



An  
Bord  
Pleanála

## Inspector's Report

**ABP-321509-24**

<b>Development</b>	To construct a single storey dwelling with on-site sewerage treatment, detached domestic garage, new entrance onto the public road and all associated works.
<b>Location</b>	Licketstown, Mooncoin, Co. Kilkenny.
<b>Planning Authority</b>	Kilkenny County Council
<b>Planning Authority Reg. Ref.</b>	2360568
<b>Applicant(s)</b>	Martin O'Neill
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Martin O'Neill
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	14 <sup>th</sup> February, 2025
<b>Inspector</b>	Robert Speer

## **1.0 Site Location and Description**

- 1.1. The proposed development site is located in the rural townland of Licketstown, Co. Kilkenny, approximately 6.6km west of Waterford City Centre and 4.7km southeast of the village of Mooncoin, on lands between the River Suir to the south / southeast and the N24 National Road to the north. While the surrounding landscape is primarily one of undulating rural countryside interspersed with intermittent instances / groupings of one-off rural housing, farmyards and associated outbuildings, the application site occupies an elevated position relative to those lands to the east and southeast with views over the wider area. The site adjoins the public road to the north while the adjacent lands to the immediate west and south are in agricultural use with an area of coniferous forestry to the southeast. The closest dwelling house is located on lower-lying lands approximately 60m to the southeast.
- 1.2. The site itself has a stated site area of 0.445 hectares, is irregularly shaped, and primarily comprises an undeveloped plot of scrubland characterised by extensive gorse growth with multiple instances of exposed rock / outcropping while the southernmost extent of the site extends into an adjoining agricultural field set as pasture. It is bounded by a combination of stone walling and hedgerows / ditches with an open drain passing along the roadside boundary. The site topography rises steeply over the public road in parts although the land also falls from northwest to southeast alongside the roadway.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the construction of a single-storey dwelling house based on an 'L'-shaped plan with a stated floor area of 217.45m<sup>2</sup> and a ridge height of 5.654m. The overall design is simple and has sought to evoke certain characteristics of the traditional vernacular through its use of two principal rectangular blocks with conventional 'A'-frame roof forms set at 90 degrees to each other and interlinked by a flat-roofed construction, as well as vertically emphasised fenestration. External finishes include an off-white knapped render, blue / black roof slates, and grey uPVC for doors (with a hardwood outer leaf) and windows.
- 2.2. A free-standing garage (floor area: 55m<sup>2</sup>) is proposed to be constructed alongside the dwelling house.

- 2.3. Access to the site will be obtained via a new entrance arrangement onto the adjacent public roadway. The majority of the existing roadside site boundary is to be removed and reinstated in a recessed position while a further section of roadside hedgerow on adjoining lands to the immediate west of the proposed entrance (beyond the confines of the application site) is also to be set back in order to achieve sightlines of 70m in both directions.
- 2.4. It is proposed to install a proprietary ('Tricel Novo') wastewater treatment system with a pumping chamber to pump treated wastewater to an upgradient percolation area consisting of 2 No. x Tricel Puraflo modules with a Gravel Distribution Layer (minimum area: 37.5m<sup>2</sup>) for discharge to ground.
- 2.5. Although the planning application form states that the proposed development will avail of a new connection to the public mains water supply, it has been clarified by way of further information that the proposed dwelling will be served by a new bored well as shown on the submitted the site layout plan.
- 2.6. Amended proposals were received in response to requests for further information and clarification which revised the wastewater treatment arrangements through the substitution of the Puraflo modules with an intermittent sand filter / sand polishing filter & gravel distribution layer and the repositioning of the overall treatment system.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. On 3<sup>rd</sup> December, 2024 the Planning Authority issued a notification of a decision to refuse permission for the following single reason:
- Due to the varying underlying site conditions, including various outcrops of bedrock and significant ponding throughout the site and the absence of a site suitability assessment at the revised location, the applicant has failed to demonstrate that effluent from the proposed development can be treated and discharged at the proposed development site without risk to both public health and the environment.

It has not been satisfactorily demonstrated that the depth from ground level to bedrock at this location is in compliance with the EPA Code of Practice for

Domestic Wastewater Treatment Systems 2021, that effluent can be adequately treated and that seepage that may arise from an impermeable rock layer would not affect neighbouring properties and the roadside drain and proximate watercourse. It has therefore not been adequately demonstrated that the site is capable of the safe disposal of treated effluent without significant risk to both public health and the receiving environment. The proposed development is therefore contrary to Section 13.22.2 'Wastewater Treatment Systems' of the Kilkenny County Development Plan 2021-2027, and, to the protection of public health, the environment, and the proper planning and the sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

An initial report details the site context, planning history, and the relevant policy considerations, including the site location in an '*area under urban influence*', before stating that the applicant complies with the requirements of the applicable rural housing policy by reference to his connections to the surrounding rural area. The report proceeds to note the site location in a lowland landscape character area and states that there is no objection to the overall design and siting of the proposal. In terms of traffic safety, cognisance is taken of the proposal to relax the applicable visibility requirement based on an accompanying traffic survey with deference being made to the report of the Area Engineer which has concluded that there is no objection to the proposed development from a road perspective, subject to conditions. With respect to the wastewater treatment and disposal arrangements, reference is made to the relocation of the effluent treatment system when compared to previous proposals which is followed by a summation of the results of the submitted Site Characterisation Form. The report then concludes by recommending that further information be sought in relation to a number of issues, including a method statement for the installation of the wastewater treatment system into bedrock and the protection of the tank's integrity, details of all domestic wells within a 250m radius, groundwater sampling and analysis, and clarity as to the source of the water supply for the proposed dwelling house.

Following the receipt of a response to a request for further information, a second report was prepared which noted that while the revised site layout plan indicated a southward groundwater flow, the site slopes steeply downhill in a northerly direction towards the public road and, therefore, concerns arise as regards the adequacy of the separation distance between the proposed wastewater treatment system and the well serving the dwelling house on the adjoining site to the southeast. Accordingly, it was recommended that clarification be sought as regards groundwater directional flow along with adherence to the separation distances required between the wastewater treatment system and wells in accordance with the EPA's Code of Practice (taking account of the relevant groundwater protection responses for the site given the 'extreme' vulnerability of groundwater due to the presence of rock).

Upon receipt of a response to the request for clarification of further information, a third report was compiled by the case planner which deferred to a report prepared by the Environment Section (dated May, 2024) before recommending that permission be refused for the following reason:

- The applicant has failed to demonstrate that effluent from the proposed development can be treated and discharged at the proposed development site without risk to public health and the environment.

However, an addendum was attached to this report which directed that clarification of further information be sought to afford the applicant the opportunity to consider an alternative location for the wastewater treatment plant given the Planning Authority's serious concerns as regards the potential for the wastewater treatment plant as (then) proposed to seriously affect a neighbouring well along with public health and the environment.

A final report was then prepared upon receipt of a response to the second request for clarification of further information which stated that the on-site indications were such that an effluent treatment system at the subject site would represent a considerable and unacceptable risk to both ground and surface waters and, therefore, public health and the environment. That report concluded by recommending that permission be refused for the reason stated.

### 3.2.2. Other Technical Reports

*Area Engineer:* Notes that the proposed development will be accessed from a local secondary road and that the planning application has been accompanied by a site layout plan displaying a relaxation of the visibility requirement to 70m in both directions (as supported by a traffic survey with a mean 85<sup>th</sup>-percentile speed of 41kph over a 7-day period). Following further assessment, it was subsequently stated that the relaxed visibility requirements were considered achievable, subject to the recessing of the roadside boundary as indicated on the site layout plan received with the application on 11<sup>th</sup> December, 2013. The report concludes by stating that there is no objection to the proposed development from a road perspective, subject to conditions.

*Environment:* Following the receipt of a response to a request for further information, an initial report was prepared which noted the following:

- The proposed wastewater treatment system would be located directly uphill of a neighbouring domestic well.
- Groundwater vulnerability mapping for the area shows the proposed development site overlying an area of '*extreme*' vulnerability with a sub-note of '*Rock at or near Surface or Karst*' included on the Geological Survey of Ireland Spatial Resources.
- The Site Characterisation Report used to ascertain the viability of the proposed wastewater treatment arrangements indicates that the trial hole test terminated at 0.7m below ground thereby inferring that an impediment was encountered, most likely rock.

On the basis of the foregoing, the report proceeds to state that the proposed wastewater treatment arrangements would pose an unacceptable risk to ground and surface waters, and that the applicant has not adequately demonstrated that the site is capable of the safe disposal of treated effluent without risk to public health or the environment. The report subsequently concludes by recommending that permission be refused for the following reason:

- The applicant has failed to demonstrate that effluent from the proposed development can be treated and discharged at the proposed development site without risk to public health and the environment.

With respect to the amended proposals received in response to requests for clarification of further information, a final report was prepared which noted that:

- The revised site layout plan shows the groundwater directional flow to be very sporadic and therefore it is difficult to clearly identify the actual direction of groundwater flow.
- There have been a considerable number of refusals of permission on the subject site, mostly pertaining to poor ground conditions for percolation. Furthermore, numerous trial holes have been excavated leading to a lot of disturbed ground on site.
- During the course of a site inspection conducted on 28<sup>th</sup> November, 2024 the following was noted:
  - The presence of significant outcropping / exposed rock at the surface of the site.
  - The maximum depth of the exposed trial holes was 1.1m below ground level while water was present up to a level of 750mm within several of the holes. All of the test holes contained large volumes of water.
  - There was evidence of a very large “hole” or pond on site to the north with a large volume of water.
  - Serious concerns as regards the proximity of a neighbouring well due to the non-uniform groundwater flow direction coupled with the presence of a large amount of rock.
  - A number of the trial holes visible on site terminated at 0.7m deep inferring that an impediment was encountered, most likely rock.

It is subsequently reiterated that the on-site conditions are indicative of an effluent treatment system posing a considerable and unacceptable risk to ground and surface waters, and that the applicant has not adequately demonstrated that the site is capable of the safe disposal of treated effluent without risk to public health or the

environment. Accordingly, the report concludes by recommending that permission be refused for the following reason:

- The applicant has failed to demonstrate that effluent from the proposed development can be treated and discharged at the proposed development site without risk to public health and the environment.

### **3.3. Prescribed Bodies**

None.

### **3.4. Third Party Observations**

None.

## **4.0 Planning History**

### **4.1. On Site:**

- 4.1.1. PA Ref. No. 2360278. Was refused on 22<sup>nd</sup> August, 2023 refusing Martin O'Neill permission to construct a single storey dwelling with on-site sewerage treatment, detached domestic garage, new entrance onto the public road and all associated works.

- The applicant has failed to demonstrate to the satisfaction of the Planning Authority that the site is capable of the safe disposal of treated effluent without risk to public health or the environment. It is considered therefore that the proposed development may be prejudicial to public health and to the environment and would thus be contrary to proper planning and sustainable development of the area.

- 4.1.2. PA Ref. No. 22426. Was refused on 24<sup>th</sup> August, 2022 refusing Martin O'Neill permission to construct a single storey dwelling with on-site sewerage treatment, detached domestic garage, new entrance onto the public road and all associated works.

- The applicant has failed to demonstrate to the satisfaction of the Planning Authority that the site is capable of the safe disposal of treated effluent without risk to public health or the environment. It is considered therefore that the proposed development may be prejudicial to public health and to the



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

- The proposed development would result in a traffic hazard as the applicant has failed to demonstrate that adequate sightlines can be achieved from the proposed access. The proposed development is contrary to the proper planning and sustainable development of the area.

4.1.3. PA Ref. No. 09171. Application by Aoife Dowling for permission for the erection of a dwelling house and all associated works. This application was deemed withdrawn.

4.1.4. PA Ref. No. 08332. Application by Aoife Dowling for permission for the erection of a dwelling house and all associated works. This application was deemed withdrawn.

4.1.5. PA Ref. No. 06757. Was refused on 5<sup>th</sup> July, 2006 refusing Aoife Dowling permission for the erection of a dwelling house and all associated works.

- The applicant has not demonstrated that effluent can be discharged at the subject site without risk to public health or the environment. Accordingly, the proposed development is prejudicial to public health.
- The proposed development, by virtue of its location in a prominent position and its high degree of visibility, would be seriously injurious to the visual amenities of the area.

4.1.6. PA Ref. No. 05694. Was refused on 2<sup>nd</sup> August, 2005 refusing Aoife Dowling permission for the erection of a dwelling house and all associated works.

- The applicant has not demonstrated that effluent can be discharged at the subject site without risk to public health or the environment. Accordingly, the proposed development is prejudicial to public health.
- The proposed development, by virtue of its location in a prominent position and its high degree of visibility, would be seriously injurious to the visual amenities of the area.

4.1.7. PA Ref. No. 001741. Was refused on 20<sup>th</sup> December, 2000 refusing Ger O'Neill permission to construct a bungalow type dwelling house, effluent treatment system and associated site works.

4.1.8. PA Ref. No. 971204 / ABP Ref. No. PL10.105887. Was refused on 3<sup>rd</sup> July, 1998 refusing Ger O'Neill permission to construct a bungalow and septic tank.

