



An
Bord
Pleanála

Inspector's Report ABP-317741-23

Development	Demolish the outhouse and construct a house with associated site development works.
Location	Clonamery, Inistioge, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	2360197
Applicant(s)	John Cummins.
Type of Application	Permission
Planning Authority Decision	Grant Permission with conditions.
Type of Appeal	Third Party
Appellant(s)	Peter Lanigan.
Observer(s)	Joe Lyng.
Date of Site Inspection	9 th August 2024.
Inspector	Peter Nelson

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1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 0.3155 hectares, is located approximately 10 km to the southeast of Thomastown, Co. Kilkenny in the townland of Clonamery. The appeal site is located to the south of the R700 and is located on a laneway (LT-82837) off the R700. The laneway joins the R700 at an acute angle. The laneway serves the appeal site and three existing dwellings, two with farmyards. The lane falls in level away from the R700. Immediately to the west of the site is a two-storey dwelling and associated farmyard. Further to the west is another dwelling and its associated farmyard. Immediately to the east and south are agricultural lands. There are the remnants of stone buildings on the site which may have been a dwelling and outbuildings but is not clear due to their dilapidated condition. Levels on the site fall steadily from north to south.

2.0 Proposed Development

- 2.1. Permission is sought to demolish an existing outhouse and construct a three-bed dormer dwelling with a sewage treatment system with a partially raised soil polishing filter, a new entrance and associated site development works. The proposed floor area of the dwelling is 175sqm. Three existing structures on site are to be retained.
- 2.2. The proposed development includes alteration to the junction where the access laneway meets the R700.

3.0 Planning Authority Decision

3.1. Decision

Kilkenny County Council granted permission for the proposed development on the 10th July, 2023.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the planning report dated 26th June 2023 can be summarised as follows:

- An EIA and AA are not required.
- The principle of the proposed development is acceptable as it complies with the policy provisions of the Kilkenny City and County Development Plan 2001-2027 and the precedent set relating to planning permission on-site under P06/889.
- There is no objection to the secondary wastewater treatment system and soil polishing filter.
- The proposed development will significantly improve an existing substandard entrance and benefit other road users living and working on the private lane.
- The scale and architectural treatments of the proposed works and external finishes are sympathetic to the original structure's character.
- The proposed development will assist in arresting further decay on site and bring a sustainable use to this derelict farmyard dwelling site.

3.2.2. Other Technical Reports

Environment Section: No objection subject to five conditions.

Area Engineer: No objection subject to five conditions.

Conservation Section: No objection subject to two conditions.

3.2.3. Conditions

The grant of permission was subject to 11 no. conditions. Condition No.5 requires the applicant to undertake all works to achieve site visibility lines prior to the commencement of the main development. Condition No. 6 includes a requirement to incorporate all stone from the demolished dwelling into the design of the new dwelling and the conservation and reuse of the derelict dwelling and outbuildings on

site. If the Board is minded to grant permission I recommend that both of these conditions are attached.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

An observation was received from Cllr Michael Doyle, who supports the application.

Another submission was received from the appellant. The main points can be summarised as follows:

- The proposed development encroaches onto his land.
- Substandard design of the new junction.
- Change of his direct access and loss of livelihood.
- Costing and standard of work.
- Precedent of planning application refusal.
- Lack of consultation.

4.0 Planning History

Appeal Site

P.A. Ref: 13/118: Permission granted for the extension of the duration of the permission ABP Ref: PL.10.225555

ABP Ref: PL.10.225555: (P.A. Ref: P06/889) Permission granted on the 21st April 2008 to partially demolish the existing shed and erect a house, effluent treatment system, and all associated site works. The proposed development included improvement works granted to the junction with the R700.

P.A. Ref: 05/1406: Permission was refused on the 25th October 2005 to John Cummins to partially demolish a shed and construct a dwelling, effluent treatment

system, and all associated site works on the appeal site. Permission was refused for the following two reasons:

1. *The proposed development would endanger public safety by reason of serious traffic hazard because (a) the applicant cannot demonstrate that 145m sightlines to the nearside road edge can be achieved in both directions when measured from a point 3m back from the road edge at the centre of the access lane to the R700. Given the nature of the horizontal and vertical alignment of the road, removal of the roadside boundary and setting it back to the required extent would impact negatively on the road definition especially at night.*
(b) The access lane at its junction with the R700 is deficient with regard to layout and gradient to serve the proposed development, when taken in conjunction with the existing development at this location.
2. *Inadequate evidence is available to demonstrate that the site is suitable for an on-site effluent disposal system with particular regard to the sloping nature of the site and how it is proposed that effluent will be evenly distributed over the proposed percolation area; and if found to be unsuitable then this development would be prejudicial to public health.*

Site to the North

P.A.Ref: 09/490: Permission refused on the 14th September 2009 for a two storey dwelling and garage with proprietary effluent treatment system and percolation area and all associated site works for three reasons: Including the following relation to the junction with the R700.

1. *Having regard to:*
 - *the provision of inadequate sightlines at the substandard junction of the local road LT-82837 and the Regional Road, R700*
 - *the existing deficiency in the road network serving the site in terms of restricted width, alignment and road surface.*
 - *the amount of existing and permitted development on this lane.*

- *the precedent that a grant of permission for the proposed development would create for other, similar developments in the vicinity,*

it is considered that the additional traffic movements generated by the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users.

5.0 Policy Context

5.1. Development Plan

The Kilkenny City and County Development Plan 2021 is the operational plan for the area. The plan came into effect on the 15th October 2021.

Policies

Kilkenny City and County Development Plan 2021 Vol. 1

7.8.4 Categories of Rural Compliance and Qualifying criteria:

Areas under urban influence

In areas under urban influence the Council will permit (subject to other planning criteria) single houses for persons where the following stipulations are met:

1. Persons with a demonstrable economic need to live in the particular local rural area, being people who are for example:
 - a. employed full-time in rural-based activity such as farming, horticulture, forestry, bloodstock or other rural-based activity in the area in which they wish to build or whose employment is intrinsically linked to the rural area in which they wish to build, such as teachers in rural schools or other persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work, provided that they have never owned a house in a rural area.
2. Persons with a demonstrable social need to live a particular local rural area,

- a. Persons born within the local rural area, or who have lived a substantial period of their lives in the local rural area (minimum 5 years), who have never owned a rural house and who wish to build their first home close to the original family home. Persons born in the area without having lived for the minimum of 5 years must be able to demonstrate strong family and social connections to the area to demonstrate a demonstrable social need.
- b. Returning emigrants who do not own a house in the local area and wishes to build their first permanent home for their own use in a local rural area in which they lived for a substantial period of their lives (5 years), then moved away or abroad and who now wish to return to reside near other family members.

All applicants for one-off rural housing will need to demonstrate compliance with the qualifying criteria of one of the above categories unless otherwise specified as being located within an area where the Rural Housing Policy does not apply.

7.8.5 Refurbishment and Replacement Dwellings in Rural Areas

The Council will encourage and facilitate the appropriate refurbishment of existing housing stock and other structures in rural areas and in certain limited cases the replacement of existing dwellings subject to the criteria outlined below.

Development Management Requirements:

- For refurbishment of structures the emphasis should be on the retention, refurbishment and reuse of the structure as part of the development proposal.
- For refurbishment the scale and architectural treatment of proposed works should be sympathetic to the character of the original structure and the surrounding area including adjoining or nearby development.
- In the case of replacement dwellings, to require proof that the original structure was last used as a dwelling and was a habitable dwelling so as not to invoke the policies under Section 7.8.3 Rural Housing Policies.
- In cases where retention or reuse of the existing dwelling is not technically feasible, the size and scale of any replacement dwelling should reflect the site's

characteristics and context and shall accord with best practice in rural house design. Where an original structure was not habitable, if an applicant can demonstrate that their proposals will ensure the sensitive restoration of vernacular and traditional buildings in the rural area, thereby respecting and maintaining the integrity and scale of the original building, and does not compromise any other development management considerations, such proposals shall not be subject to the policies in Section 7.8.3 Rural Housing Policies that applies to new dwellings.

5.2. Natural Heritage Designations

The subject site is located approximately 1.1km from the River Barrow and River Nore Special Area of Conservation (002162)

5.3. EIA Screening

See Form 1 and Form 2. 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.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of appeal can be summarised as follows:

- Inaccuracies and errors in the planning application.
- The submitted drawing does not adequately show the appellant's boundary.
- The proposed sightlines for the junction have been inaccurately designed.
- The Area Engineers Report incorrectly assumes that there is a letter of consent for all land at the existing junction.

- The works proposed to the junction withdraws the appellant's right to public amenity by blocking their right turn from their farmyard entrance.
- The new junction design will create a traffic hazard.
- The entrance design will result in work on the appellant's land.
- The appellant does not consent to these works.
- The drawings do not adequately demonstrate how the proposed embankments will be embedded into the terrain.
- The design proposes a sub-standard safety barrier along the Regional Road R700.
- No stormwater drainage design has been submitted to maintain the existing or reduce runoff rates from the R700.
- Several serious traffic hazards will be created in order to achieve sightlines.
- The proposed concrete embankment introduces a visual intrusion to the appellant's property.
- The Council should have sought confirmation of land ownership.
- No justification for housing need was submitted.
- There is a precedent of refused planning permissions for the same junction.

6.2. Applicant Response

The main points of the applicant's response can be summarised as follows:

- The applicant was born and raised in Inistioge.
- The applicant was granted full permission to build a house on the site in 2008.
- The improvement in the junction is an important part of the application.
- As the applicant owns the land to the east, he is the only person in a position to substantially improve the sightlines and design of the junction.
- The site location map clearly shows the lines defining the boundary of his lands.

- The three families living on the land actively seek to have the junction upgraded.
- The appellants have no land on the laneway or need to access the laneway below the junction for machinery movement and have no business reason to use the new junction.
- The new junction will be built outside the appellant's current roadway access and land boundary, affecting neither its width, slope nor useability.
- The 20m of hedgerow to be removed is in the ownership of Barley Holden, who has given consent. (letter included)
- The objective of the embankment is to provide a visual transition between the two levels with soft landscaping.
- An engineering report has been submitted, which concludes that the proposed junction enhancement works offer material safety and accessibility enhancements above that are currently achievable at the existing R700/laneway junction.

6.3. Planning Authority Response

- Email received on the 4th September 2023 stating that Kilkenny County Council have no comments to make on the appeal.

6.4. Observations

An observation was received from Joe Lyng who states that the proposed development will have a positive impact on him for the following reasons:

- He uses the farmyard directly to the west of the applicant site.
- The existing entrance is dangerous and causes challenges for transporting stock from the laneway onto the main road.
- Delivery of feed, hay, and straw is a challenge for drivers.
- Staff, clients and family visiting the yard are at a constant danger.
- The proposed improvements to the junction will help dramatically.

- It is essential an improvement is made from a safety perspective and for all road users.

Two additional letters are included with the observation.

One is from a transporter of horses to Joe Lyng who states that that turning off the main road is dangerous and most of the time the trucks have to reverse onto the main road. He is in full support of improving the junction from a safety perspective.

Another is from Tirlan who deliver equine feed, cattle feed and fertiliser to Joe Lyng. They state that the existing junction is dangerous for their delivery trucks as they have to reverse off the main road. They support the proposed junction improvements as it will be safer for both their staff and customers.

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:

- Land Ownership
- Works to the Existing Junction
- Housing Need

7.2. Land Ownership

7.2.1. The appellant states that the application does not sufficiently show his property boundary, and it is difficult to see if his lands are affected by the works to the junction with the LT-82837 and the R700. The applicant has submitted an indicative map which shows his site ownership to the centreline of the LT-82837 and the R700. It would appear from the submitted application drawings that the works to the junction

are outside the site outlined in the appellant's map. I do not consider that it is clear from the appellant submission that the applicant does not have sufficient legal interest or consent for the area of land included in the application. The applicant has submitted a letter of consent from the adjoining landowner to carry improvements to the junction and the applicant owns the land required to realign the R700.

- 7.2.2. The appellant claims a section of his land is required in order to achieve the proposed sightlines at the junction with the R700 and that consent has not been given. It appears from the proposed layout of the junction as detailed in drawing no. 19969/001/001, that none of the appellant's land is required to achieved acceptable sightlines to the west of the junction.
- 7.2.3. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act. Section 34(13) of the Planning and Development Act provides that if the applicant lacks title or owner's consent to do works permitted by a planning permission, the permission does not give rise to an entitlement to carry out the development.

7.3. Works to the Existing Junction.

- 7.3.1. Historic planning permissions were refused on this site and along the laneway (LT-82837) due to the provision of inadequate sightlines at the substandard junction of the local road LT-82837 and the Regional Road, R700.
- 7.3.2. Planning permission was granted on this site for a dwelling in 2008 (ABP Ref:10.225555). The proposed development included improvement works to the junction with the R700. The proposed improvements to the junction were similar to those proposed in the current application.
- 7.3.3. The existing laneway meets the R700 at an acute angle with the levels on the laneway falling away from the R700. This junction layout is poor in terms of the level visibility available and could be considered to have the potential to cause a traffic hazard depending on the intensity of use. At present there are three dwellings, and two farmyards served by this laneway. I consider that an improvement of the layout

of this junction and of the sightlines available in each direction would be hugely beneficial to the existing users of this junction including the appellant.

- 7.4. The proposed works to the junction include the setting back of the eastern side of the R700, the planning of a replacement hedge and the erection of a safety fence.
- 7.5. The existing junction is to be segregated with a junction for the LT-82837 and a separated junction for the entrance to the appellants dwelling and to the associated farmyard. These two junctions are separated by a concrete supported embankment with natural stone facing.
- 7.5.1. The appellant has a number of concerns relating to the proposed junction. He states that the proposed works to the junction will prevent the appellant from turning right along the laneway (LT-82837) towards the River Nore. The existing laneway is in poor condition especially at its southern section and it appears this section is not used frequently. I recognize that a right turn for the appellant along the laneway would be restricted. The appellant would still have access to the River Nore but would have to travel east along the R700 less than 700m and then turn right to get on the access road to the River Nore. While I accept that this is an inconvenience to the appellant, I consider that the improvement to the R700 junction will be hugely beneficial to the existing users of this junction and therefore I consider that in this regard the improvement to the junction is warranted and acceptable.
- 7.5.2. The appellant claims that the proposed works essentially splits the junction the LT-28237 into two access roads and that the access will compete for visibility and the minimum staggered distance of 20m has not been provided for direct access or junctions as required in Section 5.2.4 of Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions) DN-GEO-03060. I note that the proposed works to the junction will not create a new entrance but are proposed to improve the existing dangerous junction. As part of the applicant's appeal response, a review of the appellant's concerns has been submitted from DBFL Consulting Engineers. They suggest that application of the 'staggered distance of 20m' is more suited to an entirely new junction opposed to the enhancement of an existing junction and that the proposed works results in a significant enhancement in safety levels compared to the existing on-site arrangement.

- 7.5.3. The appellant also has concerns that there is a disadvantage to vehicles existing their property due to the steep slope cause by the proposed junction relocation. Currently the appellant has to contend with a steep incline to a very substandard junction.
- 7.5.4. I note that the Kilkenny County Council's Area Engineer, in his report, has no objection to the proposed development as it will improve an existing substandard entrance and benefit other road users living and working on the laneway.
- 7.5.5. The appellant has concern that the changes in the level of the laneway as it reaches the junction will create overlooking of his property. I do not consider than any potential overlooking of the appellant's property from this lightly trafficked rural laneway to be significant.
- 7.5.6. I consider that the proposed works will provide significantly improve sightlines and a better overall junction which has the potential to eliminate an existing traffic hazard rather than creating a new one. I also consider that the proposed works to the junction will not impinge on the business activities or be seriously injurious to the residential amenity of the users of the laneway.

7.6. Housing Need

- 7.6.1. The appellant claims that no justification of a housing need was submitted with the application and the applicant has not submitted an economic or social need to live in the local area. It is claimed that there is no reason why the applicant requires rural housing, and the planning authority did not assess this application under the current rural housing policy.
- 7.6.2. The planner's report states that the principle of the development is acceptable as it complies with the provisions of the Kilkenny City and County Development Plan 2001-2027 and given the precedent set relating to planning permission on the site under P06/889 (ABP. Ref: PL.10.225555). I note that planner's report on P06/889 stated the applicant, who was the same as the current applicant, demonstrated strong family connection in the area and he was born and reared in the adjoining farm property with his family residing there.

- 7.6.3. The applicant states that in completing the appendix of the application form he address all the stated requirements of the Council's Rural Development Strategy.
- 7.6.4. The site is located in an Area Under Urban Influence as designated in the Kilkenny City and County Development Plan 2021-2027.
- 7.6.5. While there are existing structures on the site the proposal is for a new dwelling and therefore, I consider that, in order to comply with development plan policy, a demonstrable need to live in the area is required.
- 7.6.6. The applicant was born and raised in the family farm which adjoins the site. The applicant's brother lives in the family home and his other brother lives 50 meters from the application site. The applicant states that he has never owned a rural house. A birth certificate and evidence of being educated in the local area have been submitted. I am satisfied that the applicant has demonstrated a social need to live in this immediate area.

8.0 AA Screening

- 8.1. I have considered the proposed demolition of an outhouse and construction of a dwelling in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is approximately 1.1km from the River Barrow and River Nore Special Area of Conservation.
- 8.3. The proposed development comprises the demolition of an outhouse and the construction of a dwelling with a sewage treatment system, a partially raised soil polishing filter and a new entrance.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The small scale and nature of the development.
 - The location from the nearest European site and lack of connections.

- Taking into account screening report and determination by LPA.

8.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that permission be granted subject to the conditions below

10.0 Reasons and Considerations

Having regard to the nature and scale of development, the location of the site, and the provisions of the Kilkenny City and County Development Plan 2021-2027, it is considered that the proposed development, subject to compliance with the following conditions, would meet an established housing need, would not be seriously injurious to the amenities of residential property or businesses in the vicinity, would not create a serious traffic hazard and would 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 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.

- a. The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- b. Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

3.

- a. The applicant shall undertake all works to achieve site visibility lines prior to the commencement of the main development. All boundary treatments shall be set back behind the line defined by the sight visibility lines. These lines are defined by setting a point 2.4m back from the centre of the upgraded entrance with the R700 and projecting

a line 120m to the nearest roadside edge in both directions. The applicant shall ensure that the visibility splays are kept free of obstructions at all times. All costs associated with proposed access improvement works along the R700 shall be borne by the applicant (or his/her successor).

- b. The entrance gates off the private driveway road shall be back not less than 4.5m from the boundary of private driveway within a splayed recess space 9-11 metres wide along the line of the new boundary. The full area of the splayed recess for the proposed new entrance to the new dwelling and the existing shared entrance onto the public road shall be suitably structured, to cater for vehicular traffic, black top surfaced, set between level and no greater than a gradient of 2.5%.
- c. The entrance gate design and finish shall be in accordance with details submitted.
- d. The Thomastown Municipal District office shall be contacted ahead of works and a traffic management plan for works on the public road shall be submitted for agreement prior to commencement of development.
- e. Prior to the commencement the applicant shall submit for the written agreement of the Planning Authority proposals for replacement planting along the regional road to be set behind the proposed sightlines.

Reason: In the interests of traffic safety and retaining visual amenity.

4.

- a. The roof of the dwelling shall be blue/black in colour only. All other finishes to the outside of the house shall be as per the drawings submitted, unless otherwise agreed in writing with the Planning Authority prior to commencement of development.
- b. All stone from the demolished building shall be incorporated into the new dwelling, repair of existing walls or the immediate landscape as detailed in the landscape plan.

- c. The existing derelict dwelling and two derelict out-sheds as shown on the site layout plan shall be retained, repaired, protected and used.
- d. The derelict dwellings and outbuilding shall be conserved and reused. These buildings are an integral part of the landscape and their retention, conservation and reuse will ensure their ongoing presence in the landscape.
- e. The applicant shall engage a conservation professional to compile the necessary method statement for the conservation of these structures. This shall be submitted to the Planning Authority for agreement prior to commencement of works and shall also confirm how access will be provided between the driveway and proposed dwelling house.

Note: Where practicable, the use of uPVC in doors, windows and rainwater goods including gutters, downpipes, fascia, soffits etc. is discouraged in favour of more sustainable materials such as timber/metal.

Reason: In the interest of the environment, conservation heritage and the retention of rural character and visual amenity.

5.

- a. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
- b. The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

6.

- a. The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on [date] and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) ” – Environmental Protection Agency, 2021.
- b. Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021. (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution

7.

- a. The landscaping scheme shown on drawing number 202303-03, as submitted to the planning authority on the 17th day of May 2023 shall be carried out within the first planting season following substantial completion of external construction works.
- b. 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.

Reason: In the interest of residential and visual amenity.

8. 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.

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.

Peter Nelson
Planning Inspector

30 October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317741-23		
Proposed Development Summary	Demolish an outhouse and construct a house with associated site development works, including a treatment plant.		
Development Address	Clonamery, Inistoge, Co. Kilkenny		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		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)
No		N/A	No EIAR or Preliminary Examination is required
Yes	X	Class 10. (b)(i) construction of more than 500 units.	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317741-23	
Proposed Development Summary	Demolish an outhouse and construct a house with associated site development works, including a treatment plant.	
Development Address	Clonamery, Inistoge, Co. Kilkenny	
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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	<p>The nature of the development, which is a single dwelling unit, is not exceptional in the context of the existing environment, including neighbouring dwellings.</p> <p>The proposed development of a single dwelling unit will not result in the production of any significant waste, emissions or pollutants.</p>	
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing and/or permitted	<p>A single dwelling unit is not exceptional in the context of the existing environment, which includes dwellings and farm outbuildings.</p> <p>There are no significant cumulative considerations having regard to other existing and/or permitted projects.</p>	

projects?		
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? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	<p>The subject site is located approximately 1.1km from the River Barrow and River Nore Special Area of Conservation (002162) and does not have the does it have the potential to significantly impact this site or any other ecologically sensitive site or location.</p> <p>The existing vernacular outbuilding on site are noted however the proposed development does not the potential to significantly affect other significant environmental sensitivities in the area.</p>	
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)