



An
Bord
Pleanála

Inspector's Report

ABP-314810-22

Development	Construction of 30 dwellings over two phases and all associated services and site works.
Location	Kilmead, Athy, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22903
Applicant(s)	KDM Construction Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	KDM Construction Ltd.
Observer(s)	None.
Date of Site Inspection	4 th August 2023.
Inspector	Lucy Roche

1.0 Site Location and Description

- 1.1. The appeal site is in Kilmead, Co. Kildare, approximately 8km north-east of the town of Athy and approx. 5.5km west of the M9 motorway. The M9 is accessible via the R418 regional road to the west. Kilmead is a small rural settlement comprising approximately 100 houses, a national school, and a Church. The site itself is situated to the south of the settlement with frontage onto Chapel Lane, the L80221. The L80221 is a narrow cul-de-sac that, in addition to serving the appeal site, serves the settlement of Kilmead and a number of one-off rural dwellings and farmsteads to the southeast. The L80221, in the vicinity of the appeal site, is devoid of pedestrian facilities.
- 1.2. The site has a stated area of 2.75ha and comprises an irregular shaped plot of land containing 11no. partially constructed dwellings and several spoil heaps. On the date of inspection, the site was vacant, overgrown, and inaccessible.
- 1.3. The site is bound by the residential developments of Moate View to the northwest and Cluain Ard to the northeast. A bungalow, derelict structure, and undeveloped land to the southwest and a dwelling to the southeast. Boundaries to the site consist of mature hedging and trees along the eastern and southern boundary and block wall along the western boundary with Moate View.

2.0 Proposed Development

- 2.1. Permission has been sought for the construction of 30 dwellings over two phases. The proposal includes the following:
 - Demolition of existing partially completed dwellings including 2 number units currently at wall plate level, 5 number units at ground floor slab level and 4 number units at foundation level.
 - New vehicular and pedestrian access on to public road to southwest of site including construction of a roadside footpath along the site frontage. Integration of new road and footpath to existing Cluain Ard development. Temporary construction traffic access onto local road to the southwest of the site.
 - Phase 1 comprises construction of 20 dwellings as follows:

- 2no. semi-detached two-bedroom bungalow dwellings (type 6),
- 2 number semi-detached three-bedroom dormer dwellings (type 5),
- 2 number detached three-bedroom bungalow dwellings (type 4a),
- 6 number detached four-bedroom two storey dwellings (type 3),
- 4 number detached four-bedroom two storey dwellings (types 2a and 2b) and
- 4 number detached four-bedroom two storey dwellings (type 1).
- Phase 2 comprises construction of 10 dwellings as follows:
 - 5 number detached three-bedroom bungalow dwellings (types 4a and 4b),
 - 1 number detached four-bedroom two storey dwellings (type 3) and
 - 4 number detached four-bedroom two storey dwellings (type 2a and 2b).
- All associated site development and facilitation works to include civil engineering works to achieve proposed construction levels, roads, footpaths, drainage and sewerage networks, watermain, electrical and telecommunications service connections, boundary treatments, landscaping works, playground along with all associated site development and facilitating works.
- In accordance with the details submitted (Planning Statement, Pg.17) it is the intention of the developer to sell serviced sites to individuals with the approved housing type, with all services, roads, footpaths, and open spaces in situ. The remaining 4 semi-detached dwellings will be provided by the developer.

2.2. Table 2.1 below provides a summary of the key aspects of the proposed development:

Table 2.1: Site Statistics and Development Details:	
Site Area	2.75ha

No. Of Residential Units	30
Gross Floor Area	5,232.2sqm
Demolition	Demolition of 11no partially constructed units. 2 at wall plate level, 5 at ground floor slab level and 4 at foundation level.
Housing Mix	Refer to table 2.2 below
Density	11dph
Parking	2 in-curtilage spaces per dwelling
Open Space	4,179sqm (c15% of site area)
Access	New vehicular and pedestrian access onto public road (l) to southwest including construction of a roadside footpath along site frontage. New vehicular and pedestrian connection to Cluain Ard development to the east.
Surface Water Drainage	Soakpit
Water supply	Connection to public mains.
Foul Drainage	Connection to public mains.

2.3. Table 2.2 below provides detail of the proposed housing mix.

Table 2.2 Housing Mix		
Unit Type	No. of units	%
Detached 4-bed, Two-storey	20	66
Detached 3-bed dormer	6	20
Semi-detached 3-bed dormer	2	7
Semi-detached 2-bed bungalows	2	7

2.4. The application is accompanied by the following documents:

- Planning Statement
- Local Education Infrastructure Report
- Engineering Report
- Public Lighting Design
- Report on 'Veefil' 50km DC fast charger.

3.0 Planning Authority Decision

3.1. Decision

Kildare County Council did by order dated the 14th of September 2022 decide to refuse permission for the proposed development for one reason as follows:

- 1 *The proposed connection to the foul sewer is considered to be premature pending commissioning of the upgrade of the local wastewater treatment plant (WWTP) in Kilmead. The current discharge from the existing WWTP at Kilmead is resulting in the receiving water, a tributary of the Kildoon River, not meeting its objectives under the EU Water Framework Directive. The proposed development would therefore be detrimental to the protection of surface water quality and prejudicial to public health and contrary to proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer has regard to the locational context of the site, to the planning history of the site (including pre-planning consultation); and to local and national policy and guidance pertaining to the proposed development. The report also has regard to the third-party submissions and departmental reports received. The following provides a summary of the main points raised in the assessment:

- On the principle of the development, the Planning Officer notes that the applicant has failed to demonstrate how the proposal would comply with the

requirement that the developments in Kilmead not exceed 20% of total population growth for the area.

- The proposed density, at 11 units per hectare is acceptable however a higher density could be accommodated.
- The Planning Officer recommends improvements to the overall layout and dwelling design including the omission of the vehicular access to Cluain Ard and its replacement with a filtered permeability pedestrian cycle access, only. The Planning Officer also recommends that the 'Phase 2' lands, the lands closest to the public road, be developed first to ensure a cohesive development within the village core.
- In terms of residential amenity, the Planning Officer recommends that the private amenity spaces for Unit No's 1 and 2 be increased. 7no. of the units proposed a deficient (c1sqm) in terms of storage however, gardens are large enough for additional storage to be provided.
- The Planning Officer has regard to the reports received from Irish Water and the Environment Section of KCC, and the issues raised regarding deficiencies in the Kilmead Wastewater treatment plant and water quality and considers that the proposed development would be prejudicial to public health. The report concludes with a recommendation to refuse permission on this basis.

3.2.2. Other Technical Reports

Environment: Recommends refusal for reasons relating to the deficiency of existing wastewater treatment infrastructure serving Kilmeade and water quality.

Water Services: Where permission is granted, no units to be occupied until the surface water drainage in Phase 1 of Cluain Ard to which the proposed development is to connect has been taken in charge. The report requests the submission of a drainage and SuDS strategy, a stage 1 preliminary Design Stage Surface Water Audit and a revised Flood Risk Assessment.

Roads: Requests further information on: the design for filtered permeability at the junction with the existing Cluain Ard estate,

the provision of turning bays; Road Safety Assessment, compliance with DMURS, the submission of topographical surveys, footpath provision along the L8022-1, longitudinal sections of the L8022-1, details of materials to be used on road and footpath infrastructure; improvement works to footpaths along L8022-1; signage, EV charging points; public lighting

Housing: Recommends the application of a Part V Housing condition.

CFO: No objection subject to condition

3.3. Prescribed Bodies

Irish Water: Based on existing capacity, a connection for 20 units can be serviced. Any connections above 20 units are subject to network upgrades to be funded by the applicant.

3.4. Third Party Observations

The Planning Authority received several third-party submissions. The issues raised can be summarised as follows:

- Any proposed walkway between Cluain Ard and the proposed development would be to the detriment of the residents and would impact greatly on the sense of community, neighbourliness, privacy, and place, with no benefit to existing residents.
- The proposed vehicular access via Cluain Ard would result in the creation of a 'rat-run' and increased in traffic within the small housing scheme (currently a residential cul-de-sac) resulting in traffic safety issues.
- Inadequacies in the local road network.
- 50% of houses will be subject to local need. Insufficient demand for residential development in the area. If sold as serviced sites, the development will take longer to complete extending the construction period and its associated impact (noise, disruption etc) on neighbouring properties.

- The development is out of character with the adjoining Cluain Ard Development which is predominantly single storey.
- Potential impact on adjoining residential properties by way of overlooking and overshadowing.
- All services should be completed before serviced sites/houses are sold.
- Lack of capacity in the wastewater treatment system to cater for the proposal.
- Impact on local wildlife. The removal of the existing treeline to provide access road would result in a loss of habitat.

4.0 Planning History

4.1. Appeal Site

KCC PRR99/2337 Permission granted (2004) for 22 detached bungalows and 4 semi-detached bungalows.

Note: Development commenced on site on foot of the above permission but ceased due to the economic downturn. The development was, in conjunction with the development permitted under KCC Reg. Ref:948/00, granted subject to conditions relating to the financing, construction, commissioning, and maintenance of a new wastewater treatment plant at Kilmead.

4.2. Adjacent Lands to the northeast (Cluain Ard)

KCC Reg. Ref:05/1942 Permission granted (2006) for amendments to KCC Reg.Ref:948/00 comprising change of house type on house numbers 11 to 18 inclusive.

KCC Reg. Ref:948/00 Permission granted (2004) for 29 houses. ABP Ref: PL09.214897, first party appeal against conditions, relates.

4.3. Adjacent Lands to the west

KCC PRR22/904 Planning permission refused (Sept 2022) for 4 dwellings with entrance off public road, demolition of derelict structure and all ancillary site development works all

(previously approved under KCC register reference 07/1733) for 1 reason – the development is premature pending the commissioning of the upgrade of the local wastewater treatment plant.

5.0 Policy Context

5.1. Development Plan

5.1.1. The application was assessed by Kildare County Council in accordance with the policies and objectives of the Kildare County Development Plan 2017-2023. The Kildare County Development Plan 2023-2029 was adopted by Kildare County Council on the 9th of December 2022 and came into effect on the 28th of January 2023. I have assessed the proposal under the provisions of the operative Development Plan, namely the Kildare County Development Plan 2023-2029 (KCDP 2023-2029).

5.1.2. Chapter 2 - Core Strategy and Settlement Strategy, categorises Kilmead as a Rural Settlement.

5.1.3. Volume 2 Small Towns and Villages: Volume 2 of the Kildare County Development Plan outlines policies for Rural Villages and Rural Settlement. These settlements will develop as local centres for their rural catchments with appropriate levels of growth to cater for local demand. Expansion will be controlled to minimise pressure on services and the environment and to counter unsustainable commuting patterns. Each of the 20 no. Rural Settlements is subject to a development strategy. Each settlement strategy comprises a settlement core, existing built-up area, settlement expansion area and a settlement boundary. The lands within the defined settlement boundaries do not constitute zoned land.

In accordance with the settlement strategy for Kilmead (Map V2 4.12), the subject is outside the settlement boundary and is therefore in the rural area.

5.1.4. Chapter 3 – Housing:

The subject site is in the rural area, outside of designated settlements. Chapter 3, Section 3.13 – Sustainable Rural Housing is therefore relevant. In accordance with Map Ref: V1 – 3.1, the site is within a 'Stronger Rural Area'. In 'Stronger Rural Areas', it will be an objective of the Council to facilitate the provision of single housing in the countryside based on siting, environmental and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. It is also recognised that certain parts of the county are of significant scenic value and must be protected to maintain and protect their landscape quality.

Section 3.13.3 Compliance with the Rural Housing Requirements:

'Rural generated housing demand will be facilitated having regard, inter alia, to the applicant's genuine local and housing need, together with the protection of key economic, environmental, natural and heritage assets, such as the road network, water quality, sensitive landscapes, habitats, and the built heritage....'.

Urban generated rural housing will not be considered.

Section 3.13.3 provides a definition of 'economic' and 'social' need. Table 3.4 provides a Schedule of Local Need Criteria in accordance with the NPF (NPO 19)

5.1.5. Relevant Policy / Objectives:

It is the policy of the Council to:

HO P11 Facilitate, subject to all appropriate environmental assessments proposals for dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside in conjunction with the rural housing policy zone map (Map 3.1) and accompanying Schedule of Category of Applicant and Local Need Criteria set out in Table 3.4 and in accordance with the objectives set out below. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.

IN P3 Support Irish Water to ensure adequate and appropriate wastewater treatment infrastructure is available over the Plan period to service the projected growth of towns and villages throughout Kildare in accordance with the Core Strategy and Settlement Hierarchy

It is an objective of the Council to (inter alia):

CS O1 Ensure that the future growth and spatial development of County Kildare is in accordance with the population and housing allocations contained in the Core Strategy...

CS O4 Ensure that sufficient zoned and adequately serviced lands are available to meet the planned population and housing growth of settlements throughout the county in line with the Core Strategy and the Settlement Hierarchy.

CS O5 Promote compact growth and the renewal of towns and villages...

HO O43 Require applicants to demonstrate that they do not own or have not been previously granted permission for a one-off rural dwelling in Kildare.

HO P15 Preserve and protect the open character of transitional lands particularly the approach roads to towns and villages and areas immediately outside of settlement boundaries in order to prevent linear sprawl near towns, villages and settlements and to maintain a clear demarcation and distinction between urban areas and the countryside and to protect the integrity of the agricultural uses in these areas.

5.2. National Policy

5.2.1. Project Ireland 2040 - National Planning Framework (NPF)

Section 5.3 of the NPF refers to 'Planning for the Future Growth and Development of Rural Areas'. Under the heading of **Countryside**, it is stated '*The Irish countryside is, and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism,*

and rural enterprise, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities.

National Policy Objective 19 includes:

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

.... In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

Section 4.8 (Rural Places: Towns, Villages, and the Countryside) of the RSES recognises the major contribution that rural places make towards regional and national development in economic, social, and environmental terms. With regard to housing the Strategy states that Facilitating housing is paramount to ensuring the sustainability, vitality and viability of the rural places of the Region. Support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth.

The following Regional Policy Objectives are of Note:

RPO 4.80: ‘Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

RPO 4.83 Supports ‘the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans.’

5.3. **Natural Heritage Designations**

The appeal site is not located on or within proximity to any designated site. The closest European site, the River Barrow and River Nore SAC (Site Code: 002162) is located approximately 4km to the north and 7km to the west.

5.4. **EIA Screening**

Having regard to the nature, size, and location of the proposed development and to the criteria set out in schedule 7 of the regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required. See completed Form 2 on file.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a first-party appeal lodged on behalf of the applicants KDM Construction LTD against the decision of Kildare County Council to refuse permission for the development of lands at Kilmead, Athy, Co. Kildare. The issues raised in the grounds of appeal can be summarised as follows:

- The Council do not refer to material contravention of the Kildare County Development plan 2017-23 in the wording of the reason for refusal and therefore the Board are not constrained by Section 37(2)(b) of the Planning and Development Act 2001, as amended.
- The capacity of the wastewater treatment system was not raised as an issue at pre-planning stage. There has to be a degree of certainty within the planning process for developers.
- The submission from Uisce Eireann (Irish Water) confirms that the wastewater treatment system has capacity to accommodate 20 units and an upgrade of the system is required to accommodate the remaining 10 units. The applicant is willing to fund the necessary upgrade works to facilitate the development and is happy to accept a condition of planning permission in this regard.

- It is submitted to the Board that given that there is capacity in the WWTS to cater for 20 dwellings and the remaining dwellings can be conditioned not to take place until the completion of the upgrade works, there is no risk of pollution of the Kildoon River or the River Barrow SAC into which it flows.
- Even if there was a pollution event, there is a distance of approximately 11.5km to the River Barrow SAC which is substantial. The Kildoon River is also fed by other tributaries before it reaches the Barrow SAC which is important in terms of dilution of any potential pollutants.
- Regard is had to a recent An Bord Pleanála decision to grant permission for 20 dwellings at Nurney, Co. Kildare (ABP Ref: PL09.309880) which was initially refused by Kildare County Council for one reason, similar to that under the current application. It is submitted that the Board put considerable weight on the confirmation from Irish Water that the connection of the proposed development is feasible.
- The issue raised in the Local Authority Planners Report could have been addressed by way of condition.
- The Settlement Expansion Status of the subject lands is due to be removed under the Kildare County Development Plan 2023-2029 which is likely to be in force when the appeal is assessed. This appeal is the only means by which planning permission for 30 dwellings can be achieved on site.
- The Board are not restricted by CDP Policy. It is submitted that the proposed development accords with national planning policy to encourage residential development within established settlements.
- Local services including the school rely on new residents coming into the village.
- The following accompanies the grounds of appeal:
 - Traffic report, which deals with the issues raised by Kildare County Councils Road and Transportation Department
 - Engineering Report which deals with the wastewater treatment system issues raised by Kildare County Council's Environment Department

- A letter outlining responses to the design amendment issues raised by KCC Planners Report along with revised drawings dealing the proposed amendments.
- A Flood Risk Assessment.

6.2. **Planning Authority Response**

None

7.0 **Assessment**

7.1. **Introduction**

7.1.1. Having examined the application details and all other documentation on file, (including the submissions received in relation to the appeal), and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are:

- The Principle of the Development
- Water Services
- Design and Layout
- Access and Permeability
- Appropriate assessment

7.2. **Principle of Development:**

7.2.1. Permission has been sought for the construction of 30 houses at Kilmead, Co. Kildare. The application was assessed by Kildare County Council in accordance with the policies and objectives of the Kildare County Development Plan 2017-2023. At the time of assessment, the appeal site was located within the development boundary of the rural settlement of Kilmead, on lands identified for settlement expansion. The Kildare County Development Plan 2023-2029 (KCDP 2023-2029) was adopted by Kildare County Council on the 9th of December 2022 and came into effect on the 28th of January 2023 (following the lodgement of this appeal). My

assessment is based on the provisions of the operative Development Plan, namely the Kildare County Development Plan 2023-2029 (KCDP 2023-2029).

- 7.2.2. As part of the preparation of this KCDP 2023-2029, Kildare County Council undertook a survey of all settlements that did not require a mandatory Local Area Plan. The collated data, comprising information on extent of physical, social and community infrastructure present in each settlement, was used to inform the Settlement Hierarchy. The Settlement Hierarchy in the KCDP 2023-2029, identifies Kilmead as one of 20no 'rural settlements'. The policies and objectives for rural settlements are set out in Volume 2 Part 2 of the Plan. Each rural settlement is subject to a development strategy comprising a settlement core, existing built-up area, settlement expansion area and a settlement boundary. The lands within the defined settlement boundaries do not constitute zoned land. The plan states that settlement expansion is to be controlled to minimise pressure on services and the environment and to counter unsustainable commuting patterns. Potential sites for settlement expansion were selected on the basis of developing the settlement in a sequential and sustainable manner, having regard to all existing valid planning permissions. The Board will note that while development had commenced on the appeal site on foot of a previous grant of permission (KCC Reg. Ref: PRR99/2337), there are no valid planning permissions pertaining to the site.
- 7.2.3. The development strategy for Kilmead is shown on Map V2-4.12. The Board will note that the subject site is now shown to be located outside the settlement boundary and that it is no longer identified for settlement expansion. As such, the development of this site would result in the expansion of the settlement into the rural area, contrary to the Core and Settlement Strategies for the county and contrary to National, regional, and local planning policy which seek to provide for a consolidated urban form within existing settlements. Furthermore, this unplanned expansion of the settlement would give rise to sprawl and would militate against the preservation of the rural environment contrary to KCDP 2023-2029 Policy HO P15 which seeks to preserve and protect the open character of transitional lands immediately outside of settlement boundaries, to prevent linear sprawl and to maintain a clear demarcation and distinction between urban areas and the countryside.

- 7.2.4. As the proposed residential development is in the rural area, outside of designated settlements, compliance with Kildare's Rural Housing Policy is required. Kildare's Rural Housing Policy is set out in Section 3.13 of the plan.
- 7.2.5. Policy HO P11 of the KCDP 2023 seeks to facilitate proposals for new dwellings in the countryside in accordance with (inter alia) National Planning Framework Policy NPO 19 in conjunction with the rural housing policy zone map (Map 3.1), subject to compliance with relevant local needs criteria.
- 7.2.6. *NPO19 of The National Planning Framework (NPF)* requires, in relation to rural housing, that a distinction be made between areas under urban influence and elsewhere. In rural areas elsewhere, NPO19 seeks to facilitate the provision of **single housing** in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. Kildare's Rural Housing Policy zone map (Map 3.1) identifies the appeal site as being within a 'Stronger Rural Area' where it is an objective to facilitate the provision of **single housing** in the countryside based on siting, environmental and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. This approach accords with NPF NPO19. The Board will note that both the NPF and the KCDP 2023-2029 refer only to single house development in the rural area, no provision is made either at national, regional, or local level, for multi house development in the rural area.
- 7.2.7. It is also a requirement of Kildare's Rural Housing Policy that applicants for new housing in the rural area demonstrate, as part of the planning application, a genuine housing need to live in the rural area, based on compliance with specific local need criteria. These criteria cannot be met in this instance. The proposed development would therefore contravene Kildare's rural housing policy.
- 7.2.8. The proposal to construct 30 houses in the rural area, outside of the development boundary of Kilmead, would I consider comprise urban generated development in the rural area. The proposal would therefore contravene Objective HO O46 of the Plan to '*prohibit the development of urban generated housing in the rural area*'.

- 7.2.9. Based on the above, I conclude that the principle of development on the site is not acceptable, and I recommend to the Board that planning permission be refused on this basis.
- 7.2.10. Notwithstanding the above, the Board will note that the proposal involves the demolition of partially completed dwellings, including 2 number units currently at wall plate level, 5 number units at ground floor slab level and 4 number units at foundation level. The existing development was constructed on foot of a previous grant of planning permission, KCC PRR99/2337 but would appear to have ceased because of the economic downturn. I would support the demolition of these structures and the return of the lands to their pre-development state (in so far as is practicable) as I consider that such works would support the preservation and protection of the rural landscape and the integrity of the agricultural uses, in accordance with KCDP Policy HO P15. I would therefore recommend to the Board that this aspect of the proposed scheme be granted subject to condition.

7.3. **Water Services:**

- 7.3.1. Under the proposal, the dwelling houses would be connected to the public water supply and foul sewerage networks. With respect to water supply, Irish Water have confirmed that a connection is feasible without infrastructure upgrade.
- 7.3.2. Regarding wastewater disposal, there are at present 2no. WWTP's in Kilmeade, both of which are in the charge of Uisce Eireann. In accordance with the information on file, including details provided by Kildare's Environment Section in their report to the Planning Authority, the old WWTP, a settlement and aeration tank, has hydraulic capacity but provides little or no treatment. The second 'new' WWTP was constructed by a developer c2007, to facilitate the expansion of the settlement. This plant, to which the applicants are proposing to connect, is unauthorised for discharge by the EPA.
- 7.3.3. Irish Water in their response to the applicant's pre-connection inquiry and in their report to the Planning Authority, confirmed that capacity exists for 20 dwellings (subject to approximately 40m of network extension) and that the remaining 10

dwellings can be facilitated subject to network upgrades, to be funded by the developer.

- 7.3.4. As previously established, the proposed development is in the rural area outside of the settlement boundary of Kilmead. I refer the Board to KCDP Objective CS 04 which seeks to ensure that sufficient zoned and adequately serviced lands are available to meet the planned population and housing growth of settlements throughout the county in line with the Core Strategy and the Settlement Hierarchy. In my opinion, any identified capacity within the Kilmead WWTP should be reserved to facilitate the planned expansion of the settlement in accordance with Kildare's Settlement Strategy and the Rural Settlement Map for Kilmead (Map V2-4-12). This approach would accord with national planning policy and guidance with seek to provide for a consolidated urban form within existing settlements.
- 7.3.5. The Planning Authority consider that the proposed development is premature pending the upgrade of Kilmeade WWTP. The primary concern raised by the PA in their decision to refuse permission relates to the impact of the proposal on water quality. The WWTPs in Kilmeade discharge to a tributary of the Kildoon River, which in turn is a tributary of the River Barrow SAC. The Environment Section of Kildare County Council in their report to the Planning Authority, state that discharge from the two plants is negatively impacting on the watercourse and as a result the river is at risk of not meeting its "good status" objective under the Water Framework Directive.
- 7.3.6. The first party grounds of appeal are supported by a report entitled 'Wastewater Treatment Plant Report', which provides a review of the planning permission, construction, and commissioning of the 'new' WWTP plant. In accordance with the details submitted, revised specifications for the WWTP were approved under the previous application, KCC Reg. Ref: 99/2337, which pertains to the appeal site, and which allowed for the construction of 26no dwellings. Documentary evidence submitted in support of the appeal indicates that the WWTS was constructed to the agreed specification. It is the contention of the first party appellants that the WWTP, was designed to cater for the development of the appeal site and that there is capacity within the system to cater for 20 dwellings. It is further contended that the plant running below its design capacity may be a contributing factor to any shortfall in

its treatment ability; however, no substantive evidence has been submitted to verify this claim. The applicants are willing to contribute towards the restoration of the WWTP to its condition when the local authority approved its quality following the commissioning process.

7.3.7. Based on the information available, the existing WWTPs in Kilmead are causing pollution. The proposed development, if permitted, would lead to an increase in the volume of wastewater generated which in turn would lead to a deterioration in the situation. It is therefore evident that the existing wastewater treatment facilities in Kilmead need to be upgraded to ensure the production of highly treated effluent and the protection of receiving waters. While I note that the applicants have indicated that they would be willing to contribute towards the restoration of the WWTP, the full nature and extent of the works that would be required to upgrade the plant to an appropriate standard, are unclear and uncertainty exists regarding the implementation of the required works. In this regard I note that upgrades to the WWTP in Kilmead are not included in Uisce Eireann's current Water Investment Plan. Furthermore, the Environment Section have indicated in their report to the Planning Authority, that it would take a significant period before the upgraded system can accommodate new development. On this basis and having regard to the fact that the proposed development is in the rural area outside of the development boundary of Kilmead, I agree with the view of the Local Authority that the current proposal is premature.

7.3.8. On the issue of precedent, I note the reference made in the grounds of appeal to a decision of An Bord Pleanála to grant permission (ABP Ref: PL09.309880) for the 15 dwellings (out of a proposal for 20 dwellings) in Nurney, Co. Kildare, overturning Kildare's County Council's decision to refuse permission for reasons of insufficient capacity in the WWTP. The Planning Inspector in their assessment had regard to a report from Irish water which confirmed that capacity was available for 15no. dwellings and permission was granted (in part) on this basis. The proposed development, when considered on its merits and with regard to the issues outlined above, would not in my opinion support a grant of planning permission in this instance.

- 7.3.9. Storm water generated at the site is to be attenuated and partially disposed of onsite with an additional outfall to an existing storm drain at Cluain Ard. The Water Services section of KCC, have requested that it be a condition of any grant of permission that no occupation occurs until such time as the surface water drainage in Cluain Ard to which the proposed development will connect has been taken in charge.
- 7.3.10. *On the issue of flooding, the site is located within Flood Zone C* where the probability of flooding from rivers and the sea is low. Regarding pluvial flood risk, I refer to the Board to the first party grounds of appeal and the supporting document entitled, 'Additional Flood Risk Assessment Requirement Appraisal'. In accordance with the details submitted the closest recorded flood event is located to the north of the subject site, approximately 330m from the dwelling with lowest proposed floor level (84.4m OD). The level of flooding in the area closest to the appeal site is stated at approximately 80.0m OD, 4.4m below the lowest floor level on the proposed development. In accordance with the details submitted the site is at a low risk of flooding.
- 7.3.11. I conclude that, in the absence of the needed upgrade of the WWTP, the proposal would be premature.

7.4. Design and Layout

- 7.4.1. The proposal is for the construction of 30no dwellings, comprising 20no four-bed; 8no. three-bed and 2no. two-bed houses in a mix of single storey, dormer, and two-storey formats. The applicant intends to deliver 26no serviced detached sites and 4no. fully constructed semi-detached dwellings. The mix of house type proposed is I consider acceptable in this area.
- 7.4.2. The proposed development on a site with a stated area of 2.75ha equates to a density of 11 units per hectare, which while low is in line with the prevailing pattern and character of residential development in the area.
- 7.4.3. A Housing Mix – Floor Amenity Area schedule was submitted with the application. In accordance with this document, the proposed scheme would meet the minimum floor space, storage and open space requirements set out in Table 15.2 of the KCDP

2023-2029. However, following consideration of the plans submitted, I note that the private amenity areas afforded to Units 1 and 2 (House Type 6) are somewhat restricted and would offer limited amenity value to future occupants. In the event of a grant of permission, I would recommend that the Board consider the option of replacing these two semi-detached single storey houses with one single storey house on a reduced footprint.

7.4.4. The proposal includes for the provision of c4,180sqm of public open space which equates to c15% of the overall site area. All areas of open space are overlooked, and I am satisfied that subject to appropriate landscaping, these areas would provide for a suitable degree of amenity.

7.4.5. The Local Authority Case Planner recommended several alterations to the design and layout of the proposed scheme, some of which have been incorporated into a revised layout proposal submitted with the appeal for consideration by the Board. These alterations include the removal of vehicle access to Cluain Ard and its replacement with a permeability link, the alteration of the rear boundary serving Unit No.20 and the relocation of unit numbers 15 and 16 within their allocated housing plots so that they are more in line with housing on adjoining plots. I have no objection to the proposed amendments as presented. Connectivity with the adjoining residential development of Cluain Ard is discussed in more detail later in this report.

7.4.6. With regard to adjoining properties, the appeal site is bounded by the existing residential developments of Moate View to the northwest and Cluain Ard to the Northeast and by one-off residential developments to the east and west. Existing residential development in the vicinity of the site comprises mainly detached and semi-detached in single and two-storey formats. I am satisfied that the proposed scheme in term of its design, layout, and separation distances, has had due regard to neighbouring properties and would not result in any undue impacts in terms of overlooking or overshadowing.

7.4.7. In conclusion, I consider that the layout of the proposed scheme is generally acceptable. The density of the development, while somewhat low, is consistent with the prevailing pattern of development within this immediate vicinity of the site, and

thus may be deemed acceptable in this instance. I have no objections in principle to the design presented and would be satisfied that subject to amendment as discussed, the proposed development would provide for an adequate level of privacy and amenity for future occupants and would not have an undue impact on the level of amenity current experienced by existing residents.

7.5. Access and Permeability

- 7.5.1. Primary access to the appeal site is proposed from the south, via the L80221 local Road (Church Lane) by means of a simple priority 'T' Junction. Three of the proposed houses (units 18, 19 and 20) have the benefit of individual access from the L80221. The L80221, in the vicinity of the appeal site has a 50km speed limit and an average carriageway width of 3.0m, no footpaths and grass verges of varying widths. The unmarked carriage is too narrow to allow the two-way passing of vehicles. The carriageway of the L80221 widens to c4.5m to the northwest of the appeal site, with traffic calming measures in the form of raised ramps in the vicinity of the school. The transportation Department in their report to the Planning Authority requested the L80221 to the front of the site be widened to provide for a 2 metres wide footpath, 1-metre-wide grass verge; and a carriageway width of 6.0 metres.
- 7.5.2. The applicants are proposing as part of the application to provide a pedestrian footpath and street lighting along the frontage of the appeal site, adjacent to the southbound carriageway of the L80221. They have also indicated that they would be willing to pay a special contribution of €8,488 to facilitate footpath connection with the national school, which is located c100m to the northwest on the opposite site of the L80221. Such proposals are, I consider, acceptable in principle and would be necessary to support the development of these lands. In relation to the widening of the carriageway, the applicants consider that the provision of a 6.0m wide carriageway this this location would be excessive as it would exceed the width of the carriageway to the north and south of the site. They are also of the opinion that the proposal would be at odds with DMURS which they contend supports narrow carriageway widths as a means of traffic calming in urbanised areas. In my opinion, the L80221 in the vicinity of the site, is substandard in terms of width to cater for the

additional traffic movements likely generated by the proposed scheme. As there does not appear to be sufficient scope within the application / scheme proposed to accommodate road widening along with the provision of adequate pedestrian facilities, I recommend that permission be refused. This is a new issue, and the board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.5.3. The scheme as presented to the Planning Authority includes for a secondary vehicular access to the development via the estate road serving Cluain Ard to the northeast. The Transportation Department of Kildare County Council in their report to the Planning Authority, requested that the proposal be amended to provide for filtered permeability, allowing for walking and cycling only and excluding any vehicular traffic. This alternative layout proposal is shown on the alternative site layout plan (Drawing No. 4376-27) submitted to the Board for consideration on the 11th of October 2022.

7.5.4. Having reviewed the plans submitted and inspected the site, I have no strong objection to the provision of a vehicular access to the site via Cluain Ard. I note that such a proposal could facilitate the development of housing in Phase 1 of the proposed scheme, in advance of the necessary upgrade works to the L80221. In any event, I would support the provision of a pedestrian / cycle link between the appeal site and the adjoining residential development of Cluain Ard as I consider that such a proposal would improve the level of permeability / connectivity in the area for both pedestrians and cyclists, thereby encouraging a move towards more sustainable modes of transport in line with local and national planning policy and guidance. The proposed link would also facilitate reduced pedestrian journeys to the local national school. The proposed link at the location shown would be adequately overlooked thus discouraging anti-social behaviour. The benefits of the proposal would I consider outweigh any impacts arising from the loss of vegetation at the point.

7.6. **Appropriate Assessment**

Compliance with Article 6(3) of the Habitats Directive

- 7.6.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 7.6.2. A screening report for Appropriate Assessment was not submitted with this application / appeal case. Therefore, this screening assessment has been carried de-novo.

Screening for Appropriate Assessment – Test of likely significant effects

- 7.6.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.6.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Site and Development Description:

- 7.6.5. The appeal site is located just outside the development boundary of Kimead, in County Kildare. The proposal is for the demolition of existing partially constructed dwellings and the construction of 30no dwelling houses. A description of the site and the proposed development is set out in Sections 1.0 and 2.0 of this report.

European Sites:

- 7.6.6. The development site is not located in or immediately adjacent to a European site. The closest European Site is the River Barrow and River Nore SAC (site Code:002162) which is located to the north, west and south of the site at a distance of c4km at its closets point. The proposal would be linked hydrologically to this River via the public wastewater and storm water sewerage systems. Other European sites are further away with no source/pathway/receptor routes identified.

7.6.7. Table 7.2 below provides a summary of The River Barrow and River Nore Special Area of Conservation.

Table 7.2	
Site Name, Designation and Site Code,	The River Barrow and River Nore Special Area of Conservation (Site Code: 002162)
Approx. Distance form Site	c. 4km at closest point
Qualifying Interests;	<ul style="list-style-type: none"> • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Water courses of plain to montane levels with the <i>Ranuncion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260] • European dry heaths [4030] • Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430] • Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] • Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] • <i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016] • <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] • <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092] • <i>Petromyzon marinus</i> (Sea Lamprey) [1095] • <i>Lampetra planeri</i> (Brook Lamprey) [1096] • <i>Lampetra fluviatilis</i> (River Lamprey) [1099] • <i>Alosa fallax fallax</i> (Twait Shad) [1103] • <i>Salmo salar</i> (Salmon) [1106] <i>Lutra lutra</i> (Otter) [1355] • <i>Trichomanes speciosum</i> (Killarney Fern) [1421] • <i>Margaritifera durrovensis</i> (Nore Pearl Mussel) [1990]

Conservation Objectives:	<p>To maintain / restore the favourable conservation condition of the species and habitats for which the SAC has been selected. <i>(N.B. The status of the freshwater pearl mussel (Margaritifera margaritifera) as a qualifying Annex II species for the River Barrow and River Nore SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this species. Please note that the Nore freshwater pearl mussel (Margaritifera durrovensis) remains a qualifying species for this SAC).</i></p>
Extract from Site Synopsis	<p>The main threats to the site and current damaging activities include high inputs of nutrients into the river system from agricultural run-off and several sewage plants, over-grazing within the woodland areas, and invasion by non-native species. The water quality of the site remains vulnerable. Good quality water is necessary to maintain the populations of the Annex II animal species listed above. Good quality is dependent on controlling fertilisation of the grasslands, particularly along the Nore. It also requires that sewage be properly treated before discharge.</p>

Identification of Likely Significant Effects

- 7.6.8. As the subject site is not located within the SAC and as there are no water courses on site providing a direct hydrological pathway between the project and the SAC, I am satisfied that any impacts on the European site would be restricted to the discharge of surface water and foul water from the site during the operational phase.
- 7.6.9. Storm water generated at the site during the operational phase will be disposed of through a combination of on-site infiltration and disposal to an existing storm drain to the northeast of the development. It is proposed to discharge all surface water from public areas into a new site soakaway attenuation system with a controlled outfall located in the public open space towards the north of the site. Storm water generated on individual sites will be disposed of on that site to a suitable soakaway system. It is proposed to install an oil interceptor on the storm water network close to the outfall into the soakaway. The storm network is designed in accordance with the requirements of EN 752, SuDS Manual and the Greater Dublin Strategic Drainage

Study and includes a climate change factor of +20% in all network component design. I am satisfied on the basis of the information available, that with the proposed system in operation, the risk of pollutants being discharged from the site as part of surface water flow during the operational would be low. Furthermore, in the event of failure of the surface water system, I am satisfied, having regard to the separation distances available and the dilution factor, together with the nature and scale of the development proposed, that the potential for significant effects on the qualifying interests of Natura 2000 sites as a result of surface water deterioration during operation can be excluded and that this matter does not require further in-depth scientific examination.

7.6.10. During the project's operational phase, the project would be connected to the public wastewater system. Kilmead is currently served by two wastewater treatment plants, which discharge to a tributary of the Kildoon River, which is a tributary of the River Barrow SAC. In accordance with the information on file (report from Kildare County Council, Environment Section) monitoring has indicated that the discharge from the two WWTPs is negatively impacting the watercourse and as a result the river is at risk of not meeting its "good status" objective under the Water Framework Directive.

7.6.11. The proposed development, if permitted, would lead to more sewage and potentially the addition of nutrients, resulting in changes to the quality of water bodies to which the treated effluent is ultimately discharged. Further changes in the water quality and hydrology of the SAC would potentially affect several of the Qualifying Interests. I note that in accordance with its site synopsis for the SAC (Dept. of Arts, Heritage, and Local Government, 2016), the main threats to the site and current damaging activities include high inputs of nutrients into the river system from (inter alia) several sewage plants. The water quality of the site remains vulnerable. Good quality water, which is necessary to maintain the populations of the Annex II animal species listed above, requires that sewage be properly treated before discharge.

7.6.12. I am not aware of any other projects that are presently being undertaken in Kilmeade.

Screening Conclusion

7.6.13. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) or any other European site, in view of the site's conservation objectives. In such circumstance the Board is precluded from granting approval/permission.

7.6.14. This conclusion is based on the precautionary principle that, as the project would result in an increase in nutrients being emitted into the European Site, it is not possible to conclude that the integrity of this Site would not be adversely affected.

8.0 Recommendation

8.1. I recommend a split decision as follows:

- (1) GRANT Permission demolition of existing partially completed dwellings including 2 number units currently at wall plate level, 5 number units at ground floor slab level and 4 number units at foundation level.
- (2) REFUSE permission for the construction of 30 dwellings over two phases including: New vehicular and pedestrian access on to public road to southwest of site including construction of a roadside footpath along the site frontage. Integration of new road and footpath to existing Cluain Ard development. Temporary construction traffic access onto local road to the southwest of the site. 3. Phase 1 comprises construction of 20 dwellings as follows; 2 number semi-detached two-bedroom bungalow dwellings (type 6), 2 number semi-detached three-bedroom dormer dwellings (type 5), 2 number detached three bedroom bungalow dwellings (type 4a), 6 number detached four bedroom two storey dwellings (type 3), 4 number detached four bedroom two storey dwellings (types 2a and 2b) and 4 number detached four bedroom two storey dwellings (type 1). 4. Phase 2 comprises construction of 10 dwellings as follows; 5 number detached three-bedroom bungalow dwellings (types 4a and 4b), 1 number detached four-bedroom two storey dwellings (type 3) and 4 number detached four-bedroom two storey dwellings (type 2a

and 2b). 5 All associated site development and facilitation works to include civil engineering works to achieve proposed construction levels, roads, footpaths, drainage, and sewerage networks, watermain, electrical and telecommunications service connections, boundary treatments, landscaping works, playground along with all associated site development and facilitating works.

8.2. Reasons and Considerations (1)

Having regard to the nature and scale of the demolition proposed, the planning history of the site, the location of the development in the rural area outside of the development boundary of Kilmead and the provisions of the Kildare County Development Plan 2023-2029, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

8.3. Conditions

1.	<p>The permitted works of demolition shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>Before development commences, a full and detailed Demolition Waste Management Plan shall be submitted and agreed in writing with the Planning Authority, which shall include, inter alia, a programme for the works, hours of operation and a traffic management plan.</p> <p>Reason: In the interest of residential amenity, traffic/ pedestrian safety, best practice management of demolition waste and proper planning and sustainable development.</p>
3.	<p>Following demolition, the lands shall be returned to their pre-development condition in so far as is reasonable and practicable.</p> <p>Reason: in the interests of proper planning and sustainable development.</p>

8.8. Reasons and Considerations (2)

1.	<p>Having regard to:</p> <ul style="list-style-type: none"> a) The location of the proposed development in the rural area outside of the development boundary of the rural settlement of Kilmead, as defined in the Kildare County Development Plan 2023-2029, where proposals for new dwellings are subject to compliance with Kildare's Rural Housing Policy. b) The availability of land within the development boundary for settlement expansion, as detailed on Kilmead Rural Settlement Map V2 – 4.12. c) The limited capacity in sewerage treatment facilities in Kilmead, and the need to ensure that capacity is available to facilitate the
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	<p>planned expansion of the settlement in line with the Core Strategy and the Settlement Hierarchy.</p> <p>The Board considers that the proposed development would constitute urban generated development in the rural area, which would contravene Objective HO O46 of the Kildare County Development Plan 2023-2029.</p> <p>The Board considers that proposed development, if permitted, would result in the unplanned expansion of the settlement into the rural area, would militate against the preservation of the rural environment and the efficient use of public services and infrastructure. The proposed development would be contrary to national policy, to the provisions of the Kildare County Development Plan 2023-2029, including the Settlement Strategy for Kildare and the County's Rural Housing Policy. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.</p>
2.	<p>Having regard to the existing deficiencies in the Kilmeade Wastewater Treatment Plant (WWTP) whereby, the current discharge from the WWTP is resulting in the receiving water, a tributary of the Kildoon River, not meeting its objectives under the EU Water Framework Directive the Board considers that the proposal would be premature in advance of the upgrade of the WWTP and that to accede to it now would risk a scenario wherein existing pollution of the River Kilroon and its tributaries would be exacerbated. Furthermore, having regard to the location of the proposed development in the rural area outside of the development boundary of Kilmead, the Boards considers that any capacity within the Kilmeade WWTP should be reserved to facilitate the planned expansion of the town in accordance with the Kildare's settlement strategy.</p>
3.	<p>On the basis of the information provided with the application and appeal and the absence of a Natura Impact Statement, and having regard to the potential for the discharge of contaminated water to the Kildoon River</p>

	that provides hydrological pathway to the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), the Board cannot be satisfied that the proposed development individually, or in combination with other plans and projects would not be likely to have a significant effect on the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), in view of the site's conservation objectives. In such circumstances the Board is precluded from granting permission.
4.	The proposed development would endanger public safety by reason of serious traffic hazard because the L80221 local road serving the site is inadequate in width to cater for the traffic movements generated by the proposed development.

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.

Lucy Roche
Planning Inspector

6th March 2024

Appendix 1 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	314810-22		
Proposed Development Summary	Construction of 30 dwellings, etc		
Development Address	Kilmead, County Kildare		
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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X	The development involves 30 no. residential units on an overall site of c. 2.75ha. It is therefore considered that it does not fall within the above classes of development and does not require mandatory EIA.	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		Conclusion	
No		N/A	No EIAR or Preliminary Examination required

Yes	X	<p>Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:</p> <p>Construction of more than 500 dwelling units</p> <p>Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)</p>		Proceed to Q.4
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____


Date: _____

Appendix Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	314810-22	
Proposed Development Summary	Construction of 33 dwellings,	
Development Address	Kilmead, Co. Kildare	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the</p>	<ul style="list-style-type: none"> • The site is in the rural area just outside the settlement boundary of Kilmead. The area is served by public mains water and sewerage. The proposal was refused by Kildare County Council due to deficiencies in wastewater treatment infrastructure in the area. This matter can be dealt with in the assessment of the application. • Localised construction impacts will be temporary. 	No

<p>production of any significant waste, emissions or pollutants?</p>	<ul style="list-style-type: none"> • The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the area. 	
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<ul style="list-style-type: none"> • The size of the development is not exceptional in the context of the existing built-up urban environment. • Given the nature, scale, and location of the proposed development, no significant cumulative impacts are anticipated. 	no
<p>Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<ul style="list-style-type: none"> • There are no ecologically sensitive locations in the vicinity of the site. • The site is not within a European site, the site is indirectly connected to the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), via the wastewater network. Any issues arising from the proximity /connectivity to a European Site can be adequately dealt with under the Habitats Directive. 	no
<p>Conclusion</p>		

<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>
		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)