



An
Bord
Pleanála

Inspector's Report ABP-319249-24

Development	Retention of demolition of dwelling & Outbuildings, construction of temporary car park and use of land for waste materials.
Location	Lands known as 'Kehoe's Cottage', Bonnettsrath Road, Kilkenny and land located at Kilkenny Golf Club, Glendine, Kilkenny (site co-ordinates: 52.6746694-7.2462194)
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	2360314
Applicant(s)	Trustees Kilkenny Golf Club.
Type of Application	Retention & Temporary Permission.
Planning Authority Decision	Split Decision
Type of Appeal	Third Party
Appellant(s)	Donie Brophy
Observer(s)	None.

Date of Site Inspection

7th October 2024.

Inspector

Jennifer McQuaid

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Appendix 1 – Form 1: EIA Pre-Screening

Form 2: EIA Preliminary Examination

Form 3: EIA Screening Determination

Appendix 2 – AA Screening Determination

1.0 Site Location and Description

- 1.1. The subject site is located at two separate locations, site one is located on lands known as “Kehoe’s Cottage”, Bonnettsrath Road, Co. Kilkenny which deals with demolition of a dwelling and retention of hardcore car park (site area 0.128ha). The existing site is currently occupied by a hardcore parking area on the northern part of the site and overgrown field on the southern part of the site. There is a stone wall along the roadside boundary of the parking area, mature hedging along the roadside boundary of the southern area of the site. Site two which relates to the deposal of the construction waste material (site area 0.0625ha) is located on land adjacent to Kilkenny Golf Club, Glendine, Co. Kilkenny approximately 500m from Site one.
- 1.2. The access road to site one is narrow local road LS L-6648, which terminates in a pedestrian only access onto the National N77 Kilkenny Ring Road to the north of the site and connects with the New Orchard Road to the south. There are existing dwellings and proposed dwellings under construction to the east of the local road, with the golf course located on the west side of the road.
- 1.3. Site two is accessed off the Glendine Road through tillage fields. The site is low lying and cannot be seen from the public road.
- 1.4. Site one is located approximately 80metres west of Zone of Archaeological potential for KK019-116, which is described as an enclosure.

2.0 Proposed Development

- 2.1. The proposed development consists of:

Retention of works for:

- Demolition of dwelling, outbuildings and ancillary structures.
- Construction of hardcore temporary car park area for use for Kilkenny Golf Club.
- Use of land for the deposit of waste construction materials

Permission for

- Temporary 12no. car park space for a period of 7 years.

- Minor alterations to the existing vehicular entrance
- Provision of signage

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority made a split decision. Permission granted for the demolition of residence and ancillary structures, construction of hardcore temporary car park area, temporary 12 no. car park space for a period of up to 7 years, minor alterations to the existing vehicular entrance to the Bonnettsrath Road, provision of signage and all associated and ancillary works subject to 7 conditions.

Permission Refused for the use of the land for the deposit of waste construction materials at land located at Kilkenny Golf Club Glendine for 2 reasons:

1. The application includes for the retention of a waste site where construction and demolition waste associated with the demolition of the former Kehoe's Cottage was deposited post demolition. At this point in time the waste remains in situ on site as mentioned in the Tier 2 Risk Assessment submitted as part of the Planning Application. No authorisation is currently in place for the waste to remain in place on site. Also, no application for authorisation has been submitted to the Environmental Protection Agency or Kilkenny County Council. The retention of the waste which includes hazardous waste will be injurious to public health and the amenity of the area and contrary to policy to support the disposal of waste in a safe and sustainable manner. The proposed retention would therefore be contrary to the proper planning and development of the area.
2. The Waste Facility site requires an application for a Certificate of Registration under the Waste Management Act, the retrospective regularization of which, under the Waste Management Act would be contrary to proper procedure.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning Authority assessed the application in accordance with the reports received from the internal departments and recommended refusal for the demolition of an existing vernacular structure and insufficient information submitted demonstrating that the development would or would not create a risk to public health or the environment.

The Senior Planner recommended further information and noted the demolished dwelling is not listed on the NIAH or RPS. The further information requested related to results of Tier 2 Assessment, details of all waste from the demolition of the building and to provide details for the use, opening hours, security and other management arrangements for the car park.

- The Planning Authority noted the Tier 2 Assessment confirms that there is C&D waste in the ground and confirms that the waste deposit contains hazardous material. No details can be provided of the waste, but it is suspected that the waste body is made from the demolition of the residential dwelling and outbuilding construction materials which contained some asbestos material.
- The Planning Authority recommended refusal for the retention of the disposal of waste as to retain the demolition waste in situ would be against the policies and objectives as set out in the Waste Management Plan and the Development Management Guidelines for Local Authorities 2007.
- Retention Permission and Permission was granted for the demolition of the dwelling and ancillary structures, construction of hardcore temporary car park and for 7 years permission for use as car park along with minor alterations to the existing vehicular entrance and provision of signage.

3.2.2. Other Technical Reports

- Environment: Further information requested in relation to a Tier 2 Risk Assessment.
- Roads: No objection subject to conditions for entrance sightlines, entrance finishes, restricted for a duration of 7 years for 12 car spaces, measures for no unauthorised car parking on the public road and verge and previous

parking arrangements for the putting green shown on the drawing is permanently removed.

- Conservation Officer: Recommended refusal as the building was of architectural, social and cultural significance. The findings of the AHIA are not accepted.
- Municipal District Engineer: No objection subject to no discharge of surface water to public road.

3.2.3. Conditions

- Condition 3. The car park is restricted to 12 spaces and shall be operated for a fixed duration not exceeding 7 years. Following the period of seven years the site shall be closed unless permission for an extension of duration of the permission has been granted by the Planning Authority.

Reason: In the interest of proper planning.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

Three Third Party Observations were received. The following concerns were raised:

- Prior to demolition there was a colony of bats located in the house and outbuildings, no assessment was carried out prior to demolition which is contrary to environmental legislation.
- Impacts on road safety.
- Anti-social behaviour
- Derelict sites register could have been used; concerns regarding intention to demolish when applicants purchased particularly having regard to housing crisis, and lack of enforcement.
- Other applications cited relate to proposals to demolish and rebuild.

- Query relating to zoning and expansion of golf club.
- Concerns relating to asbestos.
- Query disposal of all wastes from demolition, and erection of fencing and availability of notes or discussions referred to in the application.
- Precedence set.
- Potential impacts on SAC and water quality, and impacts on public health and the environment.
- Concerns regarding location of site notices.

4.0 Planning History

96207: Outline permission granted to develop lands as part of the Golf Course.

94864: Permission granted to Kilkenny Golf Club for a toilet and septic tank

93162: Permission Granted to Kilkenny Golf Club for one-metre-high wall running from the entrance gate to exit gate at Glendine Road.

5.0 Policy Context

5.1. Development Plan

Kilkenny City and County Development Plan 2021-2027 Volume 2.

Site One

In relation to the demolished dwelling and construction of carpark is zoned as Amenity/Green Links/Biodiversity Conservation/Open Space/Recreation. The objective is to allow for green links and biodiversity conservation and to preserve, provide and improve recreational open space.

Permitted uses include open space, sports clubs, recreational buildings, stands, pavilions, agricultural uses, halting sites, and public service installations.

Site Two

In relation to the waste disposal is zoned as Strategic Reserve. The objective is to conserve and protect Strategic Reserve land from interference from non-agricultural

uses. To prevent premature development of agricultural land adjacent to development areas.

Permitted uses include Agriculture, horticulture, public service installations.

Open to Consideration uses include Public open space, guesthouse, restaurant, dwelling houses in certain limited cases, as outlined below, halting site, private open space, school, other uses not contrary to the proper planning and development of the area, extensions to existing developments.

