



An
Coimisiún
Pleanála

Inspector's Report ACP-323111-25

Development	Seven houses and associated site development works.
Location	Kilheale Avenue & Kilheale Drive, Kilheale Manor, Kill, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2461204
Applicant(s)	Cavan Developments Kill Ltd
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Cavan Developments Kill Ltd.
Observer(s)	None on file
Date of Site Inspection	10/10/25
Inspector	Ronan Murphy

1.0 Site Location and Description

- 1.1. The appeal site is located within an existing housing estate known as Kilheale Manor on the southern outskirts of Kill Village, Co. Kildare.
- 1.2. The site which has a stated area of 0.2ha and is a brownfield site which is currently used as a compound for plant equipment associated with the constriction of Kilheale Manor. The site is enclosed by way of timber hoarding to the north and west and by a brick wall to the south.
- 1.3. The site is bound by existing dwellings to the south and to the east, an area of open space to the west and an internal estate road to the north.

2.0 Proposed Development

- 2.1. The proposed development comprises of an infill development of 7 No. two storey, 3-bedroom terraced houses, set out in two terraces.
- 2.2. The proposed dwellings would have internal floor areas of 126m² and would have maximum heights of 9.57m. The proposed dwellings would be finished in a combination of brick to the front with a marble dash to the side and rear elevations.
- 2.3. The proposal would include on-curtilage parking and bin stores to front, with associated hard and soft landscaping and all associated site works.
- 2.4 The following key parameters are noted:

Site area	0.200
Residential Units	7
Total floor space	887.00 m ²
Building Height	9.57m
Density	35 dwellings per hectare
Public open space	Provided within the overall development
Access	Vehicular and pedestrian via internal road network

Car parking	7 car parking spaces
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3.0 Planning Authority Decision

3.1 Decision

3.1.1 By order dated 27/6/25 Kildare County Council decided to refuse planning permission for 1 No. reason as set out below:

1. The proposed development, which seeks to replace a previously permitted childcare facility with residential units, is considered contrary to the proper planning and sustainable development of the area. The site was originally identified to provide essential social infrastructure in the form of a childcare facility to serve the cumulative residential development in the area. The Applicant has not demonstrated that the need for such a facility no longer exists. Evidence submitted confirms that existing childcare services in the Kill area are at full capacity, with limited or no current availability for childcare provision. The Kildare County Childcare Committee has identified Kill as an area in need of Full Time Childcare Based provision. The proposed development would result in the permanent loss of a strategically located site intended to meet this identified need, contrary to Objectives SC O77 and SC O79 of the Kildare County Development Plan 2023–2029, and the Section 28 Guidelines for Planning Authorities on Childcare Facilities (2001). The proposed development would therefore seriously injure the amenities of persons residing in the Kill area and be contrary to the proper planning and sustainable development of the area.

3.2 Planning Authority Reports

3.2.1 Planning Reports

There are two planning reports on file. The first report dated 17/1/25 states that the proposed development which comprises of the construction of 7 residential units complies with *the 'B-existing Residential / infill'* zoning of the land. However, concerns were raised that the proposed development in conjunction with previously approved

residential development surrounding the site would lead to overdevelopment of the site given the absence of a childcare facility.

3.2.2 Other Technical Reports

- **Municipal District Engineer:** Report dated 17/12/24 outlining no objections.
- **Transport Department:** Report dated 17/12/24 requesting Further Information with respect to an updated site plan to show EV parking charging, bicycle storage, and a draft Construction Management Plan.
- **Development Control:** Report dated 17/12/24 outlining no objection, subject to condition.
- **Chief Fire Officer:** Report dated 16/12/24 outlining no objection.
- **Environment Section:** Report dated 6/12/24 outlining no objection, subject to conditions.
- **Water Services:** Report dated 9/12/24 requesting Further information related to an updated soil infiltration report, updated drainage system design to cater for 1 in 100-year storm event with an allowance of +30% in order to cater for climate change and an additional 10% for urban creep.
- **Housing section:** Report dated 17/11/24 outlining no objection, subject to condition.

3.2.3 Prescribed Bodies-Pre Further Information

- **Environmental Health:** Report dated 13/12/24 outlining no objection, subject to condition.

3.4 Second planning report

- 3.4.1 A second planning report dated 26/5/25 recommends that planning permission be refused as the proposal would remove a previously permitted creche and although this application has expired given the scale of residential development in the area, circa of 286 dwellings, and the absence of provision of childcare facility as outlined in the Section 28 Guidelines and the Kildare County Development Plan 2023-2029, the

proposed development would constitute an overdevelopment without the provision of adequate childcare services.

3.4.2 Other Technical Reports-Post Further Information

- **Water Services:** Report dated 10/6/25 outlining no objection, subject to conditions.
- **Housing:** Report dated 17/6/25 outlining no objection, subject to conditions.
- **Transport:** Report dated 25/6/25 outlining no objection, subject to conditions.

4 Planning History

- 4.1 There is a substantial planning history associated with the appeal site, these are summarised below:

Reg. Ref. 07/1474: Application for a residential development of 162 dwellings, a shop, and a crèche, together with a pumping station and temporary on-site wastewater treatment plant (WWTP) and all ancillary site works. Permission granted, subject to conditions.

Reg. Ref. 10/278: Application for site layout alterations, changes of dwelling type and a reduction of 4 no dwellings at this site. The development will consist of a reduction from 69 no. to 65 no. dwellings on part of the overall site already approved under permission reg. Ref. No. 07/1474, with the shop and crèche blocks will be re-located. Permission granted, subject to conditions.

Reg. Ref. 14/304: Application for the construction of 52 No. 4 bedroom detached and semi-detached houses on sites 116 to 167 together with minor site layout revisions on

part of the overall site already approved under Permission Reg. Ref. No. 07/1474. Permission granted, subject to conditions.

Reg. Ref. 17/1008: Application for extension of Duration of Planning Ref. No. 07/1474. Extension of duration granted.

Reg. Ref. 19/885: Application for the development of 66 no. houses, comprised of 2 storey, 2, 3 & 4 bed detached, semi-detached and terraced houses on a site measuring circa 2.90 hectares. Permission granted, subject to conditions.

Reg. Ref 19/886: Application for development of 58 No. houses, comprised of 2 storey, 2, 3 and 4 bed semi-detached and terraced houses on a site measuring circa. 2.78 hectares. The proposed development will result in a modification to part of a previously permitted development granted under Reg. Ref. 07/1474. Permission granted, subject to conditions.

Reg. Ref. 22/828: Application for modifications to a previously permitted residential development granted under Planning Ref. 19/885 at Kilheale Manor, Kill, County Kildare. The proposed development consists of changes to permitted unit types in 2 no. terrace blocks, as permitted under Planning Ref. 19/885. Permission granted, subject to conditions.

Reg. Ref. 22/1154: Application for modifications to a previously permitted residential development granted under Planning Ref. 19/886 The proposed development consists of changes to permitted types. Permission granted, subject to conditions.

5 Policy Context

5.1 Development Plan

- 5.1.1 The *Kildare County Development Plan 2023-2029* is the operative plan for the area. The appeal site is within the 'B' – Existing Residential/ Infill" zone.
- 5.1.2 In addition to this, the appeal site is also within the area covered by the *Kill Small Town Plan 2023-2029* which is within Volume 2 of the *Kildare County Development Plan 2023-2029*. The land is shown within the 'B' – Existing Residential/ Infill" zone.

5.1.3 Relevant policies and objectives include:

HO P6: Which seeks to promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development.

HO P8: Which seeks to support new housing provision over the plan period to deliver compact and sustainable growth in towns and villages in the County and supporting urban renewal and infill development.

HO O23: Which seeks to promote co-location of facilities (including childcare facilities and facilities for older persons) at sustainable locations where they can avail of existing and planned social and community infrastructure.

SC O77: Which seeks to have regard to the criteria specified in the Childcare Facilities for Planning Authorities, DEHLG (2001), Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) and any updated policy guidance, regarding the provision of childcare and early years education facilities.

SC O79: Which seeks to ensure childcare provision is delivered in new communities prior to or in tandem with phase 1 of any residential or commercial development.

5.2 Section 28 Guidelines:

National Planning Framework - Project Ireland 2040-updated in April 2025 sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards

Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (January 2024). These Guidelines set national planning policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements.

Quality Housing for Sustainable Communities: Design Guidelines. The purpose of these Guidelines is to assist in delivering homes, in sustainable communities that are socially inclusive.

Other relevant guidance

Childcare Facilities: Guidelines for Planning Authorities (2001) which requires Provision of one childcare facility per 75 dwellings.

5.3 Water Framework Directive

5.3.1 The purpose of the EU Water Framework Directive is an initiative aimed at improving water quality throughout the European Union. The Directive was adopted in 2000 and requires governments to take a new approach to managing all their waters; rivers, canals, lakes, reservoirs, groundwater, protected areas (including wetlands and other water dependent ecosystems), estuaries (transitional) and coastal waters.

5.3.2 An Coimisiún Pleanála and other statutory authorities cannot grant development consent where a proposed development would give rise to a deterioration in water quality.

5.3.3 The appeal site is located c. 217 m from the Painestown_010 River Waterbody IE_EA_09P010400. This waterbody is classified as poor ecological status. This is illustrated on the EPA mapping (<https://gis.epa.ie/EPAMaps/agriculture>).

5.3.4 I have assessed the application for the construction of Seven houses and associated site development works for which permission is sought 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.

5.3.5 The reason for this conclusion is as follows:

- The small scale and nature of the development; and
- The site is connected to public water, sewer, and wastewater services.

5.4 Natural Heritage Designations

5.4.1 The subject site is not located within or adjacent to a European Site. The nearest designated sites are the Red Bog, Kildare SