



An
Coimisiún
Pleanála

Inspector's Report ACP-323049-25.

Development	Single storey dwelling and single storey garage
Location	Bramblestown, Gowran, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	24146
Applicant(s)	Cathal Darcy
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party v Decision
Appellant(s)	Dr. Liam Lysaght & Josephine Plettenberg.
Observer(s)	None
Date of Site Inspection	16 th September 2025
Inspector	Patricia Byrne

1.0 Site Location and Description

- 1.1.** The appeal site, located at Bramblestown, Gowran Co. Kilkenny extends to a stated area of 0.21Ha. and is accessed off a private laneway connecting to Local Road L6726-54. The site lies approximately 3.6km south of the settlement of Gowran. A small complex of buildings comprising a domestic dwelling, outhouses and a home-based bakery enterprise is located immediately north of the site. The private laneway is narrow, flanked by high hedging and trees either side with a grass median.
- 1.2.** The plot, broadly triangular in shape, abuts the laneway to its southern boundary. Outbuildings forming part of the neighbouring property abut the site and include the rear elevation of a low, stone building to the north-east and the gable wall of a further structure to the northwest, with the latter structure largely concealed from view. The larger of the two buildings has a permitted use as a Spelt bakery and permission was recently granted by the Planning Authority for a change of use within the smaller structure from storage to staff facilities.
- 1.3.** The site is currently in grass and bounded by low hedgerows and sporadic tree growth to its perimeter, with the exception of the field entrance where no boundary is present.
- 1.4.** The wider surrounding area is in agricultural use, predominantly pasture. A row of detached dwellings address the local road, south of the junction with the lane.

2.0 Proposed Development

- 2.1.** The development, which is the subject of this appeal, concerns the construction of a single storey dwelling house of stated floor area 76.5sq.m. (as per floor plan) comprising inter alia, two bedrooms. The structure would align on a northeast – southwest axis and a detached, gable fronted garage (41sq.m) is to be constructed close to the northern site boundary. Both structures are to be finished with slate roofs and clad to external elevations with a nap plaster finish. Site access is intended from the southwestern corner of the site, with a splayed entrance proposed from the adjoining laneway. A gravel driveway from the lane is also proposed.
- 2.2.** The dwelling is to be served by a secondary wastewater treatment system with polishing filter. A proposed bore well is shown located to the western site boundary.

- 2.3.** The development is to be facilitated by the provision of passing bays along the lane and improvements to sight visibility from the lane onto the public road are proposed by the removal and set back of a section of roadside boundary to the west of the junction.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 16th June 2025, the Planning Authority issued a notification of decision to grant permission for the development of a single storey dwelling, detached single storey garage, treatment system/percolation area, including associated works.

3.1.1. Conditions

The decision of the Planning Authority was subject to fifteen conditions, including the following:

- Condition No. 1: Standard condition requiring that the development is carried out and completed in accordance with the conditions listed; documentation lodged with the application on the 13th of December 2024, and Further Information lodged on the 21st of May 2025.
- Condition No.3: Details regarding the installation, certification and maintenance of the proposed wastewater treatment system and demonstration of compliance with the *Environmental Protection Agency's Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (EPA, 2021)*.
- Condition No. 4: Provision of a potable water supply for the domestic and sanitary requirements of the development.
- Condition No. 5: Access arrangements, including the setting back and design of entrance gates/splayed recess, construction of vehicular passing bays, treatment of service poles and installation of drainage channels.
- Condition No. 8: Landscaping and boundary treatments.

- Condition No. 10: Occupancy condition restricting residency to the applicant.
- Condition No. 13: Collection and discharge of surface water.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Two planning reports were prepared by the Planning Authority's case officer. The first report sets out the planning assessment, referring to matters raised in a third-party submission; requirements of the Kilkenny City and County Development Plan 2021-2027 (including the Rural Housing policy); wastewater treatment arrangements, site access, house design and siting. The report concluded with a request for Further Information in relation to compliance with the rural settlement strategy, access arrangements, wastewater treatment and the design and location of soakaways.
- A second report was prepared by the case officer following a response to the Further Information request. The issues raised were deemed to have been addressed and the report concluded with a recommendation to grant planning permission, subject to conditions.

3.2.2. Other Technical Reports

- **Engineer Callan Area Office**

Report indicates no objection to the development and stipulates conditions for compliance including advance completion of works to achieve sight visibility; the design and set back of the splayed entrance; treatment of the verge area, collection and discharge of surface water runoff.