Section 4.2.2 Green Infrastructure.

The subject sites are identified as key “green infrastructure” and “linear green infrastructure” as per Figure HS2 City and County Development Plan 2021-2027.

The plan recognises that there is an opportunity to build on these assets and create an integrated Green Infrastructure for the City.

Objectives

C4A To identify and map green infrastructure assets and sites of local biodiversity value over the lifetime of the Plan.

C4B To develop a green infrastructure strategy integrating the existing assets and identifying new assets.

Section 6.8.6 Recreation and Sporting Facilities. The Council will co-operate with local development organisations, community groups, sporting organisations and other stakeholders in the development of active recreational facilities throughout the City and to enter into joint venture arrangements where appropriate for the provision of such facilities.

Section 4.3 relates to Built Heritage of Kilkenny City.

Kilkenny City and County Development Plan Volume 1, 2021-2027

Chapter 9 of the Kilkenny City and County Development Plan Volume 1 refers to Heritage, Culture and the Arts.

Section 9.3 Built Heritage

The Council will encourage the sensitive redevelopment and/or return to suitable use, of derelict, vacant or redundant buildings, in appropriate locations in order to

provide for visitor accommodation and tourism development, while having regard to ecological constraints and architectural heritage requirements.

The Council will encourage the reuse and refurbishment of vernacular buildings (houses or farm/industrial buildings) in appropriate locations for tourist related facilities, including holiday home accommodation. The development shall relate in scale to the site's characteristics and location, shall not be detrimental to the rural amenity of the surrounding area and be in accordance with the development standards of this plan, particularly as they relate to the protection of the natural and built environment.

Section 9.3.8 Embodied Energy

The Council recognises the embodied energy within our traditionally constructed building stock while assessing proposals for demolition or development and will ensure that refurbishment works to traditionally constructed buildings will not be detrimental to the occupants or to the fabric of the building.

Development Management Requirements:

- To have regard to the DCHG Advice Series on Energy when assessing energy upgrades of traditionally constructed buildings.
- To assess the whole life energy costs, its lifespan and durability of new building stock, as part of proposals to demolish traditionally constructed structures in favour of new development.
- To ensure refurbishment work on these buildings is undertaken in an appropriate manner using suitable materials.

Section 10.2.9 relates to Waste Management

Section 10.2.9.1 Waste Management Development Management Requirements

- To have regard to the waste produced by proposed developments including the nature and amount of waste produced and proposed method of disposal.
- For all significant construction/demolition projects, the developer shall include an Environmental Management Plan. These plans should seek to focus on waste minimisation in general and optimise waste prevention, re-use and

recycling opportunities, and shall provide for the segregation of all construction wastes into recyclable, biodegradable and residual wastes.

- Construction and demolition waste management plans, to be prepared in accordance with the Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects. These plans should seek to focus on waste minimisation in general and optimise waste prevention, re-use and recycling opportunities, and shall provide for the segregation of all construction wastes into recyclable, biodegradable and residual wastes.

Objective 10G – To implement the Southern Region Waste Management Plan.

Section 12.12 relates to Car parking.

Table 12.3 Car Parking Standards.

A golf course should have 4 spaces per hole.

Par 3 golf course or pitch and putt course should have 2 spaces per hole.

5.2. Natural Heritage Designations

The subject site is split into two areas consisting of the waste disposal site and the demolition of the dwelling site.

- River Barrow and River Nore SAC (Site code: 002162) are located c.600metres from the waste disposal site and c1.1km from the demolition of the dwelling site.
- Dunmore Complex pNHA (site code: 001859) is located c.600metres from the waste disposal site and c1.1km from the demolition of the dwelling site.
- Newpark Marsh pNHA (site code: 000845) is located 800metres from the waste disposal site and 800m from the demolition of the dwelling site.

5.3. EIA Screening

The proposal relates to the retention demolition of the dwelling and outbuilding and construction of a hardcore car park (Site One) and the disposal of construction waste

(Site Two) within the development boundary of Kilkenny City. The site is located on zoned lands and not within a designated area.

Site One: Having regard to the limited nature and scale of the development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the retention & proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Please refer to Form 1 and Form 2 as per Appendix 1 attached.

Site Two: Having regard to:

- The type of development involving the unauthorised disposal of hazardous material (Asbestos).
- The unknown size and location of the waste disposed.
- The potential impacts to human health if the waste is disturbed.
- The unknown potential risks to groundwater and potential contamination of nearby Natura 2000 sites.

There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Therefore, the need for an environment impact assessment cannot be excluded. Please refer to Form 1 and Form 2 as per Appendix 1 attached.

I have carried out an EIA Screening determination having regard to Schedule 7A information as per Form 3, Appendix 1. I have concluded:

Having regard to the criteria set out in Schedule 7, in particular:

(a) the nature and scale of the retention of construction and demolition waste including hazardous material, which is just below the threshold for mandatory environmental impact assessment, and which would give rise to significant interventions in the physical environment and to human health.

(b) the environmental sensitivity of the area including the possible groundwater links to River Barrow and River Nore SAC (site code: 002162), Dunmore Complex pNHA (site code: 001859), Newpark Marsh pNHA (site code: 000845).

(c) the location of the development within agriculture tillage land, and the proposed plans to use as part of Kilkenny Golf Club could cause significant effects to human health through disturbed asbestos.

The results of other relevant assessments of the effects on the environment submitted by the applicant through the Tier 1 and Tier 2 Environmental Risk Assessment, which has identified potential moderate risk to on-site users or works under certain redevelopment conditions that may be impacted by shallow asbestos in the waste body.

And, notwithstanding the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, of which cannot be applied retrospectively for the retention of hazardous waste.

It is considered that the proposed development would be likely to have significant effects on the environment. The submission of an EIAR is, therefore, required.

6.0 The Appeal

6.1. Grounds of Appeal

One appeal was received from a resident located approximately 14km north of the subject site. The grounds of appeal can be summarised as follows:

- Failure to condition to remove the hazardous waste material asbestos from the currently strategic zoned lands. This is a justification to use land for a new golf course, despite the zoning indication of the need for housing at this location.
- Query regarding the zoning of the lands should be used for housing.
- Planning reference 96207, it is unclear if it has commenced or completed. The proposed retention of the car park attempts to after the fact regularise the use of the land.

- Site not zoned as “Amenity” until after 2002, however, Keogh family farm and outbuildings were still in use as a residential home, how is this provided for in planning law?
- No mention of the Kilkenny Golf Club Masterplan.
- Site History and Landowner are vague in the Planning report. Practice Area for Golf granted on residential zoned lands for Planning Reference 96207. Planning permission expired so how can retention be granted for a carpark.
- Special treatment for Kilkenny Golf Club and others received regarding planning and zoning and vacant site levy. The site was excluded from the VSR and the RZLT.
- Splitting the project so that waste is not dealt with is contrary to the Development Act.
- The development of an asbestos management plan is crucial yet details on implementation are vague. No specific protocols are in place for monitoring asbestos levels.
- Tier 2 Assessment has provided some insights, the methodology and conclusions require further scrutiny. No Tier 2 has been undertaken in the area surrounding the house. There is a risk to on-site human health, which is concerning. What additional measures will be taken to mitigate this risk, the land being farmed and being tilled.
- Robust Monitoring and Emergency Response is vital for ongoing compliance. What steps will the applicant take to develop and implement such a plan.
- No compliance with Waste Management Act. How does applicant plan to rectify this and what steps are taken to prevent future violations?
- Non-compliance with Local Development Plans, the proposal does not align with specific objectives, policies and provisions. how does the development plan to mitigate any potential negative effects and enhance local services and infrastructure? Is the field currently being tilled and used for growing of food.
- Was there any consultation with the Planning Authority which can provide insight into the development’s compliance with the plans.

- Any mitigation or enhancement measures to ensure compliance with local development plan.
- An interview should be held with the contractor and Kilkenny Golf Club regarding the location of all waste.
- Request the Board to determine if Appropriate Assessment is required. It is believed that a source pathway to a SAC is through the current irrigation system.
- Request the Board to determine if an EIA Screening is required.
- No prescribed bodies contacted.
- No Ecological Impact Statement
- No assessment in accordance with Water Framework Directive
- Precedence set in granting permission for unauthorised development. What's the broader implications for future developments.
- Inconsistent decision making
- Require a detailed analysis and mitigation, enhancement measures of how the unauthorised development might exacerbate traffic congestion, increase noise pollution, alter the visual landscape, infringe upon the privacy of residents, fundamentally change the character of the neighbourhood.
- All waste should be removed following appropriate assessments, and the rebuilding of the farmhouse.

6.2. **Applicant Response**

A response was received from Planning Consultant on behalf of the applicant. The following comments were noted.

- Applicant accepted the Planning Authority split decision and will engage with the Planning Authority and the relevant waste management authority with regard to the amelioration of the identified waste site.
- Is it respectfully asserted that a large volume of the submission is irrelevant to the determination of this proposal including:

- Documents pertaining to the AIE request, protected disclosure data and numerous email correspondence records. It is further noted that the content therein is considered to contain elements which are denigrative and wholly disagreeable.
- Details and mapping concerning the administration of the Vacant Site Levy within the Local Authority's administrative area.
- The copy of a customer complaint (ref. C305 2023 19) as made to the Corporate Affairs Office of the Local Authority is an internal process document.
- Extent zoning for the subject site is compatible with the retention planning use, as confirmed by the Planning Authority. Historic land use zoning or previous Draft Development Plan reviews are of no relevance.
- There is no Masterplan planning application for the entire golf club landholding before the Planning Authority or contained within the scope of works pertaining to P23/60314. It is confirmed that an internal review and consultation with members was initiated to determine the future needs of the club, of which the appellant has provided a copy of the internal consultation mapping used. No further internal consultation has been carried out and is halted until the appeal matter is finalised.
- Landownership is wholly within the control of the applicant.
- The waste will be managed in accordance with the requirements of the Waste Management Act. The content of the Tier 1 & 2 Assessment comprehensively detail the location, quantum, classification and recommended procedure to treat and manage the waste arising from the demolition of the dwelling. The appellants concern regarding Enhanced Waste Management Strategies, Detailed Impact Assessments, Robust Monitoring and Emergency Response, Alignment with Environmental Policies and Regulations are comprehensively addressed within the content of Tier 2 report.
- No source pathway to cSAC (River Barrow & River Nore SAC, Site Code: 002162) located some 0.65km to the southwest has been uncovered during Tier 1 and Tier 2 surveying.

- There is sufficient compliance with Local Development Plans to permit retention permission relating to the works at the Kehoe's Cottage site.
- The submitted planning application outlines the positive social and community gain arising from the works upon in Kehoe's Cottage site. It is strongly asserted that the additional reporting required by the appellant is unnecessary with regard to the nature, extent and scope of works. No established policy/requirement contained within the provisions of the Kilkenny City and County Development Plan 2021-2027 which requires this analysis.

6.3. Planning Authority Response

- The Planning Authority have made the following comments:
 - It is of the view that the building was an example of vernacular architecture its rebuilding would be unlikely to result in an original vernacular replacement given the requirements of building regulations and building methods etc, and the embodied energy of the building has also been lost.
 - The rebuilding of the structure would create a greater carbon footprint and there would be no environmental gain.
 - If retention of the demolition is refused, this would in fact result in an even larger carbon footprint for the development and would be contrary to the Council's overall climate change policy.
 - A condition requiring the removal of the waste would be problematic given the location of the waste material separate from the location of the dwelling and the availability of the Council of action under the Waste Management Act. If it is required to be removed, regulations in relation to the removal of waste would be required to fulfilled in relation to permitting and licencing.
 - If a split decision is reached and the waste is refused, the Planning Authority will be in a position to instigate appropriate legal action to ensure removal of the waste. The Environment Section of the Council can also (under separate legislative cover of the Waste Management

Act) take legal action to ensure the safe and proper disposal of the waste.

- Prior to 2002, the area referred to under planning reference 97/207 was zoned residential. The 1994 City & Environs Development Plan did allow open space as a permitted use at that time.
- The vacant site register was established by Kilkenny County Council in 2017. The implementation of the Register and the RZLT has no impact on the proposed development. The site is not subject to the Vacant Site Levy nor is it in the scope for the RZLT.

6.4. Observations

- None

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, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issue in this appeal are as follows:

- Principle of Development
- Development Management standards
- Disposal of waste
- Ecology & Bats & Water Framework Directive
- Procedural issues
- Appropriate Assessment

7.2. Principle of Development

7.3. The subject site is made up of two separate sites, Site One relates to the demolition of the dwelling and construction of a car park. This site is located on lands zoned as Amenity/Green Links/Biodiversity Conservation/Open Space/Recreation. The objective is to allow for green links and biodiversity conservation and to preserve, provide and improve recreational open space. The provision of a car park is considered ancillary to the permitted uses listed included sports clubs.

Site two relates to the retention of waste disposal located on lands zoned as Strategic Reserve. The objective is to conserve and protect Strategic Reserve land from interference from non-agricultural uses. To prevent premature development of agricultural land adjacent to development areas. The permitted uses include agriculture, horticulture, public service installations. The disposal of waste is not listed as a permitted use or open to consideration use. However, it is in my opinion that the disposal of inert material could be considered as the use which would not interfere with agriculturally use and improve agricultural land.

7.4. The grounds of appeal state that the Strategic Zoned lands indicate a need for housing at this location and that the site should be zoned for housing. The site at the demolished dwelling was zoned as "Amenity" after 2002, but the dwelling was still in use at that time. The applicant has not addressed the Masterplan area for Kilkenny Golf Club. The appellant has queried if planning permission 96207 (develop lands as part of the Golf Course) has commenced or completed. If this permission has expired, can retention permission for the car park be granted.

7.5. I will assess the site one proposal in relation to the zoning on this site. The site is currently zoned as Amenity/Green Links/Biodiversity Conservation/Open Space/Recreation as per the CDP. Any previous zoning cannot be considered in this current application. The proposal seeks retention permission for a hardcore car park and retention of demolition of dwelling and outbuildings. The subject use of a hardcore car park is ancillary to the use of the adjacent golf course. I consider the car park as an acceptable use under the zoning of Amenity/Green Links/Biodiversity Conservation/Open Space/Recreation as per the CDP.

7.6. Site two for the disposal of waste is located on Strategic Zoned lands. As mentioned above the disposal of waste is not listed as a permitted use or open for

consideration. However, the disposal of inert material could be considered as the use would not interfere with agricultural use. Having reviewed the information submitted with the application, the waste disposed of consists of construction waste from the demolition of the dwelling and outbuildings on Site one. I do not consider the disposal of waste is acceptable at this location or falls within the zoning matrix for Strategic Zoned lands.

