



An
Coimisiún
Pleanála

Inspector's Report ABP-322193-25

Development

Retention of ha-ha type wall, changes in ground levels to the front of Straffan Lodge; changes to the alignment of the main access road and forecourt; new internal service road; tree house structure as well as retention of removal of unauthorised folly; retention of earth berm and landscape works and all associated ancillary site development works.

Location

Straffan Lodge, Glebe, Straffan, Co. Kildare, W23 XT92

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

2460892

Applicant(s)

Heytesbury Investment ULC.

Type of Application

Retention.

Planning Authority Decision

Refuse.

Type of Appeal

First and Third Party

Appellant(s)	First Party – Heytesbury Investments ULC. Third Party – John Curley
Observer(s)	John Curley.
Date of Site Inspection	1 st July 2025.
Inspector	Terence McLellan

1.0 Site Location and Description

- 1.1. The subject site refers to the dwelling and grounds known as Straffan Lodge which is located on the western edge of Straffan village and accessed from The Glebe. Straffan Lodge is a Protected Structure (Ref B14-74) set within extensive and mature/well planted grounds. The lodge itself is a two storey, five bay late Georgian country house with various outbuildings. The main gated access from The Glebe follows a circuitous route around the front of the house, taking in the extensive front grounds and the tree lined driveway.

2.0 Proposed Development

- 2.1. Permission is sought to retain the following works:
- Ha-ha type wall and associated ground works, as well as all other local changes in ground levels to the front of Straffan Lodge.
 - Changes to the alignment of the main access road and forecourt to the front of Straffan Lodge.
 - New internal service road that extends to the east of the property.
 - Tree house structure and balcony within tree to the north-west of Straffan Lodge.
 - Retention of removal of unauthorised folly to the south-west of Straffan Lodge.
 - Earthwork berm and landscape works close to north-eastern boundary to the east of Straffan Lodge.
 - Retention of all associated hard and soft landscaping as well as all associated ancillary site development works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Retention Permission was issued by Kildare County Council on the 13th March 2025 for the following reason:

Objective AH O21 of the Kildare County Development Plan 2023-2029 seeks to protect the curtilage of Protected Structures. Having regard to the documentation submitted as part to this planning application, including the revised Architectural Heritage Impact Assessment (AHIA) submitted in response to the further information request, it is considered that the Applicant has not adequately demonstrated to the satisfaction of the Planning Authority that the Ha-ha feature aligns with Objective AH O21. Furthermore, it is considered that the AHIA does not adequately assess the cumulative impacts of the development on the structure and attendant grounds, and that the other elements of the development proposed to be retained have negatively impacted the protected structure of Straffan Lodge and its attendant grounds. The cumulative impact of the changes to the structure and grounds have therefore irrevocably altered the character of the house and the historic setting of same. The development proposed to be retained would therefore be contrary to Objective AH O21 of the Kildare County Development Plan 2023-2029, and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The first Planner's Report contains the following points of note:

- The visual impact of the ha-ha wall on the approach to Straffan Lodge has not been adequately addressed.
- Considering the planning history of the site it does not appear that the folly is unauthorised, nor is there any record of enforcement action. It was removed c. 2018/2019, prior to applications to extend and renovate the house.
- It is unclear exactly as to the extent of the hard and soft landscaping proposed to be retained.

3.2.2. Three points of Further Information were requested by the Planning Authority as follows:

1. A revised AHIA considering the visual impact of the ha-ha on the approach to the Protected Structure, a cross section of the ha-ha, and the rationale for the materials.
2. A revised landscape plan and cross sections indicating the hard and soft landscaping and a detailed schedule of landscaping/tree species to be retained.
3. A response to third party submission.

3.2.3. Further Information was provided on 14th February 2025 and was advertised on the basis that it was Significant Further Information. The Further Information was considered in the second Planner's Report which can be summarised as follows:

- The report notes the clarity provided with regards to points 2 and 3 of the FI request.
- The application was referred to the Heritage Officer who considers that the presence of the ha-ha alters the character of the parkland setting of the Protected Structure.
- The cumulative impact of the changes to the Protected Structure have irrevocably altered the character of the house and its historic setting.
- It has not been demonstrated that the ha-ha aligns with objective AHO21 and the AHIA does not adequately assess the cumulative impact of the works.

3.3. Other Technical Reports

3.3.1. **Clane/Maynooth MD (11.09.2024):** No objections.

3.3.2. **Environment Section (04.10.2024):** No objection, previous conditions should apply.

3.3.3. **Heritage, Biodiversity, and Conservation Unit (10.03.2025):** Recommend refusal on the basis that the presence of a large structure in front of the house considerably alters the character of the parkland setting of the Protected Structure, it has not been demonstrated that the proposal achieves the objective of AHO1, and the AHIA does not adequately assess the impact of the development on the protected structure.

3.3.4. **Transportation, Mobility, and Open Spaces (30.10.2024):** No objections.

3.3.5. **Water Services (02.10.2024 and 15.10.2024):** No objection, subject to compliance with previous conditions.

3.4. Prescribed Bodies

3.4.1. None.

3.5. Third Party Observations

3.5.1. One submission was received from John Curley, the Appellant. This submission is on file for the Commission's information. In my opinion, the salient points raised are covered in the observations made on the First Party appeal as set out in Section 6.4 of this report.

4.0 Planning History

Subject Site

4.1.1. **Planning Authority Reference - 23/99:** The Planning Authority granted permission in May 2023 for the following works:

1. New outdoor pool to west side of existing coach house ruin.
2. Restoration and extension of existing coach house.
3. Provision of two single storey buildings to the south and north of the pool and to the west of the restored coach house providing a plant room and games room (southern building), and a gym, pool changing room and sauna (northern building) - including all associated landscaping, drainage works and foul connection to the existing sewage treatment plant.