- **Environment Section**

Two reports were prepared by the Environment Section. An initial report requested Further Information in relation to the design and specifications of the domestic wastewater treatment system, including consideration of increased separation distances to neighbouring structures. A further report prepared

following the response to Further Information indicates no objection subject to conditions.

3.3. Prescribed Bodies

None on file.

3.4. Third Party Observations

An observation was received from Josephine Plettenberg and Dr. Liam Lysaght, the third-party appellants in this appeal.

The submission raised a number of objections which are summarised as follows:

- An existing bakery adjacent the site has experienced recurrent flooding from the site and the development will exacerbate existing drainage problems leading to additional surface water run-off and more frequent flooding.
- Risk of pollution arising from the proposed on-site wastewater treatment system given flood issues in the area and proximity of the treatment system/percolation area to a food production facility and to an existing bore well.
- Potential for soil erosion and sedimentation in nearby water bodies due to increased run off.
- Impact on business operations.
- Planning Authority requested to consider the concerns raised and deny approval until measures taken to address flooding and to protect businesses.

Planning History

No previous planning applications relate to the application site.

Lands to the north

P.A. Reg. Ref. 2560132

Permission Granted for the conversion of an existing outbuilding (44.9sq.m) from storage to staff facilities for the previously granted "Home Enterprise Bakery" (Reg. Ref. 12/327), to include locker room, toilet/shower room, staff area including a kitchenette (44.9sq.m.), mezzanine storage (12.2sq.m.) for a total area of 57.1sq.m, insertion of a new double door into existing opening, patio area, provision for 3no. roof lights, connection to existing domestic treatment system and all associated siteworks.

P.A. Reg. Ref.12327

Permission Granted for the conversion of part of an existing outbuilding (24.2sq.m.) from storage to kitchen for use as a home enterprise bakery. Connection to existing septic tank and associated site works.

P.A. Reg. Ref. 97825

Permission Granted for a two-storey extension to existing residence, elevation alterations, septic tank and percolation area with ancillary related works.

4.0 Policy Context

4.1. National Policy

4.1.1. National Planning Framework

The National Planning Framework First Revision (NPF) recognises the continuing housing need for people to live and work in the countryside. The NPF stipulates that careful planning is required to manage demand in the countryside around cities and towns, focusing on the elements required to support the sustainable growth of rural economies and rural communities. The Framework notes the importance of differentiating between rural areas located within the commuter catchment of cities, towns, centres of employment and rural areas located outside these catchments and

highlights the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence.

National Policy Objective 24 (NPO 24)

‘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 overdevelopment, while sustaining vibrant rural communities’.

National Policy Objective 28 (NPO 28)

‘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’.

4.2. Section 28 Guidelines -Sustainable Rural Housing Guidelines 2005

The Guidelines indicate that planning authorities must tailor policies which respond to the differing housing requirements of both urban and rural communities and the varying characteristics of rural areas. The Guidelines also differentiate between rural and urban-generated housing. Section 3.2.3 refers to rural generated housing with reference to persons who are an intrinsic part of the rural community and to members of an established rural community.

4.3. Kilkenny City and County Development Plan 2021-2027

The following are relevant to this assessment:

Section 7.8 Rural Settlement Strategy

The Rural Settlement Strategy for the county is set out in Section 7.8.

The subject site is located within an Area under Urban Influence as per Figure 7.1 Rural Housing Strategy.

Section 7.8.3 Rural Housing Policies

This section outlines policies which respond to the housing requirements of urban and rural communities within the county and provides definitions and associated policies in relation to Urban Areas, Urban Generated Housing, Rural Generated Housing, Ribbon Development and Local Area. In this regard, Rural Generated Housing is defined as *'Housing needed in rural areas within the established rural community by persons from that community or whose occupation is intrinsically linked with that particular rural area as defined in Section 7.8.4 Categories of Rural Compliance'*.

Section 7.8.4 Categories of Rural Compliance and Qualifying Criteria

Section 7.8.4 indicates that Kilkenny County is divided into two broad categories in line with the requirements of the National Planning Framework.

1. Areas Under Urban Influence and
2. Other Rural Areas.

The subject site is located within an Area under Urban Influence

The Plan states under *'Qualifying Criteria for Rural Housing'* as it pertains to Areas under Urban Influence that:

'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’.