- 7.7. The appellant has made reference to a Masterplan for Kilkenny Golf Club lands. Having reviewed the CDP, there is no reference to a Masterplan for these lands. Therefore, the applicant was not required to supply information in relation to a Masterplan.
- 7.8. Having regard to the zoning matrix for the subject site at Site one on Amenity/Green Links/Biodiversity Conservation/Open Space/Recreation as per the CDP, the use is considered acceptable in principle subject to detailed considerations below. In relation to Site two, the site is zoned as Strategic Zoned and does not permit disposal of waste, nor is it open for consideration, therefore site two principle of development at this location is not acceptable and the use is not compatible with the zoning matrix.
- 7.9. **Development Management compliance for Site One.**
- 7.10. The proposal seeks the retention of the demolition of a dwelling and outbuildings which were originally on the site of the car park at Site One. The retention car park is located to the east of Kilkenny Golf Course and use by the Golf Course participants. The car park is made up of hardcore and has an area of 1280sqm. The car park uses the existing entrance of the demolished dwelling and outbuildings. The entrance is onto a narrow local road which ends in a cul de sac to the north. The site contains a number of mature trees around the site boundary and there is a small field area located to the south. The original parking for the putting green was located along the local road to the north outside the site boundary of the subject application. The applicant has sought 7-year temporary permission, as Kilkenny Golf Club wish to in the future include this area as active recreation use within the Golf Course Masterplan.

- 7.11. The grounds of appeal have raised a number of concerns in relation to traffic congestion, increase noise pollution, visual impact, privacy of residents and change the character of the neighbourhood.
- 7.12. I note the car park which is located off a cul de sac road (Bonnettsrath Road) off local road (L2513) New Orchard Road which currently serves a housing estate development to the east, and a number of one-off dwellings. I consider the number of traffic movements are restricted to the residents of the existing dwelling and to the participants of the car park. There is no passing traffic along this cul de sac. The cul de sac has been used by the golf club prior to the construction of the car park, the increase in traffic is considered minimal and will have no adverse impacts on the traffic in the area. The Roads section of Kilkenny County Council have no objection to the retention development and have recommended a number of standard conditions.
- 7.13. As mentioned above the car park will be used by the participants of the golf course and restricted to 12 no. car parking spaces, the noise levels are restricted to passing traffic which is considered minimal on the cul de sac. Therefore, I do not consider that the retention of the car park will increase the current noise levels experienced in the area.
- 7.14. In regard to visual impact and change of character of the neighbourhood and impact on privacy the subject site is located on lands zoned as Amenity/Green Links/Biodiversity Conservation/Open Space/Recreation as per the CDP. The retention of the car park is ancillary to the use of the golf course, the car park consists of a hardcore area and is bounded by existing hedgerow and trees. The car park has no visual impact on the surrounding area due to the small-scale development and lack of buildings. There are no dwellings located to the immediate north or south of the site. A new housing development is under construction to the east and directly in front of the entrance of the car park. However, the dwellings do not overlook the car park and are not directly impacted by the proposal, therefore, I do not consider the car park will have a negative impact on existing or future residence of the area.
- 7.15. I note the concerns raised by the appellant in relation to the demolition of a habitable dwelling. (demolished between 6/1/2016 & 2/7/2018) The appellant is of the view

that the building was an example of vernacular architecture, I note the original dwelling was not a protected structure or listed on the NIAH website. An Architectural Heritage Impact Assessment was submitted with the planning application and concluded “it is clearly a pity that an attractive farmstead has been demolished, but in terms of architectural heritage, it is suggested that the value of these buildings would be small and that there has been minimal loss of historic significance due to this development.”

- 7.16. I note the Planning Authority encourages the reuse and refurbishment of existing buildings due to their “embodied energies”. However, I note the information submitted (Structural Report dated July 2014) with the planning application confirm that the house was of concrete masonry without cavity insulation or damp-proof course and no septic tank was identified and the engineer is of the opinion that the toilet was connected to a large soakaway. Due to the condition of the dwelling, substantial works would have been required to bring the dwelling up to current regulations and standards. The rebuilding of the structure would create a greater carbon footprint, notwithstanding this, the current use as a car park is ancillary to the existing golf course and complies with the zoning for the area.
- 7.17. Having regard to the location of the car park, ancillary to the golf course and location along a cul de sac, set back from any adjacent dwellings and having considered the existing hedgerows and mature trees, the retention of the car park will not have a detrimental effect on the visual amenity of the area or on the residential amenity of the area including traffic.
- 7.18. Having regard to the age of the demolished dwelling and the substantial works required to bring it up to modern standards, I conclude the demolition is acceptable. The outbuildings were older and potentially architectural heritage, but these are not habitable structures and farm buildings.
- 7.19. **Disposal of waste**
- 7.20. Retention is sought for use of lands (625m²) for the deposit of waste construction materials on site two located on tillage lands to the north of the operating Kilkenny Golf Club lands. The nearest dwellings are located approximately 145m north-west and 225m west of the subject site. The waste was deposited following the demolition of the dwelling on site one (Kehoe’s Cottage) approx. 500m east. Asbestos

containing material was noted along with the mix of waste demolition material. Satellite imagery prior to the demolition works appears to indicate 2 no. corrugate asbestos cement roofs associated with the outbuildings. Following this discovery, the applicants immediately contacted the Environment Department of Kilkenny County Council in order to ensure proactive engagement in determination of the appropriate actions required. No domestic or commercial wastes are suspected to have been deposited. All suspected wastes deposited are assumed to be associated with the demolition of said buildings and restricted to a single period of waste deposition. There are no known records of the waste deposition. The tonnages, quantities, and waste types deposited are unknown. The depth of the waste deposition is unknown.

- 7.21. The grounds of appeal have raised a number of concerns in relation to the disposal of waste, including no details of an Asbestos Management Plan, the Tier 2 Assessment required further scrutiny, no Tier 2 assessment of the site where the dwelling was demolished, no robust monitoring or emergency response plan, non-compliance with Waste Management Act and County Development Plan, no mitigation measures proposed.
- 7.22. The applicant has made the following response, the waste will be managed in accordance with the requirements of the Waste Management Act. The content of the Tier 1 & 2 Assessment comprehensively detail the location, quantum, classification and recommended procedure to treat and manage the waste arising from the demolition of the dwelling. The appellants concern regarding Enhanced Waste Management Strategies, Detailed Impact Assessments, Robust Monitoring and Emergency Response, Alignment with Environmental Policies and Regulations are comprehensively addressed within the content of Tier 2 report.
- 7.23. The applicant carried out a Tier 1 Environmental Risk Assessment to assess the potential waste disposal area in accordance with the EPA Code of Practice: Environmental Risk Assessment for Unregulated Waste Disposal Sites. The Tier 1 assessment concluded:
- “Low Risk” Class C waste body.
 - Primary risk associated with the migration of leachate to the underlying aquifer and towards the nearby private wells.
 - Risk of landfill gas migration to nearby residential properties.

- Migration to surface water features is considered to be a lower risk priority.
- Considerable degree of uncertainty with respect to the location, area and depth of the waste mass.
- Quantity and waste codes are unknown.
- Depth and composition of the capping layer is unknown although this is likely to be natural soils graded into the existing levels i.e. No capping layer.
- No facilities are likely to present to contain leachate or landfill gas.
- No monitoring of leachate or gas emissions was carried out since the closure of the site.

7.24. Tier 2 Assessment concluded that the site is classified as Low Risk with respect to environmental receptors and moderate risk with respect to on-site human health users due to potential exposure to asbestos materials in the shallow waste body. Soil sampling was carried out and determined the waste body likely contains approximately 60% soil and stones and 40% waste material, the laboratory analysis confirmed asbestos in all 20 no. soil samples. The preliminary risk summary notes there is a potential moderate risk that on-site users or workers under certain redevelopment conditions may be impacted by shallow asbestos in the waste body. All other identified Source/Pathway/Receptor linkages were either classified as Low Risk.