4.1.2. **Planning Authority Reference - 23/17:** The Planning Authority granted permission in April 2023 for alterations and revisions to permission 22/738 to include the following:

1. Omission of proposed basement level to the approved kitchen/dining extension to west side of the house and elevational amendments.
2. Single storey extension to the east gable of the existing house replacing the previously permitted single storey guest cottage. Finishes will match those of the extension proposed on the west side.
3. All landscaping in the vicinity of the proposed works including alterations, diversion and connections to all existing services and site development works.

- 4.1.3. **Planning Authority Reference - 23/100:** The Planning Authority refused permission in March 2023 for the relocation and rebuilding of the main vehicular entrance to Straffan Lodge including removal of the existing gate/piers/flanking walls/railings and replacement with a new vehicular connecting to the existing avenue to main house.
- 4.1.4. **Planning Authority Reference - 22/738:** The Planning Authority granted permission in November 2022 for the following:
1. Demolition of existing non original single storey kitchen extension to the west and replacement with a single storey extension over basement.
 2. Demolition of existing non original two storey cottage located to the east side of the existing house and replacement with a new single storey cottage.
 3. Demolition of existing non original storage building to the west end of the original single storey stables and its replacement with a purpose-built green house.
 4. Retention of replacement on site wastewater treatment system and polishing filter serving existing house and proposed replacement cottage.
 5. Retention of existing timber clad plant room and service yard to east side of plant room and proposed store extension to south gable of plant room serving existing lodge. Works will include all landscaping in the vicinity.

5.0 Policy Context

5.1. Kildare County Development Plan 2023-2029

- 5.1.1. The subject site is listed on the Register of Protected Structures (Reference B14-74).
- 5.1.2. Chapter 11 of the CDP, Built and Cultural Heritage, seeks to protect, conserve and sensitively manage the built and cultural heritage of County Kildare and to encourage sensitive sustainable development so as to ensure its survival and maintenance for future generations. Policies and objectives of specific relevance include:
- Policy AH P6: Protect, conserve and manage the archaeological and architectural heritage of the county and to encourage sensitive sustainable development in order to ensure its survival, protection and maintenance for future generations.

- Objective AH O20: Conserve and protect buildings, structures and sites contained on the Record of Protected Structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.
- Objective AH O21: Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.
- AH O23: Require an Architectural Heritage Assessment Report, as described in Appendix B of the Architectural Heritage Protection, Guidelines for Planning Authorities (2011), to accompany all applications with potential for visual or physical impacts on a Protected Structure, its curtilage, demesne and setting. This report should be prepared by a person with conservation expertise that is appropriate to the significance of the historic building or site and the complexity of the proposed works.

5.1.3. Chapter 12: Biodiversity and green Infrastructure, aims to protect, manage and enhance the County's biodiversity for future generations, including sites designated at national and EU level, protected species and habitats outside of designated sites and to promote the development of an integrated Green Infrastructure network in order to improve our resilience to climate change and to enable the role of Green Infrastructure in delivering sustainable communities.

5.1.4. Chapter 15, Development Management Standards, sets out the development management policies of the Planning Authority.

5.1.5. Section 15.17.1.1 relates to works to a Protected Structure. Under this section an Architectural Heritage Impact Assessment (AHIA) is required, relevant inclusions are set out and it is stated that the AHIA should be prepared by an accredited conservation architect or equivalent.

5.1.6. Section 15.17.2 relates to development within the curtilage, attendant grounds, and setting of Protected Structures. This section states that in considering applications for development within the curtilage and/or attendant grounds of a Protected Structure, regard will be had to:

- The various elements of the structure which give the Protected Structure its special character and how these would be impacted on by the proposed development.
- The proximity of any new development to the main Protected Structure and any other buildings of heritage value.
- The design of the new development that should relate to and complement the special character of the Protected Structure.

5.2. Section 28 Ministerial Guidelines

Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

5.2.1. Guidance is provided in terms of the criteria and other considerations to be taken into account in the assessment of proposals affecting Protected Structures. The guidelines seek to encourage the sympathetic maintenance, adaptation, and re-use of buildings of architectural heritage. Chapter 13 deals with curtilage and attendant grounds whilst Section 13.8 of the guidelines relates to development affecting the setting of a Protected Structure or an architectural conservation area.

5.3. Natural Heritage Designations

5.3.1. The nearest European site is the Ballynafagh Bog SAC which is more than 10km away to the west/south-west.

5.4. EIA Screening

5.4.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. First Party Grounds of Appeal

6.1.1. A First Party appeal has been submitted by Marston Planning Consultants, for and on behalf of the Applicant, Heytesbury Investments ULC, against the decision of Kildare County Council to refuse retention permission. The appeal is accompanied by an updated Architectural Heritage Impact Assessment by Sheehan and Barry Architects, in addition to plans and visuals showing scheme amendments proposed as part of the appeal. The grounds of appeal can be summarised as follows:

- The property and grounds were in disrepair and poorly managed at the time of purchase, including various unauthorised or inappropriate additions and a poorly maintained ditch where the ha-ha type wall is located.
- The Applicant is committed to the renewal and refurbishment of the Protected Structure and attendant grounds and ensuring the built heritage setting is maintained.
- Mitigation measures are proposed for the north-eastern berm, the eastern service access road, and the ha-ha type wall.