4.2. **On Adjacent Sites:**

4.2.1. PA Ref. No. 059. Was granted on 1<sup>st</sup> April, 2005 permitting Pat & Grainne Cuddihy permission for alterations to the existing dwelling house, including the conversion of the existing bungalow to a dormer style bungalow, construction of new entrance porch along with all associated site works. All at Licketstown, Mooncoin, Co. Kilkenny.

## 5.0 **Policy and Context**

### 5.1. **National and Regional Policy**

#### 5.1.1. ***Project Ireland 2040 - The National Planning Framework (2018):***

*National Policy Objective 15:*

- Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

*National Policy Objective 19:*

- Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:
  - In rural areas 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;
  - In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in

statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

#### 5.1.2. **Regional Spatial & Economic Strategy for the Southern Region, 2019-2031:**

The following Regional Policy Objective is of note:

*RPO 27: Rural:*

To support rural economies and rural communities through implementing a sustainable rural housing policy in the Region which provides a distinction between areas under urban influence and other rural areas through the implementation of National Policy Objective 19 regarding Local Authority County Development Plan Core Strategies.

Local authorities shall:

- a) Include policies for the protection of the viability of smaller towns and rural settlements as key priority within Development plans;
- b) Have regard for the viability of smaller towns and rural settlements; Core Strategies shall identify areas under urban influence and set the appropriate sustainable rural housing policy response which facilitates the provision of single housing in the countryside based on the core consideration of demonstrable economic, social or local exceptional need to live in a rural area and sitting, environmental and design criteria for rural housing in statutory guidelines and plans;
- c) Have regard for the viability of smaller towns and rural settlements, in rural areas elsewhere, facilitate the sustainable provision of single housing in the countryside based on sitting and design criteria for rural housing in statutory guidelines and plans;
- d) Provide for flexibility in zoning and density requirements to ensure that rural villages provide attractive easily developed options for housing.

#### 5.1.3. **‘Sustainable Rural Housing, Guidelines for Planning Authorities, 2005’:**

These Guidelines promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural

areas and communities. Notably, the proposed development site is located at the interface of an 'Area under Strong Urban Influence' and a 'Stronger Rural Area' as indicatively identified by the Guidelines. Furthermore, in accordance with the provisions of the Guidelines, the Kilkenny County Development Plan, 2021-2027 includes a detailed identification of the various rural area types specific to the county at a local scale and Figure 7.1: 'Rural Housing Strategy' of the Plan details that the site is located in an 'Area under Urban Influence'.

## **5.2. Development Plan**

### **5.2.1. Kilkenny City and County Development Plan, 2021-2027:**

#### Vol. 1:

#### *Chapter 4: Core Strategy:*

#### *Section 4.11: Rural Areas:*

RPO 27 of the RSES requires that the Core Strategy identifies areas under urban influence and sets the appropriate sustainable rural housing response which facilitates the provision of single housing whilst having regard for the viability of smaller towns and rural settlements. These areas under urban pressure have been identified and contained in Figure 7.1 Rural Development Strategy.

#### *Section 4.11.1: Rural Housing:*

The Rural Housing Policy is contained in Chapter 7, Rural Development Strategy. The Rural Housing Policy complies with the requirements to designate two policy areas, being:

- Areas under Urban Influence i.e. within commuter catchment of cities and large towns and centres of employment and elsewhere.
- Other Rural Areas i.e. areas where housing will be based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

#### *Chapter 6: Housing and Community:*

#### *Section 6.7: Residential Development:*

Designers of single houses are referred to the County Kilkenny Rural Design Guide prepared and published by the Planning Department.

#### *Chapter 7: Rural Development:*

##### *Section 7.8: Rural Settlement Strategy:*

The Council recognises the long tradition of people living in rural areas of the County and promotes sustainable rural settlement as the key component of delivering viable rural communities. Chapter 4, Core Strategy sets out the overall development strategy for the county including the rural area. The Council will ensure that the provision of one-off houses in rural areas does not undermine the vibrancy and vitality of the town or settlements in rural areas while accommodating the dispersed rural living traditions of the rural areas of County Kilkenny.

##### *Section 7.8.2: Analysis of Rural Housing demand in the County:*

In accordance with National Policy Objective 19, the future focus will continue to be on the facilitation of single houses in the countryside, based on the Core considerations of demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing, whilst having regard to the viability of the smaller towns and rural settlements. It will continue to be necessary to demonstrate a functional Economic and/or Social need to live in the commuter catchment of large towns and cities, including Kilkenny City and Waterford City. Outside these catchment areas, a more flexible approach will be based primarily on siting and design. Therefore, the thrust of the existing rural housing policy, with slight variations, will be retained. The changes reflect appropriate responses to changes in housing demand over the period of the previous plan.

(*N.B.* The proposed development site is located in an 'Area under Urban Influence' as identified in Figure 7.1: 'Rural Housing Strategy' of the Development Plan).

##### *Section 7.8.3: Rural Housing Policies*

##### *Section 7.8.4: Categories of Rural Compliance and Qualifying criteria:*

In line with the NPF, National Policy Objective 19 requires a clear distinction to be made between areas under urban influence and elsewhere in providing for the development of rural housing.

County Kilkenny can be divided into two broad categories as follows:

1. Areas under Urban Influence
2. Other rural areas

#### Qualifying Criteria for Rural Housing:

##### Areas under urban influence

- Areas classified as under Urban Influence are located close to the immediate environs or commuting catchment of cities and towns or to major transport corridors with ready access to urban areas. They are characterised by:
  - High levels of commuting patterns to urban areas
  - Areas with high population growth in the County
  - Ready access to a good road network with ready access to the larger urban areas.

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.

Areas under urban influence display the greatest pressures for development due to the commuter dependence of these areas on urban areas for reasons of employment and other social and economic functions.

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

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

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

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

The Planning Authority shall have regard to the viability of smaller towns and rural settlements in the implementation of the policy.

#### Occupancy Condition

All permission granted for rural housing within the Areas of Urban Influence shall be subject to an occupancy condition restricting the use of the dwelling to the applicant or members of his/her immediate family as a place of permanent residence for a period of seven years from the date of first occupancy.

#### Sterilisation Agreements

In areas where significant levels of rural housing development have taken place on the edges of urban areas within the county and where the Council considers such areas are becoming over developed the council may seek agreement under Section 47 of the Planning Act (sterilisation agreement) if it considers it necessary to regulate development in the area.

Section 7.8.6: *Rural House Design Guidance:*

A Rural Design Guide was produced in 2008 for County Kilkenny. 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'.

