels. House Types B & C sit below the road level and work with the natural contours, reducing the amount of fill and the extent of raised plinth to each house. The construction techniques proposed for retaining work is to be developed as crib

walls at approximately 60° in angle, allowing the crib walls to be landscaped and blend into the natural vegetation.

- The design of houses along Lakelands Road varies in size, scale, massing and design, ranging from dormer units to two storey houses, situated quite close to the public road. The proposed 13 no. units provide a more unified and integrated approach to development on the street. The ridge height has been reduced in further information and the dwellings have been set back by an average of 1.9m.
- The size of the houses was indicated as 486sqm in the outline permission and are now in the range of 227.1sqm (House Type A) to 238.9sqm (House Type B) and 320sqm (House Type C). The proposed design is in line with the existing streetscape and improves the visual amenity along the street. The proposed streetscape is quite similar to the existing streetscape on the western side of Lakeview, the road at a higher elevation and immediately to the rear (east) of the existing houses fronting Lakelands.
- All units are served by private rear gardens which exceed the standards as per Table 5.1 of the Sustainable and Compact Settlement Guidelines. Hard landscaping (patio) extends access at grade from the ground floor. The soft landscaping area extends to the boundary with the proposed public park, this is at a lower level and accessed by steps from the patio area.
- The design of the dwellings was altered at further information stage to improve views from the River Shannon. The proposed design and levels bring the dwellings in line with the existing streetscape and improves the visual amenity along the street. The dwellings are sited at a distance of 108m to 173m from the lake edge. The proposed Biodiversity Park separates the dwellings from the lake with a substantial tree line (riparian woodlands) providing an effective buffer between the water's edge and the Cullenagh lands.
- The appellants allude to the sensitivity of the landscape and that the landscape is special with a very low capacity for change. It is submitted that substantial change has occurred within the estate and that development has

occurred at higher elevations than the subject site and visual change has occurred and that the landscape category has changed as a result.

- The proposed development will not break the skyline when viewed from the lake/river, unlike the other houses within the Cullenagh development. It is argued the development will assimilate into the existing built environment when viewed from the water and will not adversely affect the landscape amenities of the area.
- The ecological impact assessment confirms the habitats are of low to local biodiversity value. The riparian woodland located on the western site boundary is of national biodiversity importance being associated with the Annex 1 Habitat, Alluvial Woodland. This woodland is located outside the site in third party ownership and is not impacted by the proposal.
- Removal of gorse and site clearance was necessary to facilitate site investigation works, including identification of the exact location of water infrastructure services through the site. This was necessary to comply with Condition no. 3 of the outline permission. The gorse and associated growth were mulched outside the bird nesting season. The locations of the Japanese Knotweed on site, as originally identified when the site was surveyed to facilitate preparation of the Outline Permission application, were protected and undisturbed at the time the gorse was mulched.
- The Invasive Species Management Plan states the Knotweed stands are currently undergoing herbicide treatment and shall be effectively managed and related in accordance with that plan. Japanese Knotweed has not been removed from the site. A programme for treatment commenced in February 2024. All knotweed stands from the affected area were removed. All contaminated soil has been stockpiled on site at a designated area and is currently under monitoring. Throughout the 2024 growing season any knotweed that grows on the stockpile will be treated with herbicide.
- A minimalist landscape proposed approach is proposed with the retention of bracken and meadow vegetation in an effort to retain any potential habitats in the area. The pathways will measure 3 m in width and sub paths will be 1.8m in width.

- In the Biodiversity Park it is proposed to plant 27no. new trees together with extensive hedgerow planting. A native Willow hedge comprising of 344 linear metres is to be planted to the west with three areas of new Aspen woodland (2,550m²) to match which already exists to the west of the site boundary.
- An existing chain-link fence exists along the southwest and southeastern site boundaries. It is proposed to extend this 1.8m high fence to the northwest and northern boundaries of the site for a more secure perimeter. It is also proposed, to continue the provision of rendered concrete piers and railing, around the northern site boundary extending to both sides of the northern entrance to the park.