6.1.2. Retention of ha-ha type wall and groundworks to the front of Straffan Lodge

- Ha-ha type walls are longstanding features of the landscape and grounds of country houses. Part of their function was drainage and earth banking.
- The ha-ha was introduced to improve drainage, rather than as a landscape feature, including a series of French drains at four metre intervals that has successfully treated waterlogging and aids overall conservation.
- The AHIA recognises that the ha-ha as built provides a linear insertion into the setting of the Protected Structure when viewed from the entrance driveway. This is reinforced by the end piers and granite capping.
- As the wall is built, the following amendments are proposed (to be secured by condition) to address the key visual concerns:
 - Remove granite capping from wall and piers and reduce the height of the entire structure to 1.6m.

- Provision of a soft edge to the top of the wall through grass turfing, removing the horizontal line generated by the current granite capping.
- Remodel ground to the south of the ha-ha wall to alter levels and provide for minimal height difference between this land and the top of the wall.
- It is submitted that these amendments would significantly diminish the visual impact and prominence of the ha-ha wall when viewed from the driveway.

6.1.3. Retention of changes to main access road alignment and forecourt

- The changes to the alignment of the access road and parking area are clear and obvious, do not detract from the character and setting of the Protected Structure, and are in accordance with the relevant policies of the CDP.
- The changes are minimal, are not visible from the driveway and have an insignificant impact on the setting.
- The parking area has been reduced in width and creates an improved symmetry to that in place prior to purchase.

6.1.4. Retention of new internal service road

- The service road does not form piecemeal development, it is useful as a secondary access for services in a similar manner to the original function of the western driveway.
- A condition could be imposed that the first 10 metres of the road could be finished in grasscrete to ensure the legibility of the main access road and to enhance the setting of the Protected Structure.

6.1.5. Retention of berm and landscape works to north-east boundary

- It is submitted that this issue was dealt with at FI stage. Revised boundary planting with native species was proposed that would enhance this corridor, resulting in ecological planning gain and enhancements in terms of biodiversity and visually.
- New groundworks along this corridor would implement management measures to avoid disturbance of the ditch to the east.
- The berm acts to contain the landscape along this side of the driveway.
- The overall works would enhance the wider setting through new native planting that will integrate with the landscape setting.

6.1.6. Retention of removal of unauthorised folly

- It is understood that the folly was constructed in the 1970's without permission. It was removed by the Applicants c.2018 after purchase.
- The folly did not enhance or form any historical part of the setting of the Protected Structure, it detracted from the character and setting and cannot be considered to be of historical significance.

6.1.7. Retention of tree house

- The tree house is 55m to the north of the house, separated from it by stables and the glass house, constructed from felled trees or fallen timber, and functions as a garden room.
- It is located to the rear of the house and is not visible from the front field which is the established primary setting for the house. The tree house is located on land that was never a part of a consciously designed pastoral landscape for the house, instead being a service area or field without any particular functional attachment to the house.
- This field was never intended to contribute to the setting of the house and there are no particular impacts on the Protected Structure.

6.1.8. Cumulative Impact

- There is no basis to claim that the cumulative impact of the changes has irrevocably altered the character of the house and its historic setting.
- The AHIA states that the tree house and folly have no clear or discernible impact on the character or setting of the Protected Structure and the sand arena is outside any reasonable and objective assessment of attendant grounds.
- The only elements under assessment that have potential impacts are those to the front of the house. Historic maps show that this is the area where a design intention was clear.
- The AHIA assesses the elements to the front of the house. In terms of the ha-ha, mitigation has been put forward that can be conditioned and does not amount to a materially different scheme. 3D visualisations demonstrate that it would be a reasonable and effective strategy to address the concerns of the Planning Authority.

- The secondary service road has a marginal local visual impact that is minor in nature and can be easily mitigated by greening to create a visual separation between the service road and the main access road.
- New planting on the berm is even more marginal in terms of its impact and replacement with native species would eradicate this impact and have a positive but minor effect on the setting of the Protected Structure.
- Subject to the implementation of the mitigation put forward, cumulative impacts would be satisfactorily managed and eliminated.

6.1.9. The appeal is accompanied by an updated Architectural Heritage Impact Assessment report prepared by Sheehan Barry Architects. The main substantive points of the AHIA have been incorporated into the Applicant's grounds of appeal.

6.2. Third Party Grounds of Appeal

6.2.1. A Third Party appeal has been lodged by David Mulcahy Planning Consultants Ltd, for and on behalf of the Appellant, John Curley, in support of the decision of Kildare County Council to refuse retention permission for the proposed development. The grounds of appeal can be summarised as follows:

- The decision to refuse planning permission is welcomed but the reasons for refusal do not go far enough and should have been refused for more than one reason. It is requested that the Board address the following:
 - Clarity in terms of works to be retained, particularly hard and soft landscaping and ancillary site development works.
 - Absence of critical assessments addressing flooding, archaeology, ecology and hydrology.
 - The presence of other unauthorised works on the landholding.
 - The lack of a masterplan for plan led development of the protected Structure as required by Policy AH021.
 - The impact of the mound works on the habitat to the east of the site (the drain).
- There are a vast number of changes to the house (colour of window frames, facia, door, drain pipes, balustrade etc.) that are very different to the approved scheme. Works to be retained under the current application would only exacerbate and intensify unauthorised works.

- Based on historical maps, there is a linear feature to the front of Straffan Lodge that does not align with the ditch that was removed to facilitate the ha-ha feature. That ditch was a later construction (1996-2001) and as such does not form a historical feature on which to base the ha-ha.

6.3. Applicant Response

6.3.1. A First Party Response to the Third Party appeal has been submitted by Marston Planning Consultancy for and on behalf of the Applicant. The response can be summarised as follows:

- The Third Party appeal is accompanied by the original submission on the planning application and the submission made at FI stage. These documents contain a range of claims and counter claims that have been considered and assessed by the Planning Authority.
- The First Party appeal has already comprehensively addressed the majority of unsubstantiated claims made by the Third Party Appellant.
- An updated AHIA was provided as part of the appeal. This concluded that mitigation proposed for the ha-ha (set out at Section 6.1.2 above), which could be conditioned, would ensure that both individually and collectively with other elements, the ha-ha would not adversely impact the setting, curtilage or attendant grounds of the Protected Structure. This is demonstrated by the photorealistic images submitted with the appeal.
- With mitigation in place the visual impact and prominence of the ha-ha would be significantly diminished when viewed from the driveway.

6.3.2. Clarity in terms of works to be retained

- The Appellant does not provide any further clarity in relation to this point. There are six key elements to the proposal as set out in the planning notices. Other works are ancillary, and this is also detailed on the notice, as standard.

6.3.3. Absence of critical assessments

- There is no basis for the need for additional assessments as referred to by the Appellant. This was also the informed decision of the Planning Authority who did not request any such documents.

6.3.4. Other unauthorised works

- The Appellant does not provide clarity/evidence on this matter. If there is a future determination that other works to the house require permission, then these will clearly be set out in an application.

6.3.5. Lack of a masterplan

- With the exception of the ha-ha, the nature of the works is minor and a masterplan is not required. All elements are set at improving the setting of the Protected Structure. The ha-ha and French drains have improved drainage and eradicated waterlogging.
- Objective is to ensure the built heritage setting of the Protected Structure is maintained. Proposed mitigation would deliver this.
- Additionally, more than 500 trees have been planted throughout the site since 2020, planted along original hedgerow and tree lines to renew the setting from a landscape perspective.

6.3.6. Impact of mound works on habitat to the east

- No works to the drainage ditch have been undertaken and it remains open with no culverting or realignment. The bund to the north east has had no impact on a running watercourse.
- There is no basis for a riparian set back, which does not apply to landscape works. The proposed planting would enhance this corridor.
- All new ground works would implement management measures to avoid disturbance of the drainage ditch.

6.3.7. Location of ha-ha

- Previous location of the ditch and realignment were undertaken well before the Applicant's purchase of the property. The need for the ha-ha was not just to replace the ditch in front of the house but to improve drainage.
- Ha-ha walls are a long established landscape tradition and legitimate land management tool.
- Mitigation has been proposed (and previously addressed) in order to deal with the visual interruption.

6.4. Planning Authority Response

- 6.4.1. The Planning Authority confirms its decision and directs the Commission to the Planner's Report, internal reports, and reports of prescribed bodies.

6.5. Observations

- 6.5.1. A Third Party observation on the First Party appeal has been received from David Mulcahy Planning Consultants Ltd, for and on behalf of John Curley, who is also the Third Party Appellant. The observation is accompanied by an Arborist Statement from J.M. McConville and Associates and a written response from Edmund Fitzgerald Selby, Conservation Architect. The main points of the observation are summarised as follows:

- The proposal represents a significant intensification of unauthorised development. There are 49 elements that are unauthorised, the Board cannot grant permission for another five elements (the proposal), all of which are inappropriate in their own right.
- The Board have previously refused permission for developments that relate to intensification of unauthorised development, and it is a legitimate reason for refusal (ABP-305394-19 and ABP-317894-23).
- The works are not minor, it is not a 'tidy-up' application, and the works do not relate to previous permissions. The works are large in scale, size and impact.
- The works are not amendments or modifications; they are standalone works and were all unacceptable to the Planning Authority.
- The location of the ha-ha is not the historic location of the ditch and is not justified.
- The Applicant claims the horse training area is exempt but has not provided a declaration from Kildare County Council. The Board cannot consider it to be exempt for the context of the appeal.
- The fence and footbridge were demolished to facilitate the ha-ha, their demolition has not been sought for retention.
- Tree preservation symbols are indicative, the objective applies to the entire boundary, not just one part. Works undertaken to the berm undermine this objective and the health of the trees.

- Contrary to the Applicant's view, the previous refusal regarding works to the entrance gate and pillars is relevant. The grounds, as well as the house, are important.
- The Applicant chose to undertake works without permission rather than avail of the Section 5 or Section 57 process, the commitment to renewal and refurbishment is therefore questioned.
- Planting of new trees cannot compensate for the loss of old trees. Large scale felling in attendant grounds of a Protected Structure can interfere with character and require permission. The felling of so many trees on the site contravenes objective AH 049.
- The metal railings shown on the Applicant's photomontages do not have permission.
- It is stated the ha-ha is for drainage. This is not referenced in the application and no supporting drainage information is included. In the absence of such information the Board cannot grant permission.
- Changes to the alignment of the access road include changes in edging and material. It is not clear if this is included in the retention application. Insufficient information is provided on the realignment, materials, conservation impact etc.
- Reconfiguration of the forecourt has been a major intervention, the reduction in size is substantial and it impacts on the character of Straffan Lodge.
- There is no justification for the east service access road. Proposals to finish it in grasscrete would introduce a new material in a prominent location that would be incongruous and not in keeping with the established character.
- The earthwork mound/berm has been raised above the original mound substantially and endangers the health of trees. No details of management measures are provided with the appeal, and no ecological assessment has been submitted.
- No set-back/riparian buffer has been provided from the ditch that runs along the eastern boundary to protect ecological habitats. Ecological Assessments for the neighbouring Glebe House indicated otter activity. The works materially contravene Policy BIP7 and objective BI037.
- A Conservation Architect was not engaged in the demolition of the folly. There is no proof that it didn't have permission.

- The tree house is large in scale and massing, its wooden materials are different to any other structure in the grounds of the house, and it is unjustified.
- The tree house is visible from the rear of the house and from the curtilage of the coach house. It is incongruous, substantial in size and detracts from the character of the house.
- Mitigation measures are minimal and fail to address the main issues.
- The proposal would fail to comply with a number of CDP policies and in some cases would materially contravene said policies.
- There is no overall strategy for the conservation of Straffan Lodge, contrary to AH021.
- The works to be retained detract from the character of Straffan Lodge (built and natural) and do not enhance the character and setting or preserve/protect traditional varieties of plants and trees.

6.5.2. Response to Sheehan Barry Architects AHIA

- It is questioned if the Applicant's conservation specialist visited the site. The AHIA states the Coach House is roofless but there was a roof on it since February 2025. This questions the credibility of the report.
- Further works that require planning permission have been identified and are not referenced in the AHIA.
- There is a pattern of build and seek forgiveness and a piecemeal approach to development.
- No comments are made to the removal of so many mature trees.
- Mitigation for the ha-ha is minor and ineffective.
- The height of the berm is higher than stated and endangers tree health. This is confirmed in the Arborists Statement.

6.5.3. A report on the architectural, conservation, restoration, and heritage aspects of the appeal, prepared by Edmund Fitzgerald Selby Architect, accompanies the Third Party observation. This has been submitted as a response to the Applicant's updated AHIA. The response provides more detail on the alleged 49 breaches of planning control in addition to detail on apparent breaches with regards to specific works to the house and other buildings. In other respects, the report reinforces the points made in the Third Party observation and no new substantive issues are raised. In summary:

- The ha-ha is visible from the house, it should be removed in its entirety and the land returned to its original appearance. The ha-ha has had a very negative impact on architectural heritage and the character of the Protected Structure.
- The internal service road has a negative impact on architectural heritage and character, grasscrete as mitigation is not in any way appropriate.
- The tree house is within the curtilage of the Protected Structure, it may cause harm to the tree and visual damage to protected vistas which has a negative impact on architectural heritage and character.
- The folly was protected. The tone of the Applicants AHIA is dismissive and disrespectful, and its removal has a negative impact on architectural heritage and character.
- The berm harms architectural heritage and character.

6.6. Further Responses

6.6.1. None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Retention and Masterplan
- Retention of Ha-ha Type Wall
- Realignment of Access Road and Works to Forecourt
- Removal of folly
- Eastern service access road
- Berm and landscaping works
- Tree house
- Cumulative Impacts and need for a Masterplan

- Other Matters

7.2. Principle of Retention and Masterplan

- 7.2.1. The core issue in the Planning Authority's reason for refusal relates to the ha-ha wall. It is the view of the Planning Authority that the Applicant has not demonstrated that the ha-ha aligns with Objective AHO21 of the CDP. It is submitted that the Architectural Heritage Impact Assessment (AHIA) does not address the cumulative impacts on the Protected Structure and that other elements of the works to be retained have negatively impacted on the Protected Structure and its attendant grounds and irrevocably altered its character and historic setting.
- 7.2.2. The Appellant, in both their appeal and observation, shares the view of the Planning Authority and also considers that a Masterplan should have been submitted in line with Objective AHO21, in addition to expanding on concerns with remaining works to be retained. It is the view of the Appellant that the development would fail to comply with a number of CDP policies and that the proposed mitigation is minimal and fails to address the main issues. In the interests of clarity, I will address each of the elements proposed for retention individually.

Requirement for a Masterplan

- 7.2.3. The Appellant/observer submits that a Masterplan is required under Objective AHO21 of the Kildare CDP. I note that the Planning Authority did not request a masterplan, nor does Objective AHO21 explicitly require one. Instead, the objective requires that development must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim. Whilst a masterplan type document would be beneficial for a proposal that incorporated large scale and comprehensive works to a Protected Structure and its attendant grounds, I would consider such a process excessive for the type of works sought for retention and I consider that the aims of AHO21 can be more appropriately achieved through an AHIA, demonstrating consideration of the works as a whole and their potential impact on the Protected Structure and its grounds.

Retention of Ha-ha Type Wall

- 7.2.4. The Planning Authority consider that the ha-ha wall considerably alters the character of the parkland setting of the Protected Structure and does not achieve the objective

of AHO21. The Appellant/observer agrees and considers that the location is not historically justified, that a fence and footbridge were demolished to facilitate the ha-ha and that retention permission has not been sought for their removal. The Appellant argues against the Applicant's claims that the ha-ha wall is for drainage purposes, noting that no supporting drainage information has been submitted.

7.2.5. The Applicant argues that ha-ha walls are longstanding features of the landscape and grounds of country houses and submits that the ha-ha wall is located in place of an existing poorly maintained ditch and was introduced to improve drainage rather than as a landscape feature, noting that it has successfully treated waterlogging at the site. An updated AHIA was submitted as part of the appeal, seeking to address the concerns of the Planning Authority. The AHIA notes that the ha-ha wall provides a linear insertion into the setting of the Protected Structure when viewed from the entrance driveway which is reinforced by the end piers and granite capping. The AHIA proposes mitigation to alleviate the visual impact.

7.2.6. Having reviewed the information submitted with the application, in addition to historic photographs, I am satisfied that the ha-ha wall is located in the position of the previous ditch, albeit it has been extended to the south west, where previously it curved to the north. I am also satisfied that part of the rationale for having the ha-ha is to improve the drainage of the land, functioning through the French drains as well as containing livestock within the paddock, as was clear at the time of my site inspection. In terms of the Appellant's comments regarding no supplementary drainage information being submitted, I would not consider this necessary for a feature of this size, and which is largely self-contained and replacing an existing drainage ditch. I also note that the relevant internal section of the Council did not raise any objections on drainage grounds. However, the fact that there are functional benefits to having the ha-ha do not reduce its impact on the landscape.

7.2.7. There is no doubt that the ha-ha is highly visible on the internal approach to Straffan Lodge, more so on the north east side where the land of the adjoining paddock is at a lower level than that to the west which helps to conceal the ha-ha on its western edge. That being said, by far the most prominent feature is the granite capping stone running the length of the wall. I find that this is a jarring and incongruous addition that emphasises the linear intrusion on the view of the Protected Structure from the driveway.

- 7.2.8. The Applicant proposes mitigation to address the visual impact on the ha-ha, whilst retaining its drainage function. This would include removal of the pillars and capping stone at the ends of the wall, removal of the granite capping along the length of the wall, a reduction in height of the wall and pillars from 1.8 metres and 2.2 metres to 1.6 metres, and provision of a soft edge to the top of the wall through grass turfing which would remove the horizontal line generated by the current granite capping. The mitigation also proposes remodelling the ground in front of the ha-ha to increase the level between approximately 0.4 and 0.55 metres, effectively screening it from the driveway approach.
- 7.2.9. Having reviewed the proposed works to the ha-ha wall and pillars, I consider that on balance, this would effectively reduce the visual impact of the ha-ha to an acceptable level whereby there would be no substantial harm on either the character or the setting of the Protected Structure and its attendant grounds. The reduction in height, removal of the prominent capping stone and returfing of the top of the wall would serve to reduce the strong linear feature in the view of the Protected Structure, would align more closely to the form and appearance of traditional ha-ha walls, would remove any potential visibility of the ha-ha from the Protected Structure itself, and would preserve the drainage function. The works to alter the ground level of the paddock at first glance seem substantial however, on reviewing the submitted level contour plans, the works would largely be restricted to the area immediately to the south of the ha-ha as well as the north-east section of the paddock. In my view, these works would have no impact on the character or setting of the Protected Structure but would be highly effective in screening the ha-ha from the driveway and preserving the open character.
- 7.2.10. Other existing changes to the ground level sought for retention to the front of Straffan Lodge itself are acceptable, minor in context and do not have any negative effect on character and setting.

Realignment of Access Road and Works to Forecourt

- 7.2.11. The Planning Authority have not made any specific reference to these works in their assessment in terms of heritage impacts. The Appellant/observer submits that the reconfiguration of the forecourt has been a major intervention and that the substantial reduction in size impacts on the character of Straffan Lodge. It is further stated that

the change to the alignment includes changes in edging material and that it is not clear if this is included in the retention application.

- 7.2.12. The Applicant contends that the changes to the alignment of the access road and parking area are obvious and minimal, not highly visible, and have an insignificant impact on the character and setting of the Protected Structure. It is the view of the Applicant that the reduced width of the parking area creates an improved symmetry.
- 7.2.13. The forecourt to the front of Straffan Lodge has been reduced in width by approximately 2.4 metres but increased slightly in maximum depth by approximately 0.6 metres. Overall, I would consider the forecourt to be only slightly smaller than previous, with a more rational and formal layout. I have no objections to the realignment of the access road or the works to the forecourt. I would agree that they are minimal in context and have limited effects on the character and setting of the Protected Structure and I do not consider that there would be any harmful heritage impacts. I note the Appellant's comments regarding materials and edging detail and although I accept that they are not shown on the drawings and that retention is specifically sought for the realignment and works to the forecourt, I reviewed the materials in-situ on site as part of my inspection, and I am satisfied that the gravel and edging stones with rumpled edges are acceptable.

Removal of Folly

- 7.2.14. The folly was located on the western edge of Straffan Lodge. It is understood that it was constructed in the 1970's. On this matter the Applicant considers that it was unauthorised. The Appellant/observer submits that a Conservation Architect was not engaged in its demolition and that there is no proof that it didn't have permission.
- 7.2.15. Whilst the Planning Authority have not made any specific comments regarding the removal of the folly, the Planner's Report does state that it does not appear to have been unauthorised and that there is no record of enforcement action.
- 7.2.16. Whilst I am unable to confirm the planning status of the folly, it would clearly have been exempt from enforcement action given the passage of time. What isn't disputed is that it was a fairly modern addition and not original to Straffan Lodge. The folly was small scale, located to the west of the forecourt and served to enclose a small section of the garden. From the information available to me, it is clear that the folly made a limited contribution to the setting of the Protected Structure and its grounds, with no specific

landscaping role and being of limited architectural interest and quality. I consider that the removal of the folly has had a neutral impact on the character and setting of Straffan Lodge and I have no objections to the retention of its removal.

Eastern Access Service Road

- 7.2.17. The Planning Authority have not specifically addressed the heritage impacts of the eastern service road in their report. The Appellant/observer states that there is no justification for it and that proposals to finish it in grasscrete would introduce a new material in a prominent location that would be incongruous and not in keeping with the established character.
- 7.2.18. The Applicant states that the eastern service road is not piecemeal development and is useful as a secondary service access. As part of the appeal, the Applicant has proposed that the first 10 metres of the service road be finished in grasscrete in order to ensure the legibility of the main access road.
- 7.2.19. In my opinion, the impact of the service road on the character and setting of the Protected Structure is very limited. It is not highly visible, and I do consider that it would draw attention away from the main access road. In terms of justification, it offers the most direct and convenient access to the large timber plant enclosure, and it would clearly assist in servicing the various fuel tanks located here. On the matter of grasscrete I do not agree with the Appellant that it would be an incongruous material. Installed correctly and given time to establish it would diminish the visibility of the access road significantly. In my opinion, the provision of grasscrete (or similar) is a simple yet effective solution and I am of the view that this should be a conditioned requirement for the length of the service road, rather than the first 10 metres in order to ensure a satisfactory finish, legibility and to avoid an abrupt transition from grasscrete to gravel/hardpack.

Berm and Landscaping Works

- 7.2.20. Landscaping and works to the berm on the western boundary are not specifically addressed in the Planning Authority report. Whilst I note that clarity on landscaping was requested at Further Information stage, no further reference is made in the subsequent Planner's Report, which focuses on the ha-ha wall.

- 7.2.21. The Appellant submits that the berm has been raised above the original mound and that it endangers the health of the trees. Further concerns are raised that no ecological assessments have been submitted and that no riparian buffer has been provided from the drainage ditch that runs along the eastern boundary in order to protect habitats.
- 7.2.22. The Applicant considers that any outstanding issues regarding the berm and landscaping were dealt with at FI stage, noting that revised boundary planting with native species is proposed that would offer enhancements visually, biologically and ecologically, and that this would enhance the wider setting.
- 7.2.23. There is an existing berm that runs for the majority of the eastern boundary and not just in the section proposed for retention. This is clearly longstanding as the mature trees that are planted here have visible trunk flares. The provision of a berm within the specific section of the site that is subject of the retention application is therefore acceptable in visual amenity terms as it would align with the established character of the existing landscape. I would also consider the subject berm to be long standing and well established based on its appearance and the positioning of trees and the fact that in most instances, the trunk flare is visible. For that reason, whilst I accept that the berm may have been increased marginally in height or extended outwards slightly, no substantive information has been provided by the Appellant or the Planning Authority to confirm any potential increase and based on the current appearance, I do not agree that this will affect tree health. Of all the trees I inspected along this section of the berm, only one appeared to be in poor health and I wouldn't necessarily agree that it can be attributed to the berm, given its position forward of the top of the mound. The remaining trees either had trunk flares or some roots visible close to the surface or face of the berm, indicating that they have not been substantially buried, and one of the more mature trees was positioned in such a way that the berm stepped down around it.
- 7.2.24. At the time of my site inspection the drainage ditch that is located just outside of the site's eastern boundary appeared to be completely dry and overgrown. The mound/berm does not back onto this directly and appears to be separated from it by a metal fence. I do not agree that the works to the berm and landscaping have harmed any habitats or resulted in environmental effects on the drainage ditch, furthermore riparian zones would not be necessary in this environment which is essentially undeveloped landscaped grounds. I am satisfied that the retention of the berm and

landscaping works, including the proposal for replacement native planting, would be acceptable and would not have any adverse effect on the character and setting of Straffan Lodge.

Tree House

- 7.2.25. The Planner's Report does not contain any substantive points on the matter of the tree house which is located to the rear of Straffan Lodge. The Appellant/observer considers it to be large, unjustified and incongruous addition that detracts from the character of the house. It is submitted that the wooden materials are different to any structure in the grounds of the house.
- 7.2.26. The Applicant notes that the tree house has been constructed from felled trees or fallen timber and is located 55 metres from the rear of the house and separated from it by various outbuildings. It is argued that the location to the rear of the house is not visible from the front which is the primary established setting of the Protected Structure, that the field to the rear was never intended to contribute to the setting of the house, and that there are no particular impacts on the Protected Structure.
- 7.2.27. A tree house is a common, playful, ancillary addition in rear gardens. The fact that the tree house is constructed from wood is to be expected and the materials used certainly don't impact on the heritage setting in my opinion. There is no denying that the tree house is of a significant scale for its genre, far larger than the typical informal tree house. However, it is located on a large tree, in very generous grounds, to the rear of a large house and in that respect does not appear entirely out of synch in this context. The main issue is visibility and although I do not agree with the Applicant's suggestion that the field to the rear of Straffan Lodge does not contribute to its setting, I agree that views from the front are within the more established, formal setting. In this respect the tree house is not visible, being concealed by the large side extensions previously approved by the Planning Authority. Where the tree house is visible, it is viewed very much in the context of being within a less formal rear garden space and in my view does not cause any substantial harm in terms of the character and setting of the Protected Structure. Having inspected the tree house on site, and considering the arborists report, I do not consider that the tree house would affect the health of the tree.

7.3. Cumulative Impacts

- 7.3.1. The Planning Authority's reason for refusal states that the AHIA does not adequately assess the cumulative impacts of the development and that the other elements of the development proposed to be retained have negatively impacted the Protected Structure its attendant grounds. It is further stated that the cumulative impact of the changes to the structure and grounds have therefore irrevocably altered the character of the house and its historic setting. The view is echoed by the Appellant/observer.
- 7.3.2. The Applicant is of the view that there is no basis to claim that the cumulative impact of the changes has irrevocably altered the character or setting of the house and that the AHIA has adequately assessed the works proposed for retention, suggested mitigation where necessary, and addresses previous concerns. It is submitted that, subject to the proposed mitigation, cumulative impacts would be satisfactorily managed and eliminated.
- 7.3.3. Although the Planning Authority have mentioned cumulative impacts in the reason for refusal, in addition to referring to 'other elements of the development proposed to be retained', I note that there is nothing in the way of a substantive heritage assessment of the works proposed for retention, with the exception of the ha-ha. In my view, whilst the Planning Authority have made their position on the ha-ha clear, their position on what is objectionable with the remainder of the works is unclear.
- 7.3.4. Clearly Straffan Lodge has been much altered in the past few years following demolitions and extensions, including the two substantial extensions that have been approved and constructed on each side of the main building. The character and setting of the Protected Structure have therefore evolved over this time. In my view, the works proposed for retention need to be viewed in the context of other works that have been completed on site to date. On that basis, I consider all of the works to the front of the house, with the exception of the ha-ha, to be relatively small scale and minor, largely relating to landscaping and groundworks that do not in my opinion have a cumulative impact on the character and setting of the Protected Structure. The removal of the folly needs to be considered against the limited contribution it made to the Protected Structure and curtilage/grounds and I consider its removal to have been a neutral impact overall.
- 7.3.5. The tree house to the rear, whilst substantial, is set within generous grounds, in the more informal rear garden domestic setting of Straffan Lodge and not visible from the

front or within the context of the other works. On that basis I do not consider the tree house to contribute to any cumulative visual or heritage impact.

- 7.3.6. The ha-ha is the most substantial element for which retention is sought. I am broadly satisfied that with the mitigation proposed, the visual impact of the ha-ha would be greatly diminished and that on balance, there would be no significant harm to the character and setting of Straffan Lodge. Should the Commission disagree with my conclusions regarding the ha-ha then I am of the view that a split decision could be issued, granting retention permission to the remainder of the works.

7.4. Other Matters

- 7.4.1. The Appellant/observer raises a significant number of issues in terms of further unauthorised works, declaring that there are up to 49 other elements that do not have permission. On this basis the Appellant considers that the Commission cannot grant permission, and that permission has previously been refused on other sites in relation to the intensification of unauthorised development.
- 7.4.2. The Commission will note that the application for retention permission was made on foot of an application made by the Appellant under Section 160 of the Planning Act, as opposed to being the outcome of an enforcement investigation made by the Council. From the information available to me, I am not aware of any enforcement investigation or proceedings being carried out by the Council with regards to either the works proposed for retention, or the other 49 breaches of planning control alleged by the Appellant. In any event, the Commission does not have an enforcement function, this is a matter reserved to the Planning Authority. On that basis, the role of the Commission is to consider only the specific works that have been sought for retention. These have been set out in Section 2.1 of this report and other works raised by the Appellant, or indeed the Applicant, including the horse training area/sand arena and the removal/replanting of trees, is not a matter for the Commission under the current appeal.
- 7.4.3. I note the case precedents referred to by the Appellant however, these cases relate to works that would facilitate the consolidation and intensification of unauthorised uses and are not comparable in my view. I do not consider the existence of other potentially unauthorised works to be an impediment to the Commission considering the specific works referred to in this appeal.

- 7.4.4. The Appellant also takes issue with the Applicant referring to application as a 'tidy up' application and states that the works do not relate to previous permissions. I agree with the Appellant that the works are not amendments or modifications to the previous permissions. In any event, the works proposed for retention have been assessed on their own merits both on an individual basis and together on a cumulative basis and I am satisfied that the reference to modifications and amendments in the application documentation is not of relevance to the determination of the appeal.
- 7.4.5. Further concerns raised by the Appellant regarding the lack of supplementary assessments regarding ecology, flood risk, hydrology and archaeology are unfounded in my view and the nature and scope of the works proposed for retention would not warrant such additional information.

8.0 AA Screening

8.1. I have considered the works proposed for retention in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in Gleve, Straffan, a distance of 10.4km from the nearest European site at Ballynafagh Bog to the west/south-west. The development comprises the retention of a ha-ha wall, ground works, landscaping, realignment of access routes/new service route, and a tree house as set out in Section 2.1 of this report. No appropriate assessment issues were raised as part of the appeal. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:

- The nature and small scale of the works.
- The significant separation distance from the nearest European site and lack of connections.
- The screening determination of the Planning Authority.

8.2. I conclude, on the basis of objective information, that the development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate

Assessment (under Section 177V of the Planning and development Act 2000) is not required.

9.0 Water Framework Directive

9.1. The subject site is located in Straffan, approximately 870 metres to the north of the River Liffey which is the nearest water body. The proposed development comprises the retention of various works within the grounds of the Protected Structure known as Straffan Lodge, including landscaping and groundworks. Concerns were raised regarding potential impacts on the drainage ditch close to the boundary of the site, but no issues were raised regarding impacts on other water bodies.

9.2. I have assessed the project and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- The nature of the development and the small scale of the works in context.
- The significant distance from the nearest water bodies and lack of hydrological connections.

9.3. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 Recommendation

10.1. I recommend that the Commission grant retention permission, subject to conditions, based on the reasons and considerations set out below.

11.0 Reasons and Considerations

11.1. Having regard to the nature, scale and extent of the development proposed for retention and the mitigation proposed by the Applicant, it is considered that the retained development works, subject to the conditions set out below, would not seriously injure the character or setting of the Protected Structure at Straffan Lodge, its curtilage, or its attendant grounds. The retained works would not be harmful to the amenity of the area or of neighbouring property in the vicinity, would not be prejudicial to public health or the environment and would generally be acceptable in terms of design, heritage, and amenity.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 14th day of February 2025, and further amended by the plans and particulars received by the Commission on the 8th day of April 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The landscaping scheme shown on drawing number 103, as submitted to the planning authority on the 14th day of February 2025 shall be carried out within the first planting season following the grant of permission. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

3. The eastern service access road shall be finished in grasscrete or similar type material from the junction with the main access road to the timber plant enclosure to the north.

Reason: In the interest of visual amenity.

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.

Terence McLellan
Senior Planning Inspector

9th July 2025

Form 1 - EIA Pre-Screening

Case Reference	322193-25
Proposed Development Summary	Retention of ha-ha type wall, changes in ground levels to the front of Straffan Lodge; changes to the alignment of the main access road and forecourt; new internal service road; tree house structure as well as retention of removal of unauthorised folly; retention of earth berm and landscape works and all associated ancillary site development works.
Development Address	Straffan Lodge, Glebe, Straffan, Co. Kildare, W23 XT92
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input checked="" type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** _____