*Chapter 9: Heritage, Culture and the Arts:*

*Section 9.2: Natural Heritage and Biodiversity:*

*Section 9.2.12: Landscape*

*Chapter 13: Requirements for Developments:*

*Section 13.22: Rural Housing*

*Section 13.22.2: Wastewater Treatment Systems:*

Kilkenny County Council requires that sites will be assessed in accordance with the EPA Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ) (EPA Code of Practice 2021) or any subsequent revisions or replacement. The person carrying out the assessment must be suitably qualified. Water and wastewater systems for new rural developments shall be located within the subject site.

### **5.3. Natural Heritage Designations**

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- Lower River Suir Special Area of Conservation (Site Code: 002137), approximately 840m east-southeast of the site.
- Lower River Suir (Coolfinn, Portlaw) Proposed Natural Heritage Area (Site Code: 000399), approximately 3.7km west-northwest of the site.



## **5.4. EIA Screening**

- 5.4.1. Having regard to the nature, size and location of the proposed development, which comprises the construction of a single dwelling house served by a wastewater treatment system, the proximity of the site to nearby sensitive receptors, and to the criteria set out in Schedule 7 of the Regulations, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Please refer to the completed Forms 1 and 2 appended to this report.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- A Site Suitability Assessment is on file with Kilkenny County Council by way of 2 No. previous planning applications lodged on site under PA Ref. Nos. 22/426 & 23/60278 – A Site Suitability Assessment for the revised location is available on the Council's portal for both these applications.
- In accordance with the Environmental Protection Agency's '*Code of Practice: Domestic Waste Water Treatment Systems, 2021*', the procedure for all site suitability assessments is to excavate the trial and percolation test holes in an area close to the location of the percolation area deemed representative of the ground conditions. It is not practical or desirable to excavate the entire site as this would result in no undisturbed soil / ground in which to position the percolation area.
- It has been demonstrated that the locations of the percolation area as originally proposed and as revised in response to the request for further information both comply with all of the vertical and horizontal separation distances required by the EPA's Code of Practice. However, notwithstanding this compliance, the Planning Authority has taken the position that the proposed development does not accord with the Code of Practice (without offering any evidence to support such an assertion).

- In response to the request for further information issued by the Planning Authority:
  - Table E2 of the EPA's Code of Practice requires a separation distance of 40m from a downgradient well in instances where the percolation value is >30 (a subsurface percolation value of 38.17min/25mm was recorded on site).
  - Separation distances of 55.02m and 85.21m respectively have been provided from the well on the adjacent site and the proposed well.
  - Note 4 of Table E2 of the EPA's Code of Practice states the following:
 

*'When the minimum subsoil thicknesses are less than those given above, site improvements and systems other than systems as described in Chapters 8 and 9 may be used to reduce the likelihood of contamination':*

    - In the subject case, it is proposed to install a system which provides for the tertiary treatment of effluent (as per Chapter 10 of the Code of Practice) whereby the 'Tricel Novo Waste Water Treatment System' will provide primary and secondary treatment in advance of the effluent being pumped to the Tricel Puraflo Modules which will deliver tertiary treatment of the effluent.
    - Once the tertiary treated effluent enters the soil a fourth (quaternary) level of treatment will occur.
    - The applicant has made provision for the best possible level of treatment as per the Code of Practice in order to minimise any likelihood of contamination.
    - Further mitigation against any contamination is achieved by the fact that the minimum separation distance required by Table E2 of the Code of Practice is exceeded by 138% for the closest well.
- In response to the request for clarification of further information issued by the Planning Authority:
  - The proposed percolation area has been relocated to the front of the site, such that it is downgradient of both existing and proposed wells.

- The percolation area has been upgraded from a 2 No. Puraflo module system to a sand polishing filter, such that there are four levels of treatment provided to the wastewater before it reaches groundwater as follows:
  - Primary and secondary treatment are provided by the 'Tricel Novo' proprietary wastewater treatment system.
  - Tertiary treatment is provided by the sand polishing filter.
  - Quaternary treatment is provided in the soil beneath the gravel distribution layer.
- A vertical separation of 1,000mm has been provided between the invert of the gravel distribution layer and the seasonally high water table which exceeds the 900mm requirement of the Code of Practice.
- A Site Characterisation Test was previously carried out at this location (within 20m of the proposed location of the percolation area) as part of PA Ref. No. 23/60278 (copy enclosed).
- The revised proposals have been examined by Tomas O'Donoghue (Consulting Environmental Engineer) with account taken of his recommendations, although it is proposed to provide a 75m<sup>2</sup> (as opposed to 37.5m<sup>2</sup>) gravel distribution layer as this has been demonstrated to align with the Site Assessment Report submitted as part of PA Ref. No. 2360278.
- A cross-sectional drawing of the proposed percolation area has been enclosed which demonstrates the 1,000mm of vertical separation distance between the invert of the gravel distribution layer and the seasonably high water table.

On the basis of the foregoing, it is submitted that the requirements of the EPA's Code of Practice have been achieved and exceeded (as has been endorsed by the applicant's Consulting Environmental Engineer).

- Kilkenny County Council often seeks adherence to the EPA's Code of Practice, however, in the subject instance, it has chosen to ignore this guidance. Therefore, the Board is requested to apply the Code of Practice to

the proposed development as it is important to ensure that both planning authorities and the general public are held accountable to the same guidance.

In the absence of adherence to a common set of guidelines, there will be no framework that the general public can reasonably apply with the result that confidence in the Code of Practice could be undermined.

## **6.2. Planning Authority Response**

No further comments.

## **6.3. Observations**

None.

## **6.4. Further Responses**

None.

## **7.0 Assessment**

7.1. From my reading of the file, inspection of the site, and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Wastewater treatment and disposal
- Appropriate assessment

These are assessed as follows:

### **7.2. Wastewater Treatment and Disposal:**

7.2.1. The proposed development, as initially submitted to the Planning Authority, includes for the installation of a proprietary ('Tricel Novo') packaged wastewater treatment system and a pumping chamber with treated effluent to be pumped to an upgradient percolation area consisting of 2 No. x Tricel PuraFlo modules set above a gravel distribution layer (minimum area: 37.5m<sup>2</sup>) for tertiary treatment and discharge to ground. In this regard, and for the purposes of clarity, I would refer the Board to Drg. No. 310522b Rev. 03: '*Site layout Plan*' as received by the Planning Authority on 11<sup>th</sup> December, 2023 which shows the treatment system and pumping chamber to the

east of the proposed dwelling house with the percolation area comprising the 'Tricel Puraflo' modules and gravel distribution area located in an upgradient position within the southernmost extent of the site which extends into an adjoining agricultural field set as pasture. Therefore, it is necessary to review the available information in order to ascertain if the subject site is suitable for the disposal of treated effluent to ground as proposed.

- 7.2.2. The submitted Site Characterisation Form states that the appeal site overlies a locally important aquifer with an 'extreme' vulnerability (Groundwater Protection Response R2<sup>1</sup>). The site topography is described as being moderately sloped while the visual assessment of the site records incidences of rock outcropping on site, the presence of a roadside drainage ditch along the northern site boundary, a spring within the adjacent field to the west (the outflow from which discharges to the aforementioned roadside drain), rushes and willow along the bank of a stream on the other side of the public road on lower ground, and an existing dwelling house (served by a private well) to the southeast. The assessment further details that the trial hole encountered a 300mm topsoil layer of SILT / CLAY with frequent gravel and occasional cobbles while the remainder of the excavation comprised a SILT / CLAY subsoil with frequent gravel and occasional cobbles along with boulders up to a depth of 0.7m below ground level at which point bedrock was encountered. Notably, reference is made to the water table having been encountered at 0.9m below ground level with a water ingress depth of 1.5m also recorded despite the depth of the trial hole seemingly ceasing at a depth of 0.7m (this contradicts with the 'evaluation' subsequently provided in Section 3.2 of the report wherein it is stated that no water was present in the trial hole and no evidence of a seasonally high water table recorded).
- 7.2.3. With regard to the percolation characteristics of the underlying soil, a 'T'-value of 38.17min/25mm and a 'P'-value of 24.67min/25mm were recorded, both of which would constitute a pass in accordance with the Environmental Protection Agency's '*Code of Practice: Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )*'. However, it is of note that despite the trial hole encountering bedrock at 700mm below ground level, it appears that the applicant was able to undertake subsurface percolation testing across 3 No. test holes in broadly the same location with the base of each test hole located 900mm from the ground surface.

While it is possible that this may be attributable to localised variations in ground conditions on site, it would be preferable if clarity could be provided on the matter.

- 7.2.4. Potential targets / receptors identified by the assessment are groundwater, surface water and any existing or proposed wells in the locality.
- 7.2.5. The Site Characterisation Form subsequently concludes that the application site is suitable for the installation of the tertiary treatment system and infiltration / treatment area as proposed (noting the presence of rock at 0.7m below ground level) and that all minimum separation distances can be complied with.
- 7.2.6. Having reviewed these details, it would appear that following consultation with the Environment Section of the Local Authority concerns arose as regards as the practicalities of installing the proposed wastewater treatment system on site given the depth to bedrock and the need to identify and protect any private wells proximate to the development. Accordingly, the Planning Authority sought further information in relation to a number of issues, including a method statement for the installation of the wastewater treatment system into bedrock and the protection of the tank's integrity; the identification of all domestic wells within a 250m radius of the development; and the need to arrange for the sampling and analysis of groundwater in the vicinity of the proposed development, with specific reference to the well serving the neighbouring dwelling house to the southeast (Eircode: X91 D8V0).
- 7.2.7. In response to the request for further information, a report compiled by O'Callaghan Moran & Associates on behalf of the applicant identified 1 No. domestic well within a 250m radius of the development site which serves the neighbouring dwelling house to the south / southeast along with a second dwelling c. 183m to the southeast of that property. Water quality sampling at this well was subsequently undertaken with the results of laboratory testing confirming that it adheres to the Interim Guideline Values (IGV) for groundwater published by the Environmental Protection Agency; the Threshold Values (GTV) for groundwater quality introduced by the European Communities Environmental Objectives (Groundwater) Regulations, 2016 (S.I. No. 366 of 2016); and relevant limits from the Drinking Water Regulations, 2023 (S.I. No. 99 of 2023).
- 7.2.8. Following further verbal communications with the Environment Section, clarification of further information was sought as regards the groundwater directional flow on site,

the location of the well serving the neighbouring dwelling house relative to the proposed development (including the percolation area), and the need to demonstrate that the separation distances between the proposed well, and the well serving the dwelling on the adjoining site, from the proposed wastewater treatment system accord with EPA's Code of Practice, 2021, taking account of the relevant groundwater protection response (in reference to the 'extreme' vulnerability of groundwater due to the proximity of rock to the ground surface). The response subsequently received by the Planning Authority on 6<sup>th</sup> May, 2024 includes an updated site layout plan and asserts that all separation distances accord with the requirements of the EPA's Code of Practice. More specifically, it has been stated that the separation distance of 55.02m from the downgradient well located on the adjacent site exceeds the minimum requirement of 40m for lands with a percolation value of >30 (based on the recorded subsurface percolation value of 38.17mins/25mm) as per Table E2 of the Code of Practice (in light of the design of the proposed discharge to ground, the Board may wish to consider applying the lesser 'P'-value of 24.67min/25mm in its determination of the relevant separation from downgradient wells. In this regard, Tables 6.2 & E2 of the Code of Practice would recommend a minimum separation distance of 45m). In addition, it has been submitted that the subject proposal provides for the tertiary treatment of effluent (as per Chapter 10: *'Tertiary Treatment Systems Receiving Secondary Treated Effluent'* of the Code of Practice) with further treatment occurring as the effluent percolates to ground and thus provision has been made for the best possible level of treatment in order to minimise the risk of groundwater contamination.

- 7.2.9. Upon examining the foregoing, the Environment Section of the Local Authority prepared a written report which noted the siting of the wastewater treatment system directly uphill of the neighbouring domestic well, the '*Extreme*' groundwater vulnerability rating (along with a sub-note of '*Rock at or Near Surface or Karst*' on GSI mapping), and the termination of the trial hole at a depth of 700mm (thereby implying an impediment i.e. rock), before concluding that the proposed arrangement would represent a considerable and unacceptable risk to ground and surface waters. It was then recommended that permission be refused on the grounds that it had not been demonstrated that effluent from the proposed development could be treated and discharged on site without risk to public health and the environment.

7.2.10. Although the case planner subsequently recommended a refusal of permission on the grounds suggested by the Environment Section, an addendum was attached to that report which directed that additional clarification of further information be sought to afford the applicant the opportunity to consider an alternative location for the wastewater treatment plant (as then proposed) given its potential to seriously affect a neighbouring well as well as public health and the environment.

7.2.11. In response to this second request for clarification of further information, the applicant submitted amended proposals which relocated the entirety of the wastewater treatment system (including the 'Tricel Novo' packaged treatment plant and pumping chamber) to a position forward (north) of the proposed dwelling house while also substituting the Puraflo modules etc. with an intermittent sand filter / sand polishing filter & gravel distribution layer (please refer to Drg. No. 310522b Rev. 05: '*Site Layout Drawing*' received by the Planning Authority on 25<sup>th</sup> October, 2024) These were accompanied by a copy of the Site Characterisation Form previously submitted as part of PA Ref. No. 2360278, presumably as the results of the trial hole and percolation testing contained therein were thought more likely to be representative of existing ground conditions at the location of the revised wastewater treatment system. In summary, the trial hole in that instance encountered a 300mm layer of topsoil composed of SILT / CLAY with frequent gravel and occasional cobbles while the remainder of the excavation comprised a SILT / CLAY subsoil with frequent gravel and occasional cobbles along with boulders up to the depth of the excavation at 1.7m below ground level when bedrock was encountered. The water table was recorded at 0.9m below ground level while a water ingress depth of 1.5m was also noted. The results of the percolation testing yielded a 'T'-value of 51.39min/25mm and a 'P'-value of 28.31min/25mm.

7.2.12. These revised wastewater treatment arrangements were subsequently assessed by the Environment Section which prepared a further written report (dated 29<sup>th</sup> November, 2024) wherein it was noted that:

- The revised site layout plan shows groundwater directional flow to be very sporadic with the result that difficulties arise in clearly identifying the direction of groundwater flow.



- There have been a large number of planning refusals on site, mostly pertaining to poor ground conditions for percolation. In addition, the excavation of numerous trial holes has led to a lot of ground disturbance on site.
- A site inspection conducted on 28<sup>th</sup> November, 2024 noted:
  - o The presence of significant outcropping / exposed rock at the site surface.
  - o The maximum depth of the exposed trial holes was 1.1m below ground level while water was present up to a level of 750mm within several of the holes. All of the test holes contained large volumes of water.
  - o The presence of a very large “hole” or pond on site to the north with a large volume of water.
- There are serious concerns as regards the proximity of a neighbouring well due to the non-uniform groundwater flow direction coupled with the presence of a large amount of rock.
- A number of the trial holes visible on site terminated at 0.7m deep inferring that an impediment was encountered, most likely rock.

7.2.13. Based on these observations, the Environment Section reiterated that the indications on site were such that an effluent treatment system at this location would pose a considerable and unacceptable risk to ground and surface waters. It was further stated that the applicant had not adequately demonstrated that the site is capable of the safe disposal of treated effluent without risk to public health or the environment and thus it was recommended that permission be refused accordingly.

7.2.14. The foregoing serves to supplement the final report of the case planner wherein further concerns are raised as regards the overall suitability of the proposed development site for the disposal of treated effluent to ground. Particular reference is made to the significant outcropping / exposed rock across the site; the wet conditions observed underfoot; the rush growth to the front of the site close to the percolation area (as amended); the depth to bedrock (as evidenced by the trial hole tests, the limited underfoot response over a significant proportion of the site, and visual

observations of the site profile from neighbouring lands to the southeast); the high water levels observed within the trial and percolation test holes; the presence of a land drain along the roadside site boundary and a stream on the opposite side of that roadway; and the difficulties in ascertaining groundwater directional flow coupled with the large amount of rock present. The assessment proceeds to state that although the amended proposals (as submitted in response to the second request for clarification of further information) would appear to align with the EPA's Code of Practice, the on-site conditions are such as to cast significant doubt on whether effluent can be adequately treated without detriment to ground and surface waters. In this regard, specific reference is made to the significant outcropping of bedrock on site and the resulting potential for the proposed wastewater treatment arrangements to pose a risk of contamination to neighbouring properties and downstream waters. The report thus concludes by recommending a refusal of permission on the basis that the proposed on-site effluent treatment arrangements pose a considerable and unacceptable risk to ground and surface waters along with public health and the environment.

- 7.2.15. Having conducted a site inspection, and following a review of the available information, I am inclined to concur with the assessment by the Planning Authority that serious concerns arise as regards the overall suitability of the application site for the satisfactory treatment and disposal of effluent to ground. At the outset, I would draw the Board's attention to inconsistencies in the Site Characterisation Form submitted with the initial application documentation and the broader veracity of the information contained therein. For example, reference is made to the water table having been encountered at 0.9m below ground level with a water ingress depth of 1.5m also being recorded despite the trial hole having only been excavated to a depth of 0.7m below ground level due to the presence of bedrock. The 'evaluation' of the trial hole test provided in Section 3.2 of the Site Characterisation Form further contradicts these results by stating that no water was present in the trial hole and no evidence of a seasonally high water table recorded. It is also of note that despite the trial hole encountering bedrock at 700mm below ground level, the applicant was apparently able to undertake subsurface percolation testing across 3 No. test holes in broadly the same location with the base of each test hole located 900mm below ground. No explanation has been provided for these discrepancies.

- 7.2.16. With respect to the amended proposals received by the Planning Authority on 25<sup>th</sup> October, 2024 in response to the second request for clarification of further information (which provide for the relocation of the wastewater treatment system to a position forward of the proposed dwelling house while also substituting the original Puraflo modules etc. with an intermittent sand filter / sand polishing filter & gravel distribution layer), these were accompanied by a copy of the Site Characterisation Form previously submitted as part of PA Ref. No. 2360278. In this regard, it is of relevance to note that the Planning Authority's refusal of PA Ref. No. 2360278 was informed in part by a report prepared by the Environment Section of Local Authority which also appeared to raise concerns in relation to the reliability of the results contained in that site suitability assessment e.g. it was observed that the site appeared to have been significantly disturbed in the area of the percolation test holes (thereby compromising the results of the percolation tests).
- 7.2.17. In my opinion, there is clear evidence of poor underlying ground / drainage conditions on site. There are multiple instances of exposed rock / significant rock outcropping throughout the site and it is apparent from a review of the site suitability assessments undertaken in support of both current and previous planning applications that the depth to bedrock varies considerably across the site area. For example, although the Site Characterisation Form originally submitted with the subject application refers to bedrock being encountered at 700mm below ground level (within the southernmost extent of the site), the latter report received on 25<sup>th</sup> October, 2024 in support of the relocated wastewater treatment arrangements records bedrock at 1.7m below ground level. Further variations in the depth to rock can be ascertained from an examination of the site suitability assessments previously undertaken for earlier development proposals on site such as PA Ref. Nos. 06757 & 09171 which encountered rock at depths of 600mm and 1,500mm below ground respectively. In addition, I am cognisant of the limited underfoot response experienced by the Planning Authority over a significant proportion of the site and its observations of the site profile from neighbouring lands to the southeast which lend further support to the variability of ground conditions and the shallow depth to bedrock. When coupled with the 'Extreme' groundwater vulnerability rating applicable to the site location (along with a sub-note of 'Rock at or Near Surface or Karst' on GSI mapping), the foregoing raises concerns as regards the potential for

preferential flow paths to occur over the bedrock or through any fractured rock with the result that any effluent discharged on site could pose a contamination risk to ground and surface waters locally.

7.2.18. The results of the trial hole excavations for both the Site Characterisation Forms submitted in support of the application also indicate that the water table was encountered at 0.9m below ground level while the depth of water ingress was 1.5m (although I would reiterate that the 'evaluation' of the trial hole test provided in the Site Characterisation Form originally submitted contradicts the results recorded). For comparison purposes, no water table or water ingress was recorded in either of the trial hole tests conducted for PA Ref. Nos. 06757 & 09171. While I would accept that there is likely to be some fluctuation in the water table and any water ingress across the site as a result of seasonal variations and weather conditions, during the course of my site inspection a considerable depth of water was observed within the various open excavations on site. These observations would tally with those of the Planning Authority in its assessment of the amended proposals received on 25<sup>th</sup> October, 2024 when high water levels were observed within the trial and percolation test holes on site. Credence is also lent to a comparatively shallow water table in the area by the presence of the roadside drain bounding the site and the stream on the opposite side of the roadway (while also noting the applicant's reference to a spring in the adjoining field to the west which flows to the roadside drainage ditch). The extensive rush growth within the lower-lying parts of the site (where it is proposed to locate the amended wastewater treatment arrangement as per Drg. No. 310522b Rev. 05: '*Site Layout Drawing*' received by the Planning Authority on 25<sup>th</sup> October, 2024) and the generally wetter conditions in this area are further visual indicators of a potentially shallow water table and that the underlying ground conditions have poor percolation characteristics. Concerns thus arise as regards the ability of the site to provide for the satisfactory treatment of effluent upon discharge to ground.

7.2.19. Furthermore, notwithstanding my concerns as regards the veracity of the percolation tests set out in the Site Characterisation Form initially submitted with the application, there would appear to be some disparity in the results provided and those previously recorded on site in support of earlier development proposals. Although the subject application states that the percolation tests conducted in different areas of the site yielded comparatively similar 'P'-values of 24.67min/25mm and 28.31min/25mm, the

testing carried out in respect of PA Ref. Nos. 06757 & 09171 recorded 'P'-values of 4min/25mm and 8min/25mm respectively (while also describing the topsoil layer as comprising sand / loamy sand unlike the silt / clay composition recorded in the subject application). Notably, the percolation testing for PA Ref. No. 09171 was carried out in a broadly similar location to that for PA Ref. No. 2360278 (as submitted in support of the revised wastewater treatment proposals) yet noticeably different 'P'-values were recorded. While I would accept that there will be some variation in percolation rates across the site area, given the limited size of the site and its defining characteristics, I would have some reservations in this regard.

7.2.20. On balance, I would concur with the decision of the Planning Authority to refuse permission on the grounds that it has not been demonstrated that effluent from the proposed development can be treated and discharged on site without risk to both public health and the receiving environment. In this regard, I am in broad agreement with the final report of the case planner (which has incorporated the assessment contained in the supporting reports of the Environment Section of the Local Authority) which provides a comprehensive analysis of the constraining factors pertinent to the treatment and disposal of wastewater on site and the associated risk posed to nearby receptors, with particular reference to the domestic well serving the neighbouring dwelling house to the southeast (along with another property beyond same) and local surface waters (i.e. the roadside drain and a proximate watercourse / stream). Given the sloping nature of the site and the wider topography, it would be reasonable to anticipate groundwater to flow in a south-eastwards direction and thus legitimate concerns arise as regards the need to protect water quality within the adjacent well (noting that the precise location, depth and drawdown of that well have not been identified) and surface waters.

7.2.21. Although the case has been put forward that the proposed wastewater treatment arrangements (including the amended proposals) adhere to the various design requirements and minimum separation distances specified in the EPA's Code of Practice, there are a number of instances where the recommended standards are not achieved e.g. a failure to provide for a separation distance of at least 10m between the polishing filter and the open roadside drain (the proposed planting of Tree No. 4 relative to the polishing filter is also unacceptable given the potential creation of preferential flow paths). With regard to the vertical separation and

minimum depth of unsaturated soil / subsoil in combination with the proposed polishing filter, I would also have concerns given the evidence of poor underlying ground / drainage conditions on site as evinced by the exposed rock / significant rock outcropping throughout the site (which may also impact on the physical construction of the treatment system), likely variations in the depth to bedrock, and other indicators such as rush growth and the considerable depth of water observed in open excavations.

7.2.22. Therefore, in view of the foregoing, it is my opinion that it has not been established that foul effluent can be safely treated and disposed of within the site without risk to ground and surface waters in the locality.

### **7.3. Appropriate Assessment:**

7.3.1. In accordance Section 177U of the Planning and Development Act, 2000, as amended, and on the basis of the information considered in this AA screening (please refer to the attached appendix), I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Lower River Suir Special Area of Conservation (Site Code: 002137), or any other European site, in view of the sites conservation objectives and, therefore Appropriate Assessment (and the submission of a NIS) is not required.

7.3.2. This determination is based on the following:

- The information on file, which is considered adequate to undertake a screening determination;
- The nature, scale and design of the proposed development;
- The nature of the receiving environment; and
- The weak indirect connections and physical and hydrological separation distance between the proposed development and European Sites.

## 8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

## 9.0 Reasons and Considerations

1. Having regard to the poor drainage indicators on site and the underlying ground conditions, including the depth to bedrock, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of on site without detriment to ground and surface waters in the area, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

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.

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Robert Speer  
Senior Planning Inspector

11<sup>th</sup> April, 2025

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-321509-24		
<b>Proposed Development Summary</b>	To construct a single storey dwelling with on-site sewerage treatment, detached domestic garage, new entrance onto the public road and all associated works.		
<b>Development Address</b>	Licketstown, Mooncoin, Co. Kilkenny.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	No further action required
<b>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?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	✓	Class/Threshold.....	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**



No	✓	Preliminary Examination required
Yes		Screening Determination required

check

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-321509-24
<b>Proposed Development Summary</b>	To construct a single storey dwelling with on-site sewerage treatment, detached domestic garage, new entrance onto the public road and all associated works.
<b>Development Address</b>	Licketstown, Mooncoin, Co. Kilkenny.
<p><b>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.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(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>The proposed development comprises the construction of a single dwelling house served by an on-site wastewater treatment system with a detached domestic garage, a new site entrance, and all associated works.</p> <p>Given the surrounding pattern of development in this rural area, the proposal is not considered exceptional in the context of the receiving environment.</p> <p>The development is comparatively modest and does</p>

	<p>not require the use of substantial natural resources or give rise to any significant waste, emissions or pollutants.</p> <p>By virtue of the design, nature and scale of the development proposed, it does not pose a risk of major accident and/or disaster nor is it vulnerable to climate change.</p> <p>Wastewater treatment will be required to adhere to the Environmental Protection Agency's 'Code of Practice: Domestic Waste Water Treatment Systems (Population Equivalent <math>\leq 10</math>)'.</p>
<p><b>Location of development</b></p> <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>The proposed development site is located in a rural area and comprises an undeveloped plot of scrubland bounded by agricultural land and forestry (with a dwelling house located on the neighbouring lands to the southeast).</p> <p>A drainage ditch along the front roadside boundary of the site (and a stream on the opposite side of the roadway) flows south / south-eastwards with field drains and downstream watercourses ultimately draining</p>

		<p>to the River Suir and the Lower River Suir Special Area of Conservation c. 840m east-southeast of the site.</p> <p>Screening for the purposes of appropriate assessment has concluded that the proposed development would not be likely to have a significant effect on any European site.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(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>Having regard to the scale of the proposed development (i.e. a single dwelling house served by an on-site wastewater treatment system) and the limited nature of construction works associated with the development, its location removed from any sensitive habitats / features, the likely limited magnitude and spatial extent of effects, and the absence of in combination effects, there is no potential for significant effects on the environment factors listed in Section 171A of the Act.</p>
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	
There is no real likelihood of significant effects on the environment.	EIA is not required.	

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
(only where Schedule 7A information or EIAR required)

<b>Screening for Appropriate Assessment</b> <b>Test for likely significant effects</b>	
<b>Step 1: Description of the project and local site characteristics</b>  <b>Case File: ABP-321509-24</b>	
<b>Brief description of project</b>	<p>Normal Planning Appeal (First Party v. Decision)</p> <p>Construction of a single-storey dwelling house (floor area: 217.45m<sup>2</sup>), detached domestic garage (floor area: 55m<sup>2</sup>), new entrance, wastewater treatment system, private well, and all associated works, at Licketstown, Mooncoin, Co. Kilkenny.</p> <p>Please refer to Section 2.0 of the Inspector's Report.</p>
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The proposed development site is located in a rural area and comprises an undeveloped plot of scrubland along with part of an adjacent agricultural field set as pasture. It has a stated site area of 0.445 hectares and is characterised by a sloping topography, extensive gorse growth, and multiple instances of exposed rock / outcropping.</p> <p>The development includes for the installation of an on-site wastewater treatment system with the amended proposals received by the Planning Authority on 25<sup>th</sup> October, 2024 comprising a packaged treatment plant draining to a pumped sand polishing filter &amp; gravel distribution layer / intermittent sand filter with discharge to ground.</p> <p>A drainage ditch along the roadside boundary (and a stream on the opposite side of the roadway) flows south / south-eastwards with field drains and downstream watercourses ultimately draining to the River Suir and the Lower River Suir Special Area of Conservation c. 840m east-southeast of the site.</p>
<b>Screening report</b>	<p>No.</p>

	Kilkenny County Council screened out the need for AA.			
Natura Impact Statement	No.			
Relevant submissions	None.			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests <sup>1</sup>  Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup>  Y/N
Lower River Suir Special Area of Conservation (Site Code: 002137).	[1330] Atlantic Salt Meadows  [3260] Floating River Vegetation  [6430] Hydrophilous Tall Herb Communities  [91A0] Old Oak Woodlands  [91E0] Alluvial Forests*  [91J0] Yew Woodlands*  [1029] Freshwater Pearl Mussel (Margaritifera margaritifera)  [1092] White-clawed Crayfish (Austropotamobius pallipes)  [1095] Sea Lamprey (Petromyzon marinus)	840m east- southeast	No direct connection.  Weak indirect ground & surface water connectivity.	Y

	[1096] Brook Lamprey (Lampetra planeri)  [1099] River Lamprey (Lampetra fluviatilis)  [1103] Twaite Shad (Alosa fallax)  [1106] Atlantic Salmon (Salmo salar)  [1355] Otter (Lutra lutra)  <a href="#">ConservationObjectives.rdl</a>  NPWS, 2017			
<p><sup>1</sup> Summary description / <b>cross reference to NPWS website</b> is acceptable at this stage in the report</p> <p><sup>2</sup> Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species</p> <p><sup>3</sup>if no connections: N</p> <p><b>Further Commentary / Discussion:</b></p> <p>Having regard to the nature and scale of the development under consideration, the site location and the nature of the receiving environment, the limited ecological value of the lands in question, the physical separation from and absence of likely connectivity pathways to any further European Sites, it is considered that the proposed development would have a limited potential zone of influence on any ecological receptors.</p>				
<p><b>Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites</b></p> <p><b>AA Screening matrix</b></p>				
Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site*			
Qualifying interests				
	Impacts	Effects		



<p><b>Lower River Suir Special Area of Conservation [002137]</b></p> <p>[1330] Atlantic Salt Meadows</p> <p>[3260] Floating River Vegetation</p> <p>[6430] Hydrophilous Tall Herb Communities</p> <p>[91A0] Old Oak Woodlands</p> <p>[91E0] Alluvial Forests*</p> <p>[91J0] Yew Woodlands*</p> <p>[1029] Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>)</p> <p>[1092] White-clawed Crayfish (<i>Austropotamobius pallipes</i>)</p> <p>[1095] Sea Lamprey (<i>Petromyzon marinus</i>)</p> <p>[1096] Brook Lamprey (<i>Lampetra planeri</i>)</p>	<p>Direct: None.</p> <p>Indirect: Potential hydrological connection via ground &amp; surface waters.</p> <p>There is an open drain along the roadside site boundary and a stream located on the opposite side of the roadway. These flow south / south-eastwards with field drains and downstream watercourses ultimately draining to the River Suir and the Lower River Suir Special Area of Conservation c. 840m east-southeast of the site.</p> <p>Potential impact mechanisms include those from surface water discharges during construction works and at operational stage with surface water drainage and wastewater disposal to ground resulting in a deterioration in the quality of ground and / or surface waters.</p>	<p>In light of the physical separation distance between the proposed development and the SAC, the likely dilution and dispersion attributable to the hydrological separation distance between the proposed development and the SAC, the limited nature and duration of the construction works, and the application of normal good construction / building practice, it is considered that the weakness of the hydrological pathway is such that significant downstream impacts which could affect habitats or water quality within the SAC for the QIs listed are unlikely.</p> <p>Conservation objectives would not be undermined.</p>
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[1099] River Lamprey (Lampetra fluviatilis [1103] Twaite Shad (Alosa fallax) [1106] Atlantic Salmon (Salmo salar) [1355] Otter (Lutra lutra)		
	Likelihood of significant effects from proposed development (alone): No.	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No.	
	Possibility of significant effects (alone) in view of the conservation objectives of the site* No.	
* Where a restore objective applies it is necessary to consider whether the project might compromise the objective of restoration or make restoration more difficult.		
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
I conclude that the proposed development (alone) would not result in likely significant effects on the Lower River Suir Special Area of Conservation (Site Code: 002137). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.		