The following is also pertinent:

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 Plan requires that where permission is granted for housing in an Area under Urban Influence, an occupancy condition restricting the use of the dwelling to the applicant

or members his/her immediate family is applied. The requisite period is seven years from first occupancy.

Section 7.8.6 Rural Housing Design Guidance

Refers to the *County Kilkenny -Rural Design Guide* providing design guidance in relation to housing in the countryside.

12.11.10 Regional and Local Road Objectives

Section 12.11.10.1 Roads Development Management Requirements.

Requires that standards for sight and stopping distances are in compliance as far as possible with current geometry standards as outlined in:

- TII document Design Manual for Roads and Bridges (DMRB) and TII Standard DN-GEO-03060 Geometric Design of Junctions.
- Design Manual for Urban Roads and Streets (DMURS) and TII Standard DN-GEO 03084 'The Treatment of Transition Zones to Towns and Villages on National Roads' where appropriate.

The Section also states that in cases of single houses in the countryside, such standards should not be achieved by the extensive removal of hedgerows, ditches, embankments, trees or old walls, and should accord with Section 2.8 of the Rural Design Guide.

Section 13 Requirements for Development

Section 13.22 provides guidance in relation to the construction of rural housing.

Section 13.22.1 and Section 13.22.2 refer to access and sight lines, and to Wastewater Treatments Systems respectively.

Section 13.22.1 states *'the applicant must demonstrate that safe vehicular access to and from a proposed site is provided in terms of visibility from a proposed entrance, but also in terms of impact on road traffic on the adjoining public road, through generation of turning and stopping movements by vehicles leaving and entering the*

proposed site.....Site entrances should be located so as to require the least amount of hedgerow removal in accordance with DMRB requirements. Excessive hedgerow removal will be resisted where setback is considered significant or roadside definition is compromised’.

Landscape Character Area

The site is located within the Lowland Landscape Character Area

Archaeology

Ref. KK024-057 denoting an Enclosure lying approximately 170m to the southeast of the site.

4.4. Natural Heritage Designations

The site lies approximately 5.6km from the River Barrow and River Nore SAC (Site Code 002162) and is approximately 8.06km from the River Nore SPA (Site Code 004233). The site lies approximately 1.45km from the Red Bog Dungarvan pNHA (Site Code 000846).

5.0 EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment (Refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal may be summarised as follows:

- The development would have serious negative impacts on the character, quality and biodiversity of the immediate surroundings; would not comply with requirements for adequate wastewater treatment or address flooding issues and would pose a health and safety risk to the appellant's home and food preparation business.
- Risk to health and safety of the appellant's home and business resulting from failure to adequately consider the impact of localised flooding and as a result of the quality, placement and effectiveness of domestic wastewater treatment to serve the scheme. The appellants agri-food business is dependent on the quality of the environment which would be damaged by the proposal.
- It cannot be guaranteed that run-off can be collected and disposed of within the site curtilage. The development would be contrary to the Kilkenny County Development Plan regarding the disposal of surface water.
- Development does not acknowledge or address the local flooding issue and is likely to exacerbate flooding to the appellant's property given the topography. Reference made to substantial and regular winter flooding and at other times and refers to ingress of water through the southern wall of the bakery. [A letter from an employee to substantiate flooding concerns on site and photographs of the clean-up/aftermath of a flood event are provided.]
- Concerns in relation to compliance with the Code of Practice for Domestic Waste Water Treatment Systems and separation distances. Concerns regarding proximity of treatment plant and percolation area to the food preparation building, water supply and dwelling are raised. It is contended that due diligence was not conducted to understand local hydrological conditions which prevail. Reference in the application documents to 'shed/bakery' conveys a misleading impression of an inconsequential operation.

- Loss of hedgerow and treeline is not adequately assessed or justified given the ecological impact and no details are provided as to visual or ecological effects arising. Detrimental impact of removing earthen banks, hedgerow and trees on the character of the local area and on biodiversity.
- Lack of detail in relation to aspects of the development including laneway widening, impacts of surfacing, construction access, creation of impermeable surfaces/implementation of SuDS and increased localised flooding to the appellant's site.
- The laneway has been managed for biodiversity value, and its management is part of a larger biodiversity project including the appellant's garden. Conditions imposed by the Planning Authority do not address the removal of trees and are contrary to All-Ireland Pollinator Plan 2021-2025. [Appendix 4 provides a list of recorded species].
- Development would adversely impact the residential amenity and health and safety associated with the home bakery business.
- Planning Conditions fail to address loss of local provenance plants and associated ecosystems.

