



An
Bord
Pleanála

Inspector's Report

ABP-320045-24

Development	Construction of a dwelling house and associated site works.
Location	Jerpoint West, Thomastown, County Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	2460173
Applicant(s)	Brendan Daly
Type of Application	Permission for retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Brendan Daly
Observer(s)	none
Date of Site Inspection	11 th September 2024
Inspector	Aisling MacNamara

1.0 Site Location and Description

- 1.1. The site is a 0.57ha site located in the rural area at Jerpoint West, Thomastown and is approximately 2km outside of the town of Thomastown. Access to the site is from cul – de sac local tertiary road LT82031-4 which has a junction with the main local road Station Road LS8203. This cul de sac road serves a number of detached dwellings, buildings and farmland. The site is near the end of the cul de sac road and there is a distance of approximately 350m between the site and the junction to the main local road.
- 1.2. The site contains the existing dwelling house, a small shed, vehicular entrance and driveway and effluent treatment system that are the subject of the application. Part of the site is in paddock. The boundaries are marked in different parts by hedge, post and rail fence and stone wall. The front boundary to the cul de sac road has been set back and is treated with a plastered and capped wall.
- 1.3. The eastern and southern boundaries of the site adjoin agricultural lands. The northeastern boundary adjoins the driveway and house of the adjoining property. There are existing houses directly facing the front roadside boundary of the site.

2.0 Proposed Development

- 2.1. The proposed development is for permission to retain an existing dwelling house, wastewater treatment system and associated works.
- 2.2. The proposed dwelling is single storey with floor area of 85sqm. The house has a ground to ridge height of 3.7m finished in wood cladding and metal roof and has a simple form. Levels across the site rise slightly from +43.0 in the western corner of the site to +47.0 in the eastern corner. The finished floor level of the house is +45.5m. The site is higher than the cul de sac road.
- 2.3. The wall constructed along the roadside boundary is a c 2m high plastered wall. The entrance is marked by simple pillars and agricultural fence. The driveway to the house is treated with gravel.
- 2.4. A secondary waste water treatment and polishing filter has been installed within the site close to the front boundary.

3.0 Planning Authority Decision

3.1. Decision

The planning authority issued a notification to refuse permission for the following two reasons:

(i) Having regard to:

- the existing deficiency in the road network serving the site,
- the restricted width of the road,
- restricted visibility and poorly aligned junction between the LT82013 and LS8203,
- sightlines submitted that do not comply with National Roads Authority Design Manual for Roads and Bridges standards,
- the precedent that a grant of retention permission for the proposed development would create for other, similar developments in the vicinity,

it is considered that the existing road is unsuited to further development and that the additional traffic movements generated by the proposed development would result in traffic hazard or obstruction of road users.

(ii) The proposed development, in conjunction with existing development would result in ribbon development which would be injurious to the visual amenity and rural character of the area and would lead to demands for uneconomic provision of public services outside of Thomastown zoned area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report sets out key considerations that informed the recommendation.

The planner noted the site history of the site which included decisions to refuse permission for a dwelling on the site and enforcement action in relation to the construction of foundations / concrete base for a dwelling on the site. It noted that the enforcement notice was not complied with and that a dwelling is being constructed on the site. A private wastewater treatment system has been installed, a

site suitability assessment was carried out and that no certification of design is provided. It notes there is a 39sqm shed with WC on the site which may be unauthorised. The site is in an open exposed landscape and would be visible from the surrounding area and the opposite side of the River Nore. The applicant has demonstrated a social need to live in this rural area. The development would result in ribbon development and proliferation of houses in the area. The development would result in traffic safety issues, noting that the cul de sac road has limited capacity and width, sightlines at the junction of the cul de sac road and Station road are restricted and road improvement works are required. No EIA or AA issues arose.

The planner recommended refusal of permission for four reasons: (i) traffic hazard, (ii) ribbon development and high density of rural housing injurious to visual amenity and rural character and uneconomic provision of public services outside of zoned land, (iii) unauthorised shed on site and failure of the application to comply with the Planning and Development Regulations 2001 and inappropriate to grant permission, (iv) premature and prejudicial to public health pending proof of satisfactory water connection and compliance with Irish Water standards.

The Senior Planner recommended refusal on items (i) and (ii).

3.2.2. Other Technical Reports

- Environment Section – no objection subject to conditions relating to the installation of the on site wastewater treatment system, management of stormwater, waste, water supply and construction.
- Municipal District Engineer – concerns regarding traffic safety, required improvement works to the junction of the LT82031 and LS8203 under PRR21/90 have not been carried out, concern regarding the capacity of the road in the absence of road improvements, speed limit on local territory road LT82031 is 80kph with required sightlines of 90m from 2.4m setback, proposed is sightlines of 51m and 90m from 2m setback.

3.3. Prescribed Bodies

none

3.4. Third Party Observations

none

4.0 Planning History

The most relevant planning history relating to this development is as follows:

Appeal site:

- P.A. Ref 23/60113 – Brendan and Marie Daly – Refused permission for development consisting of a single-storey dwelling house, wastewater treatment system and associated site works. Refused for two reasons: (i) traffic hazard, (ii) ribbon development injurious to visual amenity and rural character
- P.A. Ref 22/641 – Brendan and Marie Daly – Refused permission for development consisting of a single-storey dwelling house, wastewater treatment system and associated site works. Refused for two reasons: (i) traffic hazard, (ii) ribbon development, proliferation of rural houses in haphazard and unplanned form contrary to national and development plan policy.
- P.A. Ref. 08/191 – Joseph Teesdale – Refused permission to build a dwelling house with septic tank, entrance gateway and necessary site work. Refused for four reasons: (i) traffic hazard, (ii) applicant does not have a housing need in this type of rural area, (iii) ribbon development, (iv) potential for adverse impact on groundwater – prejudicial to public health.
- Enforcement notice ref 23/069 – notice to reinstate the site back to its original condition and remove the dwelling structure on site.

Others in the vicinity on the LT82031 cul de sac road:

- P.A. Ref. 24/24, currently on appeal (ABP 319663-24) – c 250m to the northeast of the site – Planning authority refused permission to construct one new two bedroom house with integrated garage and all associated site works on lands – Refused for three reasons: (i) traffic hazard, (ii) removal of hedgerow injures environmental and visual amenities and in the absence of

removal the development is not provided with adequate sightlines and therefore traffic hazard, (iii) haphazard and unplanned development in rural area, urban sprawl, injures visual amenity and rural character

- P.A. Ref. 21/90, ABP 310149-21 – c 40m from the site – Grant permission to alter existing farm entrance to serve the existing dwelling house (permitted under planning permission ref. no. 17/719) and all associated works and Retention Permission for roadway leading from the upgraded entrance to the existing permitted house

Condition 4 of ABP decision: Within three months of this Order, the applicant shall submit to, and agree in writing, with the planning authority full details regarding the proposed sightline improvements at the junction of the cul de sac and Station Road, including the long-term maintenance of the realigned hedgerow and grass verge. Reason In the interests of traffic safety.

Note that P.A.17/719 is permission to grant a house type permitted under PA16/712. PA16/712 is permission for house with access from local road Station Road.

- P.A. Ref 15/448 refused permission to construct new house and P.A. Ref 16/394 refused permission to replace house
- P.A. 14/138 – refused permission to construct a new house

5.0 Policy Context

5.1. National Planning Framework 2040

5.2. National Policy Objective 19 states that in rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. Section 28 Guidelines – Sustainable Rural Housing Guidelines 2005

5.4. The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural area typologies are identified

including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply.

5.5. Kilkenny City and County Development Plan 2021-2027

Rural Housing Policy is set out in Section 7.8.3 and 7.8.4. The following is of relevance:

- Figure 7.1 Rural Housing Strategy shows that the site is located in an area under urban influence.
- Urban Generated Housing - "Housing need is considered to be Urban Generated where application is made in rural areas by persons originating from urban areas and includes applications for second homes. The Council will endeavour to accommodate such non-rural generated housing within the development limits of all towns and villages subject to appropriate servicing arrangements."
- Ribbon Development is defined as where 5 or more houses exist on any one side of a given 250 metres of road frontage. If four houses exist on any one side of a given 250 metres of road frontage, it is likely that ribbon development may be created with an additional house. Ribbon Development is discouraged for a variety of reasons, including road safety, future demand for the provision of public infrastructure and visual impact. The Planning Authority will have discretion to allow well-spaced infill ribboning to complete a particular settlement pattern only, but not where it will lead to further gap infill sites or the coalescence of separate ribbons of development or, in combination with other ribbons, lead to the over proliferation of houses resulting in overdevelopment creating ribbon development, wastewater disposal difficulties, traffic or other serious planning issues in the immediate area.
- Areas under urban influence: It is the Council's objective for areas of urban influence to facilitate the rural generated housing requirements of the local rural community (as identified in this section) while on the other hand directing

urban (non-rural) generated housing to areas zoned and identified for new housing development in the city, or towns and villages.

- 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,

Examples are provided such as those employed full time in rural based activities or other rural based activity 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 they have never owned a house in the rural area.

(2) Persons with a demonstrable social need to live in a particular local rural area,

Two categories (a) and (b) are set out.

Category (a) is of relevance: 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.

5.6. Rural House Design Guidance is set out in Section 7.8.6:

- The Design Guide acts as an instrument to develop best practice in the design and siting of one-off rural housing. Those intending to build houses in the countryside are advised to consult the Rural Design Guide for advice on site choice, local design and landscaping at an early stage in their preparations. Further guidance is given in Section 13.22 Rural Housing and Section 12.11.3 Access to National Roads and Section 12.11.10.1 Roads Development Management Requirements.

5.7. Natural Heritage Designations

The River Nore SPA is located approximately 0.5km to the south west of the site. The River Barrow and River Nore SAC is located approximately 0.4km to the south west of the site. The Thomastown Quarry SAC is approximately 1.8km to the north east of the site. The Thomastown proposed NHA is approximately 0.9km to the south east.

5.8. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

The key grounds of appeal are as follows:

- The planning history relating to the site and the cul de sac is set out. There are contradictions in the decisions of the planning authority.
- Non compliance of condition no.4 of P21/90 has hindered the subject development.
- There will be no increased traffic loading on cul de sac or junction and no additional traffic hazard – the applicant is a sole occupant and vehicular movements will not increase over existing conditions.
- The cul de sac terminates and 90m sightlines either side of the entrance are not possible.
- The applicant qualifies for a rural house, has connections to this rural area and due to health issues requires bungalow.
- Due to the specific characteristics of the site the development will not contribute to ribbon development and will not detract from visual amenity.

- There are no environmental issues – water supply is by public main and treatment system is in accordance with EPA Code of Practice and Local Authority Environmental Officer has no objection.
- A shed on the site is exempted development.

6.2. Planning Authority Response

The planning authority submitted a response as follows:

- The planning authority is satisfied that the matters raised were considered during the assessment of the planning application and requests the Board uphold the decision of the planning authority. The letter supports the decision of the planning authority to refuse permission.
- Note other refusals in the area under 23/60113, 22/641, 24/24.
- The proposal is premature pending road improvement works, the applicant has not applied for permission to carry out works and has not demonstrated a legal interest in the lands to execute the works.
- There is a lack of information to support the applicants housing need on health grounds and other housing options including whether the existing house at Thomastown can be altered should be considered.
- There is no justification to support the ribbon development, the proliferation of housing compromises the amenity and character of the area.
- Enforcement proceedings are to be undertaken in relation to condition 4 of P21/90 (ABP310149-21).

6.3. Further Responses

The applicant submitted a further response, as follows:

- Documentation from medical practitioner is provided regarding the applicants personal health status. This documentation supports the applicants need.
- The applicant has exceptional medical circumstances. The 2005 Guidelines allow for consideration of his case. The house is proximate to direct family members support and single storey aspect allows for ease of mobility.

- The road infrastructure deficiency that is the subject of refusal reason no. 1 is the subject of enforcement proceedings and it is considered that the resolution of this issue will address the grounds of refusal reason no.1.

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 having inspected the site, and having regard to relevant policies and guidance, I consider that the main issues in this appeal are as follows:

- Rural housing policy
- Access and traffic
- Visual impact and ribbon development
- Effluent disposal and water supply
- Appropriate Assessment screening

7.2. Rural housing policy (potential new issue)

7.2.1. Whilst not specifically referenced in the planning authority decision or grounds of appeal as a key issue, I consider that compliance with rural housing policy is an important issue in the assessment of this case.

7.2.2. With regard to compliance with rural housing policy, the proposal should be in accordance with the provisions of the Sustainable Rural Housing Guidelines and the provisions of the Kilkenny City and County Development Plan 2021-2027. The site is located in an area identified as an Area Under Urban Influence in Figure 7.1 Rural Housing Strategy of the development plan. National Policy Objective no. 19 of the National Planning Framework ('Project Ireland 2040: Building Ireland's Future') states that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in

statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. In relation to rural housing policy set out in the development, plan, the following is stated: *“It is the Council’s objective for areas of urban influence to facilitate the rural generated housing requirements of the local rural community (as identified in this section) while on the other hand directing urban (non-rural) generated housing to areas zoned and identified for new housing development in the city, or towns and villages.”* In areas under urban influence the Council will permit single houses where stipulations are met. These stipulations are set out in the plan and in short identify persons who have a demonstrable economic or social need to live in a particular local area.

- 7.2.3. The planning authority have determined that the applicant Mr. Daly qualifies for a rural house based on his social need previously determined under PA 22/641 and PA 23/60113, being a site close to where he grew up having lived at Jerpoint West for a period of 22 years, where family members reside, his links to the rural area and his need for a suitably designed and sized house, and having regard to health grounds. The planners report indicates Mr. Daly owns an urban house 11 Mallfield in Thomastown where it appears he has resided until recently and is retired. In letter of 12th April 2024 from Chisholm Architect on behalf of the applicant, reference is made to Mr. Daly’s ‘current’ dwelling – the two storey house and to the address of Mr. Daly at 11 Mall Field, Thomastown.
- 7.2.4. In the Supplementary Form to the application, it states that the applicant has previously owned a rural house. A copy of report previously submitted under PA 22/641 is attached and this report states that the applicant previously owned a house at Friars Hill near Thomastown, however the circumstances of this house are confidential.
- 7.2.5. The county development plan states in section 7.8.3 Rural Housing Policy that urban generated housing includes those persons originating from urban areas and includes applications for second homes. The information available would appear to indicate that the applicant owns a house in Thomastown where he has resided until recently. Furthermore, the applicant has previously owned a rural house however details of this are vague. On the basis of the information available it is my opinion that the proposal amounts to urban generated housing.

- 7.2.6. Regarding the case put forward that the proposal amounts to rural generated housing, in line with national policy, a single house in this rural area under urban influence can only be considered in a case where there is a functional economic or social requirement for a housing need.
- 7.2.7. The applicants have indicated their desire to down size to a house more suited to their needs and note particular health and mobility needs. A desire to down size does not demonstrate a functional requirement for a rural house. Regarding health and mobility issues, the Rural Housing Guidelines state the following: *“In particular, planning authorities should recognise that exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – may require a person to live in a particular environment or close to family support. In such cases, and in the absence of any strong environmental, access or traffic reasons for refusal, a planning authority should consider granting permission, subject (where Planning Guidelines appropriate) to conditions regarding occupancy (see paragraph 4.6 below).”* I note the documentation from the medical practitioner submitted with the appeal, however I do not consider that this is sufficient to show an exceptional health circumstance that requires the person to live in this particular rural environment or close to family support. Furthermore, as referenced by the planning authority in their response to the appeal, there is no information to show if the existing house in Thomastown can be altered to meet their needs. I do not therefore consider that the applicant has shown that they have a particular exceptional need, different to the common circumstances of all urban dwellers.
- 7.2.8. While I accept that the applicant grew up in this rural area and has family living in the rural area, and therefore has a certain social connection to the area, he has not in my opinion, shown a functional social need to be living in this area. The urban house at Thomastown is in close proximity to this rural area and therefore within easy reach of family residing in the rural area. Furthermore, the applicant being retired, has no functional economic need relating to employment which would require them to reside full time in this rural area.
- 7.2.9. Having regard to the above, I am not satisfied, on the basis of the information available, that the applicant has demonstrated that they have a demonstrable economic or social need to live at this site within this rural area. I therefore consider

that the proposed development would represent urban-generated rural housing in an area under urban influence, contrary to rural housing policies in section 7.8.3 and 7.8.4 of the county development and contrary to National Policy Objective 19.

- 7.2.10. The planning authority made the decision to qualify the applicant for a rural house having regard to their previous decisions in PA 23/60113 and PA 22/641 to qualify the applicant. Therefore, whilst the appellant has made reference to the issue of qualification in this appeal and the matter is then responded to by the planning authority in their response to the appeal, the matter of qualification was not a substantive issue for the appellant or for the planning authority in making their decision. The Board will consider the application on a 'de novo' basis and it is in this context that I have raised this issue now. I have included a recommendation to refuse permission for a reason relating to this issue of qualification and given that it is a new issue, the Board may therefore wish to seek the views of the parties before making its decision.

7.3. Access and traffic

- 7.3.1. Access to the proposed dwelling is via an existing cul de sac local tertiary road LT82031 that serves a number of dwellings and farmland. The road accesses onto the L8203 Station Road. From my inspection of the site, I consider that the junction of the cul de sac with Station Road is substandard. Visibility from the cul de sac road to the main Station Road is severely restricted to the west.
- 7.3.2. Permission has been granted under P.A. 21/90, ABP 310149-21 for works to upgrade this junction. Condition 4 of this permission required the applicant to submit details for the junction improvements for the written agreement of the planning authority. The improvement works have not been carried out. The planning authority's submission in response to the appeal states that they are in the process of opening an enforcement file relating to outstanding compliance of this condition 4. In this regard, I note that enforcement of permission is a matter for the planning authority. While the applicant refers to the fact that he has previously proposed upgrades to the junction under P.A. 23/60113, the works do not form part of the current application and relate to third party lands. The applicant must show that he is in a position to deliver his proposed development including the upgrades independently of P.A. 21/90. In the absence of the required upgrade works to the

junction, it is my opinion that the additional traffic movements associated with the proposed dwelling on the existing substandard junction results in traffic hazard.

- 7.3.3. The cul de sac road between the site and LT82031/LS8203 junction is narrow in width being approximately 3m wide. For a considerable length of the road, the road is unable to accommodate two way traffic, although certain sections have been widened through boundary set backs. Vehicles accessing the site would be required to travel a distance of approximately 360m to the end of the cul de sac, with a considerable stretch of the road too narrow for passing cars resulting in use in parts of private driveways for pull in. The road is therefore substandard in width and I do not consider that the road has capacity for the additional traffic movements associated with the proposed dwelling.
- 7.3.4. A new entrance has been constructed at the front boundary of the site to accommodate the driveway for the new house. The roadside boundary has been set back. The Area Engineer has indicated that sightlines of 90m are required in both directions at a setback of 2.4m. The applicant has demonstrated sightlines of 51m to the south west and 90m to the north-east. The entrance is located near the end of the cul de sac where there is limited traffic and where vehicles travel at very low speeds. As such, I consider that the sightlines are acceptable.
- 7.3.5. Having regard to the above, including the deficient junction at Station Road and the substandard nature of the cul de sac road, I consider that the proposed development is not acceptable and would result in traffic hazard and obstruction of road users.

7.4. Visual impact and ribbon development

- 7.4.1. The planning authority has considered that the proposed house would be injurious to the visual amenity and rural character of the area citing that the development, in conjunction with other existing developments in the area, would give rise to ribbon development.
- 7.4.2. The county development plan includes the following definition of ribbon development: where *“5 or more houses exist on any one side of a given 250 metres of road frontage. If four houses exist on any one side of a given 250 metre of road frontage, it is likely that ribbon development may be created with an additional house.”* The plan states that ribbon development is discouraged for reasons including road safety, future demand for the provision of public infrastructure and

visual impact. The proposed house would result in a sixth dwelling within 250m of road frontage on the one side of the road and therefore the development would be in accordance with this 'ribbon development' definition.

- 7.4.3. The Sustainable Rural Housing Guidelines recommend against ribbon development. The Guidelines state the following: *"Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:*

The type of rural area and circumstances of the applicant,

- *The degree to which the proposal might be considered infill development, and*
- *The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development."*

- 7.4.4. These items are considered as follows. This is an area under strong urban influence and as set out above, it is considered that the applicant has not demonstrated a need to live in this rural area and the proposal amounts to urban generated housing which should be directed into existing serviced settlements. The site is located at the end of a cul de sac public road, opposite existing houses. There are no other houses directly abutting the side boundaries and the proposed house is not 'infilling' a gap site between other dwellings. While it would add an additional house near the end of the cul de sac road, it would not result in coalescing with another ribbon of development. This is a cul de sac road used primarily by residents on the road and it is not a main radial road from the town. Therefore I consider that the additional house does not present a significant risk to the character of the rural area caused by ribbon development and would not result in over proliferation of houses as per the policy set out in section 7.8.3 of the development plan.

- 7.4.5. The site is located at the end of the cul de sac some distance from the main roads and due to the surrounding field hedges, trees and other rural structures, the site is not visually prominent from the main Station Road. Having regard to the modest simple design of the house, its small size and low height and to the location of the site, the house is not visually prominent and as such I do not consider that the house undermines the visual amenities in this rural area and that it would be consistent with the rural house design guidance of the CDP.

7.5. Effluent disposal and water supply

- 7.5.1. A 6PE waste water treatment system and polishing filter has been installed on the site. A copy of the site characterisation report and certificate of treatment performance results has been submitted. The Environment Section has reviewed the submissions and has no objection to the proposed development subject to conditions including the submission of a certificate to confirm that the system has been constructed in accordance with EPA Code of Practice standards. I have reviewed the site characterisation form which shows that the site is in groundwater protection response category R2(1) which indicates that the site is suitable for a domestic waste water and treatment system subject to normal good practice and that where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths are met. Table 6.3 indicates that a minimum unsaturated depth of 0.9m is required for polishing filters following secondary systems. The recommended system is a packaged secondary system with the minimum 0.9m of unsaturated soil to solid rock. The site is connected to mains water and the minimum distances are complied with. If permission is granted, a condition should be attached requiring that certification be submitted to confirm that the system was constructed and installed in accordance with the EPA Code of Practice 2021.
- 7.5.2. I am satisfied that the water supply and effluent disposal measures are acceptable and that the development would not pose a risk of pollution or impact on ground water and therefore is acceptable on environmental grounds.

7.6. Appropriate Assessment screening

- 7.6.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is not located within or directly adjacent to any European Site. The River Nore SPA is located approximately 0.5km to the southwest of the site. The River Barrow and River Nore SAC is located approximately 0.4km to the southwest of the site. The Thomastown Quarry SAC is approximately 1.8km to the northeast of the site. The proposed development is located in a rural area and comprises a small house and associated works. Having considered the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment

because it could not have any appreciable effect on a European Site. The reasons for this conclusion are as follows:

- the modest nature and scale of the house and taking account of the agricultural nature of the lands prior to development,
- the site characterisation report and the suitability of the site for effluent disposal,
- the connection of the house to public water supply,
- the disposal of surface water directly to ground,
- the distance to the Natura 2000 sites,
- the lack of ecological or hydrological pathways to a Natura 2000 site.

7.6.2. I therefore consider that the proposed development would not be likely to have a significant effect individually, or in combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

8.0 Recommendation

I recommend that permission be **refused** for the reasons below.

9.0 Reasons and Considerations

1. Having regard to the location of the site within Area Under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current Kilkenny City and County Development Plan 2021-2027, it is considered that the applicant has not demonstrated that they come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of

public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on Station Road at a point where sightlines are restricted in a north-west direction. Furthermore, the site is located on a minor road which is seriously substandard in terms of width and the traffic generated by the proposed development would therefore endanger public safety by reason of traffic hazard and obstruction of road users.

A. MacNamara

Aisling Mac Namara
Planning Inspector

21st October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 320045		
Proposed Development Summary	Construction of dwelling house and associated site works		
Development Address	Jerpoint West, Thomastown, 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	x
		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 required
Yes	x	Schedule 5, Part 2, 10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: *A-MacNamara* Date: 21st October 2024

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320045	
Proposed Development Summary	Construction of dwelling house and associated works	
Development Address	Jerpoint West, Thomastown, Co. Kilkenny	
<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>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposal is for the construction of a small single house in the rural area. This is not an exceptional type of development in this rural area.</p> <p>The development involves treatment and disposal of effluent to ground. Subject to compliance with the relevant standards this will not result in pollution. Disposal of storm water to on site soakpit will not result in significant pollution. Emissions from cars will not be significant.</p> <p>Therefore the development will not result in the production of significant waste, emissions or pollutants.</p>	No
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The proposed house is a small single storey 85.50sqm house. This is a small development in this rural context.</p> <p>There is no real likelihood of significant cumulative effects with other permitted developments.</p>	No

<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>There are no significant ecological sensitivities on the site. There are existing hedgerows bounding the site. The development will not significantly impact on existing hedgerows.</p> <p>There is no information to show that the development will impact on any protected species.</p> <p>The River Nore is c 400m from the site. Having regard to the separation distance and lack of hydrological or ecological pathways between the development and the river, the development does not have potential to significantly effect the river.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>		

Inspector: *A-MacNamara* Date: 21st October 2024

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)