6.3. Planning Authority Response

- None

6.4. Observations

There were 2 no. observations received from local residents. The following concerns were submitted:

- Design of the houses and the consequent impact on visual amenity of Cullenagh Residents and users of the lake and proposed parkland.
- Planning conditions relating to the maintenance of the parkland are poorly thought out and are unsustainable. They carry a high risk that the park will become derelict once the houses are sold.
- The design does not conform to best practice in relation to footpaths. The planners failed to request changes to the plans to conform to these guidelines.
- The Council, developer and residents collaborated to develop the Cullenagh Master Plan which proposed phased delivery of housing, infrastructure and amenities such that construction of tranches of housing was not permitted until infrastructure and amenities promised in previous phases were delivered. The plan was approved by Tipperary County Council in 2007, and the proposal does not adhere to this plan.

- Site clearance has occurred that breaches condition 10 on Outline Permission 22156 and EU law which has resulted in significant environment impact.
- The light impact of the proposed 13 dwelling on my property has not been assessed.
- The proposed 13 dwellings will require substantial backfill resulting in a major public safety risk.

6.5. Further Responses

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Design, Layout and Siting
- Ecology and Invasive Species
- Landscape and Visual
- Appropriate Assessment

7.2. Principle of Development

7.3. The subject site is located to the rear of Lakeview housing estate. The site fronts onto the Lough Derg/River Shannon which is designated as pNHA. The site adjoins Flood Risk Zone A and Zone B. The subject site is zoned as Amenity as per Tipperary County Development Plan 2022-2028. The objective for Amenity is to provide, preserve and enhance open space and amenity uses. Parks/playgrounds are permitted in principle. Residential is not permitted.

- 7.4. The subject site was zoned as “New Residential and Amenity” under the North Tipperary County Development Plan 2010, as varied when assessed under outline permission 22156.
- 7.5. The grounds of appeal state the site is zoned as “Amenity” in the current Tipperary County Development Plan 2022-2028. Therefore, the granting of the permission consequent on foot of planning permission 22156 would materially contravene the zoning objective. I note outline permission for 13 no. dwelling under planning reference 22156 was granted 6th July 2022, final grant issued on 9th August 2022. The Tipperary County Development Plan 2022-2028 was adopted on the 22nd August 2022. The development plan zoning changed after the final decision was made on the outline planning application.
- 7.6. The applicant has outlined that the proposal is in accordance with Section 36(4) of the Planning and Development Act 2000 as amended (the Act) which states that “where an application for permission is made to a planning authority consequent on the grant of outline permission, the planning authority shall not refuse to grant permission on the basis of any matter which had been decided in the grant of outline permission, provided that the authority is satisfied that the proposed development is within the terms of the outline permission”. And Section 36(5) of the Act states “no appeal may be brought to the Board against a decision of a planning authority to grant permission consequent on the grant of outline permission in respect of any aspect of the proposed development which was decided in the grant of outline permission”.
- 7.7. I have reviewed section 36(4) and section 36(5) of the Planning and Development Act 2000 (as amended). I consider the wording of Section 36(5) of the Act relates to all considered aspects of a proposal.
- 7.8. As outline permission was granted for the development of 13 number houses under planning reference 22156 and the zoning at that time was for “New Residential and Amenity”, whereby the objective was to provide for medium to high density residential development of 15-25 units per ha. And to provide, preserve and enhance open space and amenity uses. Therefore, I consider the proposed permission consequent on the grant of outline permission is acceptable and shall be considered

under the North Tipperary County Development Plan 2010 as varied and the original grant of outline permission.

- 7.9. Having regard to Section 36(5) of the Planning and Development Act 2000 (as amended) and the outline permission which was granted on lands zoned as “residential”, I do not consider this matter can be appealed to the Board aside from the fact the site is now zoned as “amenity”, the principle of development has been established under the previous North Tipperary County Development Plan 2010 as varied.

7.10. Design, Layout and Siting

- 7.11. The proposed development of 13 no. detached dwelling will be located along the eastern boundary of a large open brownfield site, which is part of the original Lakeview Estate, which is developed and occupied. To the rear of the proposed dwellings a large biodiversity park is proposed, and this will adjoin Lough Derg. There are 3 different house types proposed, house type A will consist of a two-storey dwelling, overall floor area of 227.1m², overall height of 8.26m and the finishes include light colour render, local stone and natural slate roof tiles. House Type B will consist of two storey dwelling, overall floor area of 238.9m², overall height of 8.3m and the finishes include light colour render, local stone and natural slate roof tiles. Extensive glass glazing is proposed on the western elevation facing onto Lough Derg. House Type C will consist of two storey split level house, overall floor area of 320m², overall height of 8.4m and the finishes include light colour render, local stone and natural slate roof tiles. Each of the houses will face directly onto the existing estate road with parking within the curtilage of each proposed dwelling. Parking for house type A will be accessed of the existing estate road to the north.
- 7.12. The grounds of appeal have raised a number of concerns in relation to layout and design, these include proposed dwellings are too close to the public road and deficient garden depth, and consideration should be given to relocating the sewer running along the rear of the houses. The horizontal space occupied by the houses is excessive and needs to be reduced. A substantial amount of fill material is required, and dwellings are not built into the site slope and will appear as 9.8m in height when viewed from the lake. The rear lawns are not age friendly. Light to the lower ground floor windows at the roadside is proposed by light wells or shafts and

no details provided. The design and location will impact on the visual amenity of the Cullenagh Residents and does not adhere with Cullenagh master plan.

- 7.13. The applicant has stated the finished floor levels are in line with the permitted outline permission. The changes in levels allow the development to work with the existing site levels. House Types B & C sit below the road level and work with the natural contours, reducing the amount of fill and the extent of raised plinth to each house. The construction techniques proposed for retaining work is to be developed as crib walls at approximately 60° in angle, allowing the crib walls to be landscaped and blend into the natural vegetation.
- 7.14. The applicant outlines the design of houses along Lakelands Road varies in size, scale, massing and design, ranging from dormer units to two storey houses, situated quite close to the public road. The proposed 13 no. units provide a more unified and integrated approach to development on the street. The proposed streetscape is quite similar to the existing streetscape on the western side of Lakeview, the road at a higher elevation and immediately to the rear (east) of the existing houses fronting Lakelands.
- 7.15. All units are served by private rear gardens which exceed the standards as per Table 5.1 of the Sustainable and Compact Settlement Guidelines. Hard landscaping (patio) extends access at grade from the ground floor. The soft landscaping area extends to the boundary with the proposed public park, this is at a lower level and accessed by steps from the patio area.
- 7.16. I note the concerns raised in the third-party appeal and I note the response received by the applicant which I consider has adequately addressed each of the concerns raised. The site slopes away from the roadway down towards the lake, the proposed houses are located at the highest point on the site, and the finished floor levels are in line with the existing contours. I consider the dwelling types and design have considered the sloping nature of the site and work with the contours in order to reduce the amount of cut and fill required. The house types are similar to the house types constructed throughout the estate, the designs vary from single storey, split levels to two storey and consist of varying finishes, sizes and heights. The majority of the proposed dwelling will appear as single storey or dormer style from the roadway and as viewed from the existing dwellings opposite the proposed site. I consider the

house type, design proposed are in keeping with the existing dwelling and in keeping with the character of the housing estate.

- 7.17. The proposed dwellings are at a lower level compared to the existing dwellings along Lakeview and located at a separation distance of between 25 metres to 40 metres, therefore, I do not consider the location of the proposed dwellings will visually impact or overshadow the existing dwellings located to the west of the proposed dwellings.
- 7.18. In relation to the rear gardens, the rear gardens vary in size and depth, however all rear gardens exceed the standards as outlined in the Compact Settlement Guidelines. In addition, the dwellings are located adjacent to a proposed biodiversity park, I consider the private open space is considered acceptable. I note the sloping nature of the rear gardens, and some are not age friendly in relation to the steps proposed, however, the layout of the rear gardens will be dictated by the end user of the dwelling and are acceptable.
- 7.19. The appellants have raised concerns in relation to the location of the dwellings in regard to the wayleave to the rear of the dwellings. The wayleave needs to be retained and cannot be located within the private space of a dwelling as per Uisce Eireann requirements.
- 7.20. In regard to the Cullenagh Master Plan, I note this is not a statutory document and it is not quoted in the current CDP. Therefore, the proposal does not need to comply with the Cullenagh Master Plan.
- 7.21. Having regard to the proposed house design, layout and location, I consider the proposal is acceptable and does not impact the visual amenity of the existing residential or impact the residential amenity. The proposed dwellings are in keeping with the existing design and character of the Lakeview estate.
- 7.22. **Landscape and Visual Impact**
- 7.23. The subject site is located to the rear of an existing housing estate on a brownfield site adjacent to Lough Derg/River Shannon. The dwellings are sited at a distance of 108m to 173m from the lake edge. The site is located in landscape character area Arra Mountains, Lakeland Enclosure. The site is currently overgrown with various types of vegetation and trees, a mature line of trees exists along the water edge. The

proposal includes a biodiversity park between the lakeshore and the proposed dwellings.

- 7.24. The grounds of appeal state the site was cleared in winter 2022, and the Landscape Design Statement is misleading as it does not consider the site clearance undertaken. The site is 170metres from Lough Derg SPA and should sensitively fit into the landscape and topography. The site is located in the Lakeland Enclosure – Arra Mountains – Lower Lough Derg. The sensitivity rating is noted as Class 4 “Transitional Vulnerable”. The current Design Statement incorrectly refers to the site as “infill”. The proposed design will be visible from elsewhere in the estate and from across the water and the hillsides and mountains of Ballycuggaran and Moylussa and will appear as a wall of concrete and glass 20m above the lake.
- 7.25. The applicant has stated the proposed design, and levels bring the dwellings in line with the existing streetscape and improves the visual amenity along the street and from the lake. The dwellings are sited at a distance of 108m to 173m from the lake edge. The proposed Biodiversity Park separates the dwellings from the lake with a substantial tree line (riparian woodlands) providing an effective buffer between the water’s edge and the Cullenagh lands. It is submitted that a substantial visual change has occurred within the estate with dwelling developed at a higher level on the site. The proposed development will not break the skyline when viewed from the lake.
- 7.26. I note the location of the proposed site within the Lakeland Enclosure – Arra Mountains – Lower Lough Derg landscape character area. The sensitivity rating is noted as Class 4 “Transitional Vulnerable” meaning there is a low capacity for change and that development should be controlled to avoid intensification or expansion of established patterns of use and settlements to sustain appearance and character. I consider the proposed development is an extension to the existing housing estate and is a similar design, and while the proposed site is located on a sensitive location adjacent to Lough Derg/River Shannon, it is set back over 100 metres from the edge of the lake/river and separated by treeline. It is in my opinion, considering the location of the site adjacent to an existing housing estate and the given the proposed separation distance to the lake/river, the proposed development will not negatively impact the views from the lake/river.

7.27. The site is also located in a Primary Amenity Area with protected scenic views from sections of the R494 and also to the east (Viewpoint 44) located c. 500m. In addition, there is a scenic route along the R463 located c. 500m from O'Briensbridge through Killaloe to outside Ogonnelloe on the Clare County side to the west of the proposed development. The applicant has not submitted any visuals from the scenic routes or from Lough Derg towards the proposed site. However, I consider given the separation distance from the lake/river and the scenic routes to the site and the presence of an established housing estate, the Primary Amenity Area will not be negatively affected.

7.28. Having regard to the location of the subject site adjacent to an existing housing estate in a built up area, the separation distance to Lough Derg/River Shannon and the separation distance to the scenic routes and protected views, I do not consider the proposal will negatively impact the visual amenity of the area.

7.29. Ecology and Invasive Species

7.30. The subject site is located to the rear of an existing housing estate and adjacent to Lough Derg. The site slopes from east to west down towards Lough Derg. The site is open ground and consists of scrub, grassland and trees. The site is partially located within the Lough Derg NHA (site code: 000011). The proposed biodiversity park will be located within the NHA area. Lough Derg (Shannon) SPA (site code 004058) is located c.200 metres north of the site and Lower River Shannon SAC (side code: 002165) located c.1km south of the site.

7.31. The grounds of appeal state there is no record of an Ecological Impact Assessment or any tree survey. Japanese Knotweed was identified and no details of how this is to be treated and managed in line with National Management Strategies. The further information requested an Invasive Plant Report, but the works have already been carried out and most likely spread Japanese Knotweed around the site. The site is ecologically sensitive, a natural habitat where Lough Derg narrows to continue its journey as the River Shannon towards the sea.

7.32. The applicant has stated the Ecological Impact Assessment confirms the habitats are of low to local biodiversity value. The riparian woodland located on the western site boundary is of national biodiversity importance being associated with the Annex

1 Habitat, Alluvial Woodland. This woodland is located outside the site in third party ownership and is not impacted by the proposal.

- 7.33. The applicant also outlines the removal of gorse and site clearance was necessary to facilitate site investigation works. The locations of the Japanese Knotweed on site, as originally identified when the site was surveyed to facilitate preparation of the Outline Permission application, were protected and undisturbed at the time the gorse was mulched. The Invasive Species Management Plan states the Knotweed stands are currently undergoing herbicide treatment and shall be effectively managed and related in accordance with that plan.
- 7.34. I have reviewed the Ecological Impact Assessment submitted with the application; Table 5 of the Assessment outlines the significance level of likely impact in the absence of mitigation measures. The impact to protected areas, surface water pollution, wastewater pollution are predicted as neutral. The loss of habitat, pollution of water during construction phase are noted as minor negative. The following are noted as moderate mortality to animals during construction (birds), Japanese knotweed and artificial lighting. No cumulative impacts are predicted. Mitigation measures are proposed to reduce the severity of the potential moderate impacts. These include site clearance outside of nesting season, no direct discharge of surface water to any water course, any surface water must first pass through a silt trap or detention basin, a Japanese Knotweed monitoring plan is required and lighting on site is to be minimised to the greatest degree possible. Overall, there are no long-term negative impacts to biodiversity predicted to arise from the proposal. Therefore, I consider the site is not of significant ecological value and the proposed mitigation measures are acceptable.
- 7.35. I have reviewed the landscaping proposal, a Biodiversity Park it is proposed as part of the application, and it is proposed to plant 27no. new trees together with extensive hedgerow planting. A native Willow hedge comprising of 344 linear metres is to be planted to the west with three areas of new Aspen woodland (2,550m²) to match which already exists to the west of the site boundary.
- 7.36. I consider given the location of the proposed development along the eastern boundary of the site and separation distance from the pNHA area of Lough Derg. The proposal will not impact on the pNHA. I have reviewed the Ecological Impact

Assessment and no long-term negative impacts to biodiversity are predicted once the mitigation measures are implemented.

- 7.37. I do have concerns regarding the presence of Japanese Knotweed on site. An Invasive Plant report was submitted as part of the planning application and further updated following clarification from TCC (Tipperary County Council). The report states in February 2024 works were carried out to excavate/remove all knotweed stands from affected area, all contaminated soil has been stockpiled at a designate area on site out of the way of any activities. The stockpile was monitored throughout 2024 growing season and any knotweed that grows on stockpile will be treated with herbicide. The excavated area was also under monitoring for growing season 2024 to ensure no further growth. Fences are erected on site to contain the knotweed and to ensure no disturbance for the entire period of herbicide treatment and monitoring. Due to the presence of knotweed on site, I recommend a prior to commencement condition shall be attached stating a Japanese Knotweed Management Plan should be agreed with the Planning Authority. The plan should identify the most appropriate management option to eradicate the invasive species from the site and the timescales involved should be presented together with an appropriate monitoring period to address regrowth. A detailed method statement outlining the treatment proposed should be included. In addition, all relevant staff will be required to be briefed and made aware of Japanese Knotweed issues, the management plan and their responsibilities.
- 7.38. Having regard to the location of the proposed development of dwellings and the inclusion of a biodiversity plan with a detailed landscaping plan, I do not consider the proposal will negatively impact the ecology of the site or the adjacent Lough Derg/River Shannon pNHA. The ecological report submitted, highlights no long-term negative impacts subject to mitigation measures proposed. I do have concerns regarding the presence of Japanese Knotweed on site, and I consider the issues can be dealt with through an appropriate planning condition.

8.0 AA Screening

- 8.1. Having regard to the proposed construction of a 13no. dwellings and biodiversity park and associated site works on zoned lands with connection to public water and

public sewer, and individual soakaways for surface water within the development boundary of Ballina, Co. Tipperary. The nearest European Site is Lough Derg (Shannon) SPA (site code 004058) located c. 200 metres north of the site and the Lower River Shannon SAC (side code: 002165) located c. 1km south of the site.

- 8.2. An Appropriate Assessment Screening was carried out by the applicant as part of the planning application. The assessment concluded; “it has been found that significant effects are not likely to arise, either individually or in combination with other plans or projects to the Natura 2000 network. This conclusion is based on best scientific knowledge”. Therefore, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that planning permission should be granted for the reasons and considerations as set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the location of the site, to the design & layout of the proposed development as permitted under outline permission planning reference 22156 and the Tipperary County Development Plan 2022-2028, it is considered that the proposed development is in accordance with the zoning objective and would not have a significant impact on residential amenity or character of the area or negatively impact the visual amenity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 11th day of December 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed

with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to development commencing on the site a Japanese Knotweed Management Plan for the proposed development shall be submitted for the written agreement of the Planning Authority. As part of the Japanese Knotweed Management Plan a detailed survey of the area should be conducted and a location map indicating the species distribution on the site, including the appropriate buffer zones for potential growth should be indicated. The plan should identify the most appropriate management option to eradicate the invasive species from the site and the timescales involved should be presented together with an appropriate monitoring period to address regrowth. A detailed method statement outlining the treatment proposed should be included. In addition, all relevant staff will be required to be briefed and made aware of Japanese Knotweed issues, the management plan and their responsibilities.

Construction of the development authorised by this grant of permission shall not commence until the Planning Authority is satisfied that Japanese Knotweed has been fully eradicated.

Reason: To clarify the terms of the permission and in the interest of proper planning and sustainable development.

3. The mitigation measures contained in the submitted Ecological Impact Statement, shall be implemented.

Reason: To protect the environment.

4. No development of the proposed dwelling houses shall commence until the upgrading works at the Ballina Wastewater Treatment Plant to facilitate the development are completed, and the developer has obtained a Connection Agreement from Irish Water to connect into the upgraded Wastewater Treatment Plant.

Reason: To ensure there are no adverse effects on the integrity of the Lower River Shannon Special Area of Conservation.

5. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

6. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the requirements

of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

7. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of residential amenities, public health and safety and environmental protection.

8. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.

9. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance

with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

10. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

11. All site development works, with the exception of the laying of the final dressing to the road surface, shall be completed prior to the commencement of construction of any of the dwelling units.

Reason: To ensure the timely provision of infrastructural works for the development.

12. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

13. The landscaping scheme shown on drawing number P594-101 Rev B, as submitted to the planning authority on the 31st day of July 2024 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Note the nesting season runs from 1st March to 31st August.

Prior to commencement, the area of Riparian Woodland to the west should be fenced off from the site and no work should take place within this area.

Reason: In the interest of residential and visual amenity and environmental protection.

14. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

15. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

16. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the

commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the drawing. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

17. 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.

Reason: In the interests of visual and residential amenity.

18. 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 Bord 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.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other

security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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.

Jennifer McQuaid
Planning Inspector

29th January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320897-24		
Proposed Development Summary	Permission consequent on grant of outline permission: 13 no. detached dwelling units with all associated site works (outline permission 22/156).		
Development Address	Lakeview, Cullenagh, Ballina, Co. Tipperary		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10b(i) Construction of more than 500 dwelling units.	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X	Class 10b(i) Construction of more than 500 dwelling units	Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10b(i) Construction of more than 500 dwelling units. The proposal is for 13 dwellings on a site area of 4.04ha.	Preliminary examination required (Form 2)

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

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320897-24
Proposed Development Summary	Permission consequent on grant of outline permission: 13 no. detached dwelling units with all associated site works (outline permission 22/156).
Development Address	Lakeview, Cullenagh, Ballina, Co. Tipperary
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	• The development consists of development of 13 no. dwelling, with connection to public water, public sewer. • The development site measures 4.04hectares. The size of the development is not exceptional in the context of the existing urban environment. • The development will consist of generally typical construction and related activities and works. • Cut and fill required. • The site is a brownfield site and does not require any demolition.

	• Surface water will be discharged to an on-site BRE soakaway. • The development will not result in significant waste, emissions or pollutants
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	• The site is located in an urban area on a brownfield site. • The subject site is not located within any designated site but partially within pNHA Lough Derg (site code: 000011). The following designated sites are in close proximity: ○ Lough Derg (Shannon) SPA (site code 004058) located 200 metres north of the site. ○ Lower River Shannon SAC (side code: 002165) located 1km south of the site. ○ Slieve Bernagh Bog SAC (site code: 002312) located 2km northwest of the site.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	The site is located in an existing habitable housing estate, access roads and services are in place. There is no real likelihood of significant cumulative effects

		with the existing and permitted projects in the area.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	No
There is no real likelihood of significant effects on the environment.	EIA is not required.	
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.		
There is a real likelihood of significant effects on the environment.		

Inspector:

DP/ADP: _____

Date:

Date: _____

(only where Schedule 7A information or EIAR required)