6.2. Applicants Response

The response may be summarised as follows:

- Cathal Darcy is the son of the landowner who resides in proximity to the site with evidence of familial connection and residence provided as part of the planning application documentation.
- The First Party presents a social and economic need to reside at the location and his rural housing need was deemed in compliance with the requirements of the Development Plan and was not raised as a concern by the appellants.
- The layout, scale and design of the dwelling house and garage were considered acceptable to the Planning Authority and do not form part of the appellants grounds of objection to the planning application or to this appeal.

- Access is via a private road in shared ownership with consent given for use and upgrade to include the creation of passing bays. It is indicated that the appellants have a right of access to their property but do not possess an ownership interest or formal right of way over the laneway.
- The neighbouring property comprises a two-storey farmhouse and outbuildings incorporating a home bakery operated by the appellants permitted under Ref 12/327. 5 no. staff are currently employed.
- The associated wastewater treatment system lies to the north of the property.
- The response provides a summary of the Planning Authority's Decision, salient conditions and summary of the grounds of appeal.
- Separation distances between sheds on the appellants property (bakery) and the wastewater treatment system was increased following a request for Further Information. The response was acceptable to the Planning Authority, subject to conditions and no additional health and safety grounds, outside of separation distances, are raised by the appellants. The response contends that the Third Party has not engaged a suitably qualified person to advise on matters of concern and the appellants own septic tank is positioned closer to the bakery than the proposed system.
- Site Characterisation findings indicate very good permeability and free draining soil and subsoil, with T-values representing good ground percolation.
- Measures to address surface water, together with planning conditions provide the safeguards sought by the appellants. Stormwater will be managed via a series of soakaways designed to BRE Digest 365 Soakaway Design and an Acco drain will be fitted at the driveway entrance.
- Contention that site conditions were not assessed in a winter scenario is incorrect as testing was conducted on the 13th-14th November 2024.
- There is no experience of excessive surface water discharge from the site onto the roadway. Compliance with planning conditions will ensure this remains the case. No photographic evidence of surface water flooding from the appeal site has been tabled and it is contended that the photographs submitted point to

flooding problems within the appellant's site. Reference is made to a lack of rainwater goods, downpipes and gutters on the third-party property.

- Previous planning applications lodged by the appellants do not refer to on-site flooding.
- There is no basis to assert that the development will alter the local hydrology and exacerbate flooding. Flooding at the appellants property arises due to inadequate surface water management.
- First party refers to measures taken to provide a drain on the lands to divert surface water. Contended that any water flowing onto the neighbouring property may originate from lands outside of the applicants' control.
- Lands are outside of OPW flood risk mapping and no flooding or hydrology issues in the wider area impact the application site or appellant's property.
- Development accords with the EPA Code of Practice and response refers to an independent engineering report which endorses the findings of the initial site assessor. Engineering report by Byrne and McCabe Design Ltd. is provided. [Findings summarised below]
- Correspondence from a cleaning company employed by the appellants should not have weight attributed and the author has not indicated the requisite expertise upon which to base statements relating to flooding or the sites' suitability for onsite wastewater treatment.
- The proposed site entrance aligns with an existing field opening and as such does not require tree or hedge removal. Hedging removed to form laybys and sight visibility improvements will be reinstated. Contention that loss of trees and hedgerows have not been considered is deemed incorrect.
- Reference is made to the report of the Planning Officer wherein it is expressed that improvements to visibility/sightlines will benefit all lane users. No objections were expressed by the Area Engineer. Measures are set out to improve the lane and consent for widening and provision of lay-bys have been obtained. The First Party is agreeable to a condition requiring details of road widening and replacement planting.

- The contention that weedkiller was used on site is disputed.
- Although the appellant is the principal user of the private road, they are not known to have carried out surface maintenance or to have maintained planting and consent for such works has not been sought from the owners.

Byrne and McCabe Design Ltd.- Architecture and Engineering Services

- A report compiled by Byrne and McCabe Design Limited - Architecture and Engineering Services concludes that the imposition of soakaways and introduction of a land drain will significantly reduce the potential for flooding to neighbouring property, noting this is refuted in the first instance by the applicant. Report also refers to the need for gutters and downpipes to third party properties.
- Modifications to the location of the proposed bore well and provision of additional soakaways are recommended in the report.
- Reference is made to the site suitability tests conducted and revisions to the layout of the treatment system, concluding that prescribed separation distances are achieved.

6.3. Planning Authority Response

None on file.

6.4. Observations

None on file.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal and inspected the site and having regard to the relevant local, regional and national policies and guidance, I consider that the main issues in this appeal relate to:

- Principle of Development

- Wastewater Treatment
- Surface Water Management
- Access Lane
- Impact on Biodiversity and Landscape Character

7.2. Principle of Development

Planning permission was sought by Mr. Cathal Darcy on the 13th December 2024 to construct a single storey dwelling house, detached single storey garage, wastewater treatment system/percolation area and all associated site works.

The operative County and City Development Plan for the area requires that to be eligible for a dwelling house in a rural area, the applicant must demonstrate compliance with a number of specified requirements. I refer in this regard to Section 7.8.4 - Categories of Rural Compliance and Qualifying Criteria of the Plan wherein the county is divided into two broad categories, Areas Under Urban Influence and Other Rural Areas.

The site lies within an Area under Urban Influence, as per Figure 7.1 Rural Housing Strategy. The Planning Authority sought Further Information with respect to the applicant's ability to meet the requirements of the Rural Housing Strategy. Documentation provided satisfactorily demonstrated the applicant's compliance.

Having regard to the information available to me, in particular the applicant's social connections to the area, I concur with the Planning Authority's conclusions, and I am satisfied that the applicant has demonstrated a social need to reside permanently at this location in fulfilment of the Rural Housing Strategy's requirements as set out in the operative Development Plan.

I note the Development Plan requires that all permissions for rural housing within Areas of Urban Influence are subject to an occupancy condition restricting the use of the dwelling to the applicant or to members of his/her immediate family as a place of permanent residence for a period of seven years from the date of first occupancy. It is recommended that should the Commission be minded to grant permission, a condition giving effect to this requirement should be attached.

7.3. Waste Water Treatment

A 6 PE on-site wastewater treatment system with soil polishing system is proposed to serve this two-bedroom, single storey dwelling house.

I note the grounds of appeal relating to public health.

In this regard, I also note the report of the Planning Authority's Environmental Section which requested Further Information in relation to wastewater arising from the development and the response to this request which provided *inter alia*, a completed Site Characterisation Form and revised site layout plan Ref PLN-101 Revision C. I am aware also that excavation of the trial hole and the undertaking of percolation testing were conducted in November 2024, with the results indicative of well-drained soil conditions. In particular, I note that the trial hole was excavated to a depth of 2.6m and no water table or bedrock encountered.

I have reviewed the Site Characterisation Form which indicates a surface percolation value of 14.83 and a sub-surface value of 15.36, with such results indicative of good percolation characteristics with a secondary treatment system and soil polishing filter recommended. I note also that the site overlies a locally important aquifer of high vulnerability and has a Ground Water Protection Response of R1, indicating that the site is suitable for a domestic wastewater treatment system, subject to conditions.

On inspecting the site, ground conditions were observed to be good underfoot with no ponding was observed, notwithstanding rainfall on preceding days. I am satisfied that the conditions observed on site are reflective of the findings of the Site Characterisation Form submitted.

The wastewater system to cater for this two-bedroom dwelling is proposed to be located to the southern site boundary as per revised plans provided in response to the Further Information request. The location of the percolation area is shown as circa. 25.1m from the existing bore well on third party lands and is shown circa 29.1m from the applicant's intended bore well. I note also a separation distance between the percolation area and the site boundary closest the bakery/out building as being 17.5m. A recommended surface area of 30sq.m. of polishing filter is recommended.

I note the report of the Planning Authority's Environment Section which indicated no objections to the development following the lodgement of the Further Information

response. In addition, I have reviewed the report of Byrne and McCabe Design Ltd-commissioned by the applicant and furnished as part of the First Party response to this appeal. In this regard, the report confirms that all separation distances required for the location of the soil filter have been achieved.

I am satisfied based on the documentation available to me, the topography of the site and ground conditions observed on inspection, that the on-site wastewater treatment system proposed to serve this modest two-bedroom dwelling could be accommodated on site and would meet the requirements of the *Environmental Protection Agency's Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (EPA, 2021)*.

A private water bore well is proposed to serve the dwelling and I note from the Environment Section's report that no conditions were included requiring connection to public water mains or, if a public water main serves the area. I also note proposals to relocate the bore well to the rear of the proposed dwelling as contained in the report undertaken by Byrne and McCabe Design Ltd. Such relocation would continue to meet separation distances as set out in the Code of Practice and should the Commission be minded to grant permission for this development, a planning condition requiring confirmation of the borewells' final location is suggested.

7.4. Surface Water Management

- 7.4.1. The third party raises concerns in relation to existing drainage and surface water management impacts on their property and argue that the proposed development will exacerbate such impacts.
- 7.4.2. I note the topography of the site being relatively flat with a slight fall from north to south, and again from the west to east. From site inspection, and from ground levels indicated on the plans lodged, I am of the view that groundwater flow would generally follow a north to south-east trajectory across the site. No water courses were observed in the immediate vicinity, and the field boundaries did not hold standing water on inspection, notwithstanding heavy rain on preceding days.
- 7.4.3. The application site does not feature on OPW flood risk mapping.

- 7.4.4. I observed ground level build up to the rear of the structure containing the bakery and that the structure itself, constructed in stone with a slate roof, was not served by rainwater goods to its southern elevation.
- 7.4.5. I note measures proposed in the application to address the collection of surface water run-off associated with the scheme, including the provision of a gravel driveway, installation of soakaways, provision of an 'Acco' drain at the driveway entrance, as well as provision of extensive lawn areas surrounding the house and garage. In this regard, I also note the report of the Planning Authority's Environment Section which did not raise concerns in relation to surface water run-off and which recommended a condition requiring the management of all stormwater within the curtilage of the landholding via suitably sized soakaways designed in accordance with BRE Digest 265- Soakaway Design.
- 7.4.6. I refer also to the Engineering Report prepared by Byrne and McCabe Design Ltd. prepared as part of the First Party appeal response, and the recommendations therein to install 3 no. additional soakaways- [serving the garage, parking area/road, and new land drain and soakaway in the lawn area]. A stone filled drain is recommended to be positioned 2.0m from the rear of the neighbouring building and connected to a suitably sized soakaway. Furthermore, a low earthen mound of topsoil to divert surface water to the soakaway is also proposed. Should the Commission be minded to grant permission, a condition giving effect to such measures should be considered.
- 7.4.7. Regarding the location of the wastewater treatment system and concerns in relation to the potential for contaminated water to enter the food preparation area, I refer the Commission to Section 7.3 of this report wherein it is concluded that the waste water disposal system recommended achieves appropriate separation distances to extant and proposed receptors such as existing and proposed structures and existing and proposed borewells.
- 7.4.8. From the information available to me, including the findings of the Site Characterisation Form which demonstrates good soil permeability; observations during site inspection, together with the surface water collection and management measures proposed; I am of the opinion that the surface water run-off generated by

this development can be appropriately managed within the site and would not impact adjoining properties.

7.5. Access Lane

- 7.5.1. The applicant intends to access the proposed dwelling via the existing private laneway, over which it is stated such right of access has been permitted by multiple owners.
- 7.5.2. The lane in question has an overall length (roadway to application site) of approximately 166m; is bounded by hedging and trees either side and has a grass central margin. The overhead spread of the tree canopy encloses the lane in places. Opportunities for vehicles to pass are not readily available along the length of the lane.
- 7.5.3. I note the Planning Authority requested demonstration of the applicant's entitlement to utilise the route, as well as proposals to address concerns the lane was unsuited to further development in the absence of surfacing improvements and insertion of passing bays. I note the issue of improvements was discussed with the Callan Area Office Engineer; however, I also note no reference to the requisite installation of passing bays to facilitate the development as set out in the Engineer's report, which noted the laneway was private. The report indicates no objection to the development and restricts itself to conditions giving effect to site visibility improvements, entrance design and surface water disposal.
- 7.5.4. Site Layout Ref. PLN-101-Revision C provided in response to the Planning Authority's Further Information request, includes annotations referring to '*fill potholes and hardcore lane*'. The extent of application of hardcore is not specified on the drawing. I note also that two passing bays are to be located at either end of the lane, with the bay adjacent the application site being circa. 4.1m deep with an overall length of 14.0m while the bay at the opposite end of the laneway is shown as 4.1m deep with a length of 15.7m. I refer also to the First Party response which elaborates on proposals to improve conditions, referring to the achievement of between 2.5m-3.0m in carriageway width as a result of widening, with minimal clearance proposed to the northern side of the lane only. Replanting is to be carried out to the rear of the retained trees and

hedgerows. It is also intended to improve and maintain the existing surface with no proposals to change the surface finish. This appears to contradict somewhat proposals to hardcore lane as detailed on the Site Layout Plan- Ref PLN-101 Rev C.

- 7.5.5. I note also measures to improve visibility for vehicles exiting the lane which would involve removal and setting back of a stated length of 43.5m of hedgerow/bank to the southern roadside boundary.

A letter from Mr. Greg O' Neill consenting to the setting back of hedgerows to achieve sightlines on his lands is provided (dated 6th December 2024) and a further letter from the same party dated 14th April 2025 consents to the widening and surface improvements to the lane; the creation of a passing bay and provides irrevocable consent to both Mr. James Darcy and Mr. Cathal Darcy to use the laneway to access the proposed development and Folio KK27645F.

Letters are also provided from Mr. John Farrell and Mr. Martin Treacy dated 7th April 2025 and 9th April 2025 respectively, wherein consent is also given for the widening and surface improvements to the lane; creation of a passing bay and consent to use the laneway to access the site.

- 7.5.6. I am of the view that the provision of a new dwelling house in addition to the extant dwelling and home-based bakery would result in an intensification of use of this substandard laneway and I would agree with the contention of the Planning Authority that such intensification would necessitate improvements to surface treatments and measures to facilitate vehicular passing and emergency vehicle access.

- 7.5.7. I note the existing laneway connects with Local Secondary Road L-6726 and that the report of the Planning Authority's Area Engineer identified required sight lines of 90m in both directions measured to the nearside road edge. In this regard, the Site Layout Plan lodged with the application demonstrates the removal and reinstatement behind proposed sight lines of 43.5m of existing hedgerow. I refer the Commission to Section 12.11.10.1 *Roads Development Management Requirements* of the Kilkenny City and County Development Plan which states *inter alia* that required standards [for sight distances and stopping sight distances] in respect of single houses in the countryside should not be achieved by the extensive removal of hedgerows, ditches,

embankments, trees or old walls. Also, Section 13.22.1 *Access and Sight Lines* states that *excessive hedgerow removal will be resisted where setback is considered significant or roadside definition is compromised*. I consider that the extent of removal proposed is substantial and justification for same, has not in my view been provided. I contend therefore that extent of hedgerow which is to be removed/reinstated would be contrary to the provisions of the Kilkenny City and County Development Plan.

7.5.8. Procedural Matter

I wish to raise a procedural matter for the attention of the Commission and refer to the red line boundary of the application site on the documents submitted, which is restricted to the area concerning the dwelling house and associated works. The private lane, proposed passing bays and lands required to achieve improved sight lines to the west of the lane entrance, are excluded from the red line boundary and are not shown outlined in blue denoting other lands within the applicant's control as per the requirements of Article 22(2)(b) of the Planning and Development Regulations 2001 (as amended).

As such, notwithstanding the consent of third parties referenced, there is a lack of clarity as to the enforceability and delivery of the measures outlined to provide passing bays along the laneway and in terms of sightline improvements. In the absence clarity surrounding the deliverability of works to support the residential use of this site, I contend that the development, in the absence of such measures would be inappropriate given the substandard nature of the lane and would endanger public safety by reason of traffic hazard and obstruction of road users.

8.0 Impact on Biodiversity and Landscape Character

- 8.1.1. The appellant raises concerns in relation to the removal of a significant length of earthen banks, hedgerows and trees which it is contended, would have a detrimental impact on the character of the area and on biodiversity and would be contrary to objectives contained within the Development Plan and the County Biodiversity Plan.

Noting the limited width of the laneway, the appellant also contends that significant widening to allow for heavy vehicle access during construction would be necessary and that no details are provided as to the visual or ecological impacts.

8.1.2. In terms of landscape character, I note the location of the application site within the Lowland Character Area as determined by the Development Plan Landscape Character Assessment. Furthermore, the site is not located within or adjacent to Landscape Sensitivity markers identified within Figure 9.3 of the Plan. In this regard, as it relates to the dwelling house, I am satisfied that impacts on the character of the area accruing from the single storey house and associated garage would largely be restricted to the site and given its limited scale, height and positioning, would not have a negative impact on the character of the wider area.

8.1.3. As referred to earlier, the private laneway is rural in character, unsurfaced and of narrow width, flanked by high hedging and trees either side with a grass median. I note the existing field entrance currently devoid of hedging which will serve as the site access. I refer also to Site Layout Plan Drawing PPLN-101 Rev C, which in relation to works intended to the laneway, refers to the installation of 2 no. passing bays and to measures referred to as *'fill in potholes and hardcore lane'*. The First Party response to this appeal elaborates on these proposals referring to the widening of the lane by minimal clearance to the northern side only, including removal of Ash trees due to die-back. Replanting is to be carried out to the rear of the retained trees and hedgerows and a timber post and rail fence is proposed over the length of the passing bays.

While I am of the view that the measures proposed would alter the character of the laneway providing for a degree of widening and installation of passing bays, the overall loss of biodiversity as a result of the works would be short term in nature pending establishment of replacement planting. I note in this regard the applicant refers to removal of a number of Ash trees due to Ash die-back. A planning condition specifying the use of native tree and hedging species is recommended.

8.1.4. I refer also to removal of roadside boundary to facilitate sight visibility splays and note the composition of the boundary at this location comprising predominantly low hedging with no large specimen trees in situ. I am of the view that any loss of biodiversity would

be short term in nature and may be addressed by ensuring an appropriate composition and mix of native hedging and tree species as part of replanting measures.

9.0 Appropriate Assessment Screening

9.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The site lies approximately 5.6km from the River Barrow and River Nore SAC (Site Code 002162) and is approximately 8.06km from the River Nore SPA (Site Code 004233). The site lies approximately 1.45km from the Red Bog Dungarvan pNHA (Site Code 000846).

The site is not immediate to a European site.

The proposed development comprises a single dwelling unit, domestic garage, on site wastewater treatment system and associated works.

No nature conservation concerns were raised in the planning 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:

- Nature of the works e.g. a single dwelling unit of small scale.
- Location and distance from the nearest European site and lack of connections.
- Taking into account determination of the Planning Authority.

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

Likely significant effects are excluded and thereafter Appropriate Assessment (under Section 177V of the Planning and Development Act 2000 is not required.

10.0 Water Framework Directive

The subject site is located approximately 0.47 km north of a water body referred to as Nore_230 and is c. 1.0km northwest of a water body referenced as Powerstown_010.

The development comprises a single storey dwelling domestic garage and associated works.

Flood risk (surface) and wastewater disposal concerns were raised during the planning appeal.

I have assessed the development seeking permission 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 and 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:

- Nature of works e.g. small scale and nature of the development
- Location-distance from nearest Water bodies and/or lack of hydrological connections

Conclusion

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.

11.0 Recommendation

I recommend that permission is refused.

12.0 Reasons and Considerations

The proposed development, providing for the removal and set back of an extensive length of roadside boundary to facilitate sight visibility from the existing private lane, would contravene the Kilkenny City and County Development Plan 2021-2027 which requires under Section 12.11.10.1 *Roads Development Management Requirements* that required sight distances in respect of single houses in the countryside should not be achieved by the extensive removal of hedgerows, ditches, embankments, trees or old walls. Furthermore, in the absence of certainty regarding the delivery of works to address intensification in use of the laneway; the development as proposed, by reason of its substandard width and alignment would danger public safety by reason of traffic hazard and obstruction of road users. The development as proposed would therefore be 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.

Patricia Byrne

Planning Inspector

1st October 2025

Form 1 - EIA Pre-Screening

Case Reference	ACP 323049-25
Proposed Development Summary	Single storey dwelling, detached single storey garage, treatment system/percolation area including associated site works
Development Address	Bramblestown Gowran Co. Kilkenny
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)	☒ Yes, it is a 'Project'. Proceed to Q2.
	☐ No.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☒ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	Class 10(b) Part 2 Schedule 5 Construction of more than 500 dwelling units.
☐ 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?	
☒ 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.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ 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)	1 no. dwelling on a stated site of area 0.21Ha.

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 ☐	Screening Determination required (Complete Form 3)
No ☐	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ACP232049-25
Proposed Development Summary	Single storey dwelling, detached single storey garage, treatment system/percolation area including associated site works
Development Address	Bramblestown Gowran Co. Kilkenny
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposal comprises a single storey dwelling house of floor area 71sq.m and a detached single storey garage of floor area 41sq.m. with onsite waste water treatment system and private borewell. The development does not require any demolition works and does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (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).	The development is located within a rural area south of the settlement of Gowran Co. Kilkenny. The site does not impact on protected views and is within the Low Lying Landscape Character Area as defined in the Kilkenny City and County Development Plan 2021-2027.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature of the proposed development- a single storey dwelling unit and detached single storey garage, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	

Likelihood of Significant Effects	
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)