The following recommendations were made to limit the risk of exposure to human site users above the waste body:

- An application for a Certificate of Registration for this site is prepared and submitted to the local authority.
- Explore the feasibility of designing and installing a simple engineered capping layer to cover the waste body preventing on-site access to the waste body.
- An asbestos management plan for the site should be developed by a suitably qualified person. The management plan will outline how the asbestos waste body will be managed into the future, outline any mitigation measures needed to prevent access to the asbestos waste, and describe any visual checks or

monitoring that would be necessary during any on-site civil works and on a longer-term basis.

- Appropriate Assessment Screening may need to be reported and submitted to the local authority as part of the proposed planning application or proposed regularisation of the waste body.

7.25. I note the concerns raised by the appellant in relation to no Tier 2 report in relation to the site where the dwelling was demolished. Tier 1 report notes that the waste relates to the demolished dwelling and outbuildings and that all waste was deposited at the waste disposal site. Having visited the site, there is no evidence of waste deposited at the site of the original dwelling and therefore no Tier 2 assessment is required.

7.26. The Waste Management Act 1996 (currently in place), subsection 1 Section 21A requires the waste producer to treat waste, this Act was in place at the time of demolition (c.2016). Therefore, the indiscriminate disposal of construction and demolition waste is contrary to the provisions of the Act. Tier 2 Risk Assessment does conclude that the waste may be of low risk, but the risk from the hazardous material is moderate with respect to on-site human health. Objective 10G - To implement the Southern Region Waste Management Plan of the CDP, which is the framework for the prevention and management of wastes in a safe and sustainable manner and includes the promotion of resource efficiency and the circular economy as one of its strategic objectives. The Waste Facility site requires an application for a Certificate of Registration under the Waste Management Act, the retrospective regularisation of which, under the Waste Management Act would be contrary to proper procedure, policy to support the proper disposal of waste and the proper planning and development of the area.

7.27. I have concerns regarding the unknowns in relation to the waste disposal site, Tier 1 refers to the site area as 625m², and dimensions as approx. 35 X 28m and the depth is unknown. The disposal of asbestos waste is a huge concern to both environmental and human health. An Asbestos Management Plan should not be applied retrospectively, the potential harmful effects are too great and should have been dealt with prior to demolition of the dwelling and outbuildings. Given the concerns

regarding the waste disposal site, the waste should be removed and disposed of in accordance with the Waste Management Act.

7.28. I also have concerns regarding the Tier 2 comments regarding the requirement of an Appropriate Assessment screening either for the planning application and or for the proposed mitigation measures. An Appropriate Assessment screening cannot be submitted with a retention planning application or retrospect of a development. Please refer to section 8.0 below for more details.

7.29. Having regard to the information submitted in the Tier 1 and Tier 2 Risk Assessment and in particular the details in relation to the type of waste disposed on site including asbestos, the disposal is not in accordance with proper planning and sustainable development or CDP objective 10G and shall be refused. An application for a Certificate of Registration under the Waste Management Act cannot be applied for retrospectively. I have serious concerns in relation to the disposal of hazardous waste (asbestos) and the potential negative impacts on the environment and particular human health. The waste should be disposed of in a correct and safe manner. I do not consider that the applicant's proposed mitigation measures can ameliorate the potential negative impact of asbestos and therefore are not appropriate in this instance. Refusal is recommended on this issue.

7.30. Ecology, Bats & Water Framework Directive

7.31. In relation to water bodies, the closest surface water feature to the waste disposal site is the River Nore, which lies 850m to the west and c.650m southwest. The site lies within the "Nore" Water Framework Directive catchment (15), the Nore_SC_100 sub catchment, and the Nore 170 River Sub Basin. The River Nore flows in a southerly direction through Kilkenny before flowing into the River Barrow southeast and upgradient of New Ross, Co. Wexford at the townland of Ringwood.

7.32. There are no mapped surface water drainage streams or rivers at the site and there are no mapped surface water features that connect the site with the River Nore and the Sensitive Ecological Receptors (Dunmore Complex pNHA (Site Code: 001859), River Barrow and River Nore SAC (Site Code: 002162), Newpark Marsh pNHA (Site Code: 000845).

7.33. According to the EPA River Waterbodies Risk Map, the River Nore is classified as "not at risk" with a River Waterbody 2016-2021 WFD status of "Good".

- 7.34. The GSI online map viewer did not show any surface water abstraction points within a 500m radius of the Site.
- 7.35. The Office of Public Works flood maps indicate that the Site is not at risk from river, coastal and pluvial flooding.
- 7.36. The GSI Groundwater Vulnerability map has assigned “High” vulnerability to the site and lands adjacent. Land to the north at 430m and lands located 1.3km southeast of the site at Ashfield East are classified as Extreme vulnerability.
- 7.37. The site is underlain by “Kilkenny-Ballinakill” GWB (Groundwater Body). This GWB is classified as a Regional Important Gravel Aquifer and is underlain by a Regional Important Karst Bedrock Aquifer. The GW 2016-2021 status is recorded as “good”, and the resource is classified as “not at risk”.
- 7.38. It is expected that the groundwater flow in the gravel aquifer will follow the topography of the area and flow in a south-westerly or westerly direction across the site.
- 7.39. In the Tier 2 Assessment, an assessment was carried out on the potential SPR (Source/Pathways/Receptors) linkages. Based on all of the individual SPR linkages, the site has been verified as 6a low-risk classification (Class C). The EPA describes these sites as “not considered to pose a significant risk to environment or human health”. While a low risk is deemed not to pose a risk at the time of evaluation, a hazard may still be present with respect to hazardous asbestos containing materials present within the waste body. The primary exposure pathway associated with asbestos material of this nature typically arises from disturbance of the ground and the waste body.
- 7.40. The grounds of appeal state that no ecological impact statement or assessment in accordance with Water Framework Directive was carried out.
- 7.41. I note from review of the Tier 2 Risk Assessment, the assessment looked at the source, pathway and receptor and assessed the hydrogeology in the area. The waste disposal site was noted as 6a low risk classification; therefore, the assessment concluded *the development was not considered to pose a significant risk to environment or human health*. However, it is my opinion, that the applicant cannot conclusively determine that the waste disposal site will not have a negative

impact on the environment or human health. It is recognised by the applicant that hazardous material (asbestos) was found in all samples from the site, and if the site is disturbed in any way, the hazardous material could have serious implications on human health.

- 7.42. The applicant has also highlighted that the depth of waste disposed of is unknown, therefore, it cannot be concluded that the waste will not have an impact on the ecology or water quality of the area. There could be a potential for leachate of the waste to the groundwater and it is unknown whether the hazardous waste could have a potential negative impact on the wildlife in the area.
- 7.43. I have assessed both Site One and Site Two. Site One, I do not consider the requirement for an ecological impact assessment is necessary as the site (Site One) is not located in or close to protected areas. I note concerns were raised in relation bat roost in the demolish dwelling. Unfortunately, as the building has been demolished, it is unknown whether bats were present in the dwelling and a site survey cannot be applied retrospectively. However, I note the information submitted with the planning application, which claim no bats were observed in the area. Therefore, I do not consider that bats are a concern at this stage.
- 7.44. In regard to Site Two, there are too many unknowns in relation to the exact location, amount of waste disposed off and the confirmation of hazardous material (asbestos) on site, could potentially pose a serious risk to environmental health. It is known that asbestos has serious human health implications and there is a potential for the ground to be disturbed in the future. An ecological survey should have been carried out to assess any potential impacts.
- 7.45. Having regard to the location of the Site One outside of any protected area and of a sufficient distance from any protected water body, I consider that the retention of the demolished dwelling and retention of the car park at this location will not have a detrimental effect on the ecology or water bodies in the area.
- 7.46. Having regard to the location of Site Two, the known deposited hazardous material (asbestos), the unknown exact location and amount of waste disposed of, there is a serious unknown implication of the deposited waste on environmental health including the groundwater. Further investigation and information are required to make a final determination on the full impacts if any. However, the hazardous

material is known to have a serious negative impact on human health and therefore, the potential risks to environmental health cannot be ruled out.

7.47. Procedural Issues

- 7.48. In terms of procedural matters and the alleged landownership and lack of consultation with prescribed bodies. I note the landownership details were deemed acceptable by the Planning Authority and the applicant has confirmed Kilkenny Golf Club own the site. I am satisfied that the applicant has sufficient legal interest in order to make an application.
- 7.49. In regard to lack of consultation with prescribed bodies, I note the Planning Authority consulted with the environment, conservation and roads, and area engineer sections of Kilkenny County Council. Response was received from all sections. I consider that sufficient consultation was carried out.
- 7.50. I am satisfied that this did not prevent the concerned parties from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

8.0 AA Screening

- 8.1. Site one
- 8.2. Having regard to the retention of a demolished dwelling and construction of hardcore car park within the development boundary of Kilkenny City Centre. The nearest European site River Barrow and River Nore SAC (Site code: 002162) is located c. 1.1km from the existing car park hardcore area. It is considered that no Appropriate Assessment issue arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European site.
- 8.3. Site two
- 8.4. Having regard to the retention of waste disposal within the development boundary of Kilkenny City Centre. The nearest European site River Barrow and River Nore SAC (Site code: 002162) & River Nore SPA (Site code: 004233) is located c. 650metres southwest from the waste disposal site. I note the Tier 2 Risk Assessment submitted, which details all hydrologically links. Although, I conclude that there are no

hydrological links from the source (site) or pathways to the receptor (River Barrow and River Nore SAC & River Nore SPA), there is a serious concern in relation to the potential leachate of the hazardous material to groundwater, which could potentially impact on the SAC & SPA. The assessment submitted stated no waste is considered to have an impact on the environment or nearby watercourse, however, asbestos was noted in all 20 soil samples and the waste consists of construction and demolition waste, it is unclear if any of the waste could potentially impact on any Natura 2000 site. The main concern highlighted relates to human health if the asbestos is disturbed but there is no assessment of what happens when the asbestos deteriorates.

- 8.5. I have undertaken my own AA Screening (see Appendix 2), having regard to the information contained in the file I have concluded that the development individually or in combination with other plans or projects could have a likely significant effect on European Site River Barrow and River Nore SAC (site code: 002162) or River Nore SPA (site code: 004233) or any other European site, in view of the site's Conservation Objectives an Appropriate Assessment is therefore required.

This determination is based on the following:

- Hazardous waste material identified on site.
- Potential leachate to groundwater.
- Emissions from disturbed asbestos.

9.0 Recommendation

I recommend a split decision as follows:

I recommend that planning permission should be granted for the retention permission for the demolition of the dwelling and outbuilding, the construction of the hardcore temporary car park and permission for a temporary 12 no. car park for a period of up to 7 years, minor alterations at the existing vehicular entrance subject to the conditions as set out below:

And

I recommend retention permission should be refused for the reasons and considerations as set out below:

10.0 Reasons and Considerations

1. The proposed development is for the retention of waste disposal on a site where construction and demolition waste associated with the demolition of a dwelling and outbuildings has been deposited. The deposition of the waste has not been approved by the Environmental Protection Agency (EPA) or Kilkenny County Council and the information on file indicates that it contains hazardous waste material which requires a Certificate of Registration under the Waste Management Act. The retention of the waste which includes hazardous waste will be injurious to public health and the amenity of the area and contrary to Section 10.2.9.1 and Objective 10G To implement the Southern Region Waste Management Plan of the Kilkenny City and County Development Plan 2021-2027. The proposed retention would therefore be contrary to the proper planning and development of the area.
2. Having regard to the location of the site, located approximately 600metre east of the River Barrow and River Nore SAC (Site code: 002162) & River Nore SPA (Site code: 004233) it is considered that there is a potential possibility of leachate from the waste material on site to groundwater which in turn could potentially harm the protected species and habitats of the SPA and SAC.

The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that adequate information has been provided on the impact of the development on hydrological conditions within the Annexed habitat and the resulting implications for wildlife and flora.

It is therefore considered that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the development will not adversely affect the integrity of a European Site and it is considered that the proposed

development would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the type of development in regard to the disposal of construction and demolition waste which contains hazardous material, and to the thresholds set down in Class 11(b) installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this schedule. And Class 15 Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7 of Part 2 of Schedule 5 to the Planning and Development Regulations 2001 (as amended), to the criteria set out in Schedule 7 of those Regulations, to the advice in paragraphs 5.8 to 5.12 of the Guidance for Consent Authorities regarding Sub-threshold Development issued by the Department of the Environment, Heritage and Local Government in August, 2003, it is considered that the development would be likely to have significant effects on the environment and should be subject to an environmental impact assessment within the meaning of Part X of the Planning and Development Act, 2000 (as amended). The development would, therefore, require an Environmental Impact Statement which should contain the information set out in Schedule 6 of the said Regulations.

In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the application.

11.0 Reasons and Considerations

Having regard to the nature and scale of the proposed and retention development at Site one, in an area zoned Amenity/Green Links/Biodiversity Conservation/Open Space/Recreation as per Kilkenny City and County Development Plan 2021-2028, Volume 2 City, the temporary nature of the car park which will allow for future development of the site for integration to the overall Kilkenny Golf Course and

achieve the objectives of the zoning the site. It is considered that the proposed and retention development would not be prejudicial to public or environmental health, and would be acceptable in terms of location, visual and residential amenity. The proposed and retention development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 22nd day of January 2024 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. The proposed development is granted for as follows:

(a) Retention demolition of the dwelling and ancillary structures, construction of hardcore temporary car park area.

(b) Permission for temporary 12 no. car parking spaces for a period of up to 7 years, minor alterations to the existing vehicular entrance to the Bonnettsrath Road, provision of signage and all associated and ancillary works at lands known as "Kehoe's Cottage".

Reason: In the interests of clarity.

3. The period during which the development hereby permitted may be carried out shall be 7 years from the date of this Order.

Reason: In the interest of proper planning.

4. 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.

Jennifer McQuaid
Planning Inspector

20th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319249-24			
Proposed Development Summary	Retention of demolition of dwelling & Outbuildings, construction of temporary car park and use of land for waste materials.			
Development Address	Lands known as “Kehoe’s Cottage”, Bonnettsrath Road, Kilkenny and land located at Kilkenny Golf Club, Glendine, 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	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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			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)	Conclusion
No				
Yes		Class 11(b) installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this schedule. Or		Proceed to Q.4

		Class 15 Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP- 319249-24
Proposed Development Summary	Retention of demolition of dwelling & Outbuildings, construction of temporary car park and use of land for waste materials.
Development Address	Lands known as 'Kehoe's Cottage', Bonnettsrath Road, Kilkenny and land located at Kilkenny Golf Club, Glendine, Kilkenny (site co-ordinates: 52.6746694-7.246219)
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>Site one has a modest footprint of 0.128ha (1,280m²) and includes the retention demolition of dwelling and outbuildings. The cleared area is hardcore and currently used as a car park for Kilkenny Golf Course. The proposal does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p> <p>Site two has a modest footprint of 0.0625ha (625m²) and includes retention of a waste disposal site. The depth and extent of the waste disposal area is unknown. The waste includes the remnants of the demolished dwelling and outbuildings at site one. The site may give significant risk of pollution as asbestos was encountered in all 20 no. soil samples on site. The development, by virtue of its type, may pose a major accident and/or disaster if the waste is disturbed. The asbestos waste found poses a risk to human health if disturbed.</p>
Location of development	Site one is located on land zoned as Amenity/Green Links/Biodiversity

<p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>Conservation/Open Space/Recreation. The development is situated at the edge of Kilkenny Development Boundary, a number of housing developments are located to the east and Kilkenny Golf Course is located to the west. The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan.</p> <p>Site Two is located on land zoned as Strategic Reserve. The development is located within Kilkenny Development Boundary, a number of housing developments are located to the west and Kilkenny Golf Course is located to the south. The site is currently tillage agricultural land. The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan. However, there is a potential concern in relation to the type of waste disposed of at the site which could potential leak to the groundwater and potentially cause contamination and thereby potentially cause an impact to the River Barrow and River Nore SAC (Site code: 002162) located c.650metres to the south west. There are no known surface water pathways on the site to the SAC, but the potential leachate from the waste disposal site to groundwater is unknown.</p>
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Site One - Having regard to the modest nature of the retention & proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act. Site Two – Having regard to the nature of the retention of waste including asbestos, the potential impact on sensitive habitats through possible leachate to groundwater and the</p>

			<p>potential impact on human health, there is a potential for significant effects on the environmental factors listed in section 171A of the Act.</p> <p>In regard to project splitting and cumulative impacts between the two sites, I do not believe that Site One has or will have any significant environmental issues. The environmental concerns solely relate to Site Two and the unauthorised disposal of waste including asbestos at this site. Therefore, Site Two can be considered as a standalone project.</p>
Conclusion			
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No	
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	Yes	

Inspector:

Date:

DP/ADP:

Date:

(only where Schedule 7A information or EIAR required)

Form 3 - EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-319249-24	
Development Summary	Retention of demolition of dwelling & Outbuildings, construction of temporary car park (Site One) and use of land for waste materials (Site Two)	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	A preliminary examination was carried out and determined that there is no real likelihood of significant effects on the environment arising from the development. Therefore, concluded that an EIAR is not required.
2. Has Schedule 7A information been submitted?	No	It is determined that sufficient information has been submitted in order to make a screening determination.
3. Has an AA screening report or NIS been submitted?	No	Planning Authority carried out a screening assessment and determined "it is clear that there is no likelihood of significant effects on a European Site". The recommendation was that the proposal can be screened out, therefore an Appropriate Assessment is not required.
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	Yes	However, the applicant is applying for retention of the waste disposal site, no licence received from the EPA, no commented received.
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	Tier 1 Risk Assessment – Recommend further site investigations to determine if the site poses a risk to environment or human health, decide on remedial measures (if any), confirm and refine the conceptual site model, verify that the site is a Class C site. Tier 2 Risk Assessment – Recommended the site is classified as Low Risk with respect to environmental receptors and moderate risk with respect to on-site human health users due to potential exposure to asbestos materials in the shallow waste body. A number of recommendations were made to limit the risk of exposure to human site users above the waste body.

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith			
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	Yes	The waste disposal site is a once off land fill of construction and domestic waste from a demolished dwelling approximately 600m east of the site. The land/site is currently used for tillage, the lands to the south are in use by Kilkenny Golf Club. The extent and depth of the waste is unknown, but known to contain asbestos	Yes
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	If the waste is left in situ, it could potentially cause leachate to the groundwater. If the asbestos is disturbed, it could cause potential harmful effects to human health.	Yes
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	No		Yes
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	The waste disposal site currently contains construction & domestic waste along with known asbestos sheeting/roof tiles from the outbuildings.	Yes

1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	The waste contains hazardous material along with domestic and construction waste buried in a tillage field with no capping or bunding.	Yes
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	Uncertain	The Tier 2 assessment states the risk is low, however, the full extent of the waste is unknown. The potential for contamination from the hazardous material (asbestos) is unknown but known potential impact to human health if disturbed.	Yes
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	No		
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	Asbestos has been deposited in the site, and acknowledged that if disturbed it will cause potential "moderate" harm to human health.	Yes
1.9 Will there be any risk of major accidents that could affect human health or the environment?	Yes	If the waste is disturbed, it will cause harm to human health through asbestos exposure	Yes
1.10 Will the project affect the social environment (population, employment)	No		
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No		
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ul style="list-style-type: none"> • European site (SAC/ SPA/ pSAC/ pSPA) • NHA/ pNHA • Designated Nature Reserve 	Uncertain	The site is not located within or adjacent to a European Site, NHA/pNHA, designated Nature Reserve, designated refuge for flora or fauna, places, sites or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan .	Uncertain

<ul style="list-style-type: none"> • Designated refuge for flora or fauna • Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 		<p>The nearest River Barrow and River Nore SAC (Site code: 002162) located c.600metres to the southwest.</p> <p>No Appropriate Assessment carried out.</p>	
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	Uncertain	No Ecological Assessment carried out. The area is not known for any protected, important or sensitive flora or fauna. However, given the hazardous nature of the waste deposited, an ecological assessment should have been carried out to determine if there are any impacts.	Uncertain
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	No protected landscape, historic, archaeological or cultural important sites in or near the waste disposal site.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No		
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Uncertain	<p>No AA Screening carried out and no Hydrological or Geological Assessment carried out.</p> <p>Tier 2 Risk Assessment assessed the source, pathway and receptor.</p> <ul style="list-style-type: none"> - Surface water risk was determined as “low” as the closest flowing surface water feature is the River Nore located approx. 780m west and downgradient of the site. <p>Laboratory generated leachate</p>	

		<p>analysis demonstrated the absence of volatile components in the prepared leachate.</p> <ul style="list-style-type: none"> - Regionally important gravel aquifer and groundwater abstraction points including those unmapped by the GSI was determined as “low” risk, the waste body has the potential to impact on the regionally important gravel aquifer from the potential generation of leachate and the vertical migration from the waste material. Leachate prepared in the laboratory from soil waste samples has not demonstrated widespread poor quality water although relatively limited exceedances of groundwater GACs from Aluminium and Iron were detected within the leachate. The distance to mapped groundwater boreholes potentially down gradient suggests a low risk to these receptors. The local water supply in Kilkenny is sourced from Public Water Supply Source Zones located at Johnswell and Purcellsinch located up gradient of the waste body. - Deep bedrock aquifer, the risk is determined as “low”. The shallower Regionally important aquifer is considered to be the primary groundwater source at risk from the waste body. Groundwater recharge is expected to migrate to this waste 	
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		<p>body followed by lateral migration in the aquifer. The depth to the bedrock groundwater is likely in the 10s of meters. With the absence of viable pathways, the information presented above is sufficient to classify the risk as low.</p> <ul style="list-style-type: none"> - Surface water or groundwater dependent ecosystems or protected sites, the risk is determined as "low". The distance to the River Nore surface water body and the associated designated sites: Dunmore Complex pNHA Site Code: 001859 is located 0.8km of the site to the east and 0.65km to the southeast. River Barrow and River Nore SAC site code: 002162 is located 0.65km to the south west. Newpark Marsh pNHA side code: 000845 is located 0.8km to the south. Laboratory generated leachate analyses has demonstrated the absence of volatile components in the prepared leachate. Further attenuation and dilution in the regionally important aquifer will limit the potential impact of any such migration. 	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No		
2.7 Are there any key transport routes(e.g. National primary Roads) on or around the location which are susceptible to congestion	No		

or which cause environmental problems, which could be affected by the project?			
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No		
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	The waste disposal site is associated with the demolition of a dwelling and outbuildings at a site 600m to the east of the waste site. The demolition and waste from this site was removed and deposited at the waste site. I do not considered there to be cumulative impacts between the two sites.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No		
3.3 Are there any other relevant considerations?	No		
C. CONCLUSION			
No real likelihood of significant effects on the environment.		EIAR Not Required	
Real likelihood of significant effects on the environment.	X	EIAR Required	
D. MAIN REASONS AND CONSIDERATIONS			
EG - EIAR Required			
Having regard to: -			
1. the criteria set out in Schedule 7, in particular			
(a) the nature and scale of the retention of construction and demolition waste including hazardous material, which is just below the threshold for mandatory environmental impact assessment and which would give rise to significant interventions in the physical environment and to human health.			
(b) the environmental sensitivity of the area including the possible groundwater links to River Barrow and River Nore SAC (site code: 002162), Dunmore Complex pNHA (site code: 001859), Newpark Marsh pNHA (site code: 000845).			

(c) the location of the development within agriculture tillage land, and the proposed plans to use as part of Kilkenny Golf Club could cause significant effects to human health through disturbed asbestos.

2. the results of other relevant assessments of the effects on the environment submitted by the applicant through the Tier 1 and Tier 2 Environmental Risk Assessment, which has identified potential moderate risk to on-site users or works under certain redevelopment conditions that may be impacted by shallow asbestos in the waste body.
3. and, notwithstanding the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, of which cannot be applied retrospectively for the retention of hazardous waste.

It is considered that the proposed development would be likely to have significant effects on the environment. The submission of an EIAR is, therefore, required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 2

Screening Determination

1.0 Compliance with Article 6(3) of the Habitats Directive

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.

1.2 Background on the Application

The applicant has not submitted a screening report for Appropriate Assessment as part of the planning application.

A Tier 1 & Tier 2 Risk Assessment was submitted. The Tier 2 Risk Assessment was undertaken in accordance with the “EPA Code of Practice” and is based on the principle of linkages between the Source, Pathway and Receptor and subsequent scoring system.

All identified SPR linkages were classified as Low Risk, therefore, do not require further assessment.

Low Risk is defined as “it is possible that harm could arise to a designated receptor from an identified hazard, but it is likely that this harm, if realised, would at worst normally be mild”.

Having reviewed the documents, submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

As a screening report for Appropriate Assessment was not submitted with this application. Therefore, this screening assessment has been carried out *de-novo*.

1.3 Screening for Appropriate Assessment- Test of likely significant effects

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).

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.

1.4 Brief description of the development

In summary, the development comprises:

Retention of works for:

- Demolition of dwelling, outbuildings and ancillary structures.
- Construction of hardcore temporary car park area for use for Kilkenny Golf Club.
- Use of land for the deposit of waste construction materials

Permission for

- Temporary 12no. car park space for a period of 7 years.
- Minor alterations to the existing vehicular entrance
- Provision of signage

Section 2.1 of the Tier 2 Risk Assessment described the general site setting as agricultural land which slopes from northeast to southwest from an approximate elevation between 64m to 60m. The land is characterised by an undulating topography. The site is not located in a flood risk area.

Dunmore Complex pNHA (site code: 001859) is located 0.8km to the west and 0.65km to the southwest.

River Barrow and River Nore SAC (site code: 002162) is located 0.65km to the southwest.

River Nore SPA (site code: 004233) is located 0.65km to the southwest.

Newpark Marsh pNHA (site code: 000845) is located 0.8km to the south.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Potential risk of leachate from construction/domestic waste including hazardous material to groundwater.

1.5 Submissions and Observations

No submissions or observations received.

1.6. European Sites

The development site is not located in or immediately adjacent to a European site. The closest European site River Barrow and River Nore SAC (site code: 002162) is located 0.65km to the southwest.

River Nore SPA (site code: 004233) is located 0.65km to the southwest.

A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

Table 1. Summary Table of European Sites within a possible zone of influence of the proposed development

European Site (code)	List of Qualifying interest/Special Conservation Interest	Distance from proposed development (KM)	Connections (Source, pathway, receptor)	Considered further in screening. Y/N
River Barrow and River Nore SAC (Site code: 002162)	-Estuaries -Mudflats and sandflats not covered by seawater at low tide -Reefs -Salicornia and other annuals colonising mud and sand -Atlantic salt meadows -Watercourses of plan to montane levels with the	c.0.65km southwest	Possible groundwater connection	Y

	Ranunculus fluitans and Callitriche-Batrachion vegetation -European dry heaths -Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels -Petrifying springs with tufa formation -Old sessile oak woods with Ilex and Blechnum in the British Isles -Alluvial forests with Alnus glutinosa and Fraxinus excelsior -Desmoulin's Whorl Snail -Freshwater Pearl Mussel -White-clawed crayfish -Sea Lamprey -Brook Lamprey -River Lamprey -Twaite Shad -Salmon -Otter -Killarney Fern			
River Nore SPA (site code: 004233)	-Kingfisher	c.0.65km southwest	Possible groundwater connection	Y

1.7 Identification of likely effects

There are no direct significant threats to the European Sites. There is a potential indirect risk of groundwater contamination through leachate through rainfall passing

through the waste material disposed on the site which could potentially leak to the River Barrow and River Nore SAC and River Nore SPA. The assessment also identified possible surface water down gradient at The Weir View between the waste site and the regionally important aquifer discharge zone at the River Nore, located 690m southwest and down gradient of the waste body.

The Tier 2 Assessment concluded the SPR links are 6a low-risk classification (class C). The EPA describes these sites as “not considered to pose a significant risk to environment or human health”.

But the report also states “While a low-risk site is deemed not to pose a risk at the time of evaluation, a hazard may still be present with respect to hazardous asbestos containing materials present in the waste body. The primary exposure pathway associated with asbestos material of this nature typically arises from disturbance of the ground and the waste body”.

There are no other developments in the area, therefore no cumulative impacts were identified.

There is not any anticipated loss, fragmentation, disruption or changes to the key elements of the European Site as they are not directly involved in the deposition of waste material.

A summary of the outcomes of the screening process is provided in the screening matrix.

Screening Matrix				
European Site (Link to conservation objectives www.npws.ie)	Distance to proposed development/source , pathway receptor	Possible effect alone	In combination effects	Screening conclusions :
River Barrow and River Nore SAC National Parks & Wildlife Service	There is a potential indirect risk of groundwater contamination through leachate through rainfall passing through the waste material disposed on the site which could	Possibility of effects as the waste material has already been deposited and the	No effect	Possible significant effects cannot be ruled out without further analysis and assessment.

	potentially leak to the River Barrow and River Nore SAC located 0.65km southwest.	full extent is unknown, there is an anticipated risk.		
River Nore SPA National Parks & Wildlife Service	There is a potential indirect risk of groundwater contamination through leachate through rainfall passing through the waste material disposed on the site which could potentially leak to the River Nore SPA located 0.65km southwest.	Possibility of effects as the waste material has already been deposited and the full extent is unknown, there is an anticipated risk.	No effect	Possible significant effects cannot be ruled out without further analysis and assessment.

1.8 Mitigation Measures.

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

The Tier 2 Assessment refers to applying for a Certificate of Registration, designing a capping layer to prevent on-site access to the waste body, an asbestos management plan, which do not relate to protection of the groundwater.

However, it is recommended that an Appropriate Assessment Screening may be required and submitted to the Local Authority as part of the planning application or proposed regularisation of the waste body. This has not been carried out.

1.9 Screening Determination

1.10 Finding of no likely significant effect.

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 that the proposed development individually, or in combination with other plans or projects

would not be likely to have significant effect on European Site River Barrow and River Nore SAC (site code: 002162) and River Nore SPA (site code: 004233), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

Inspector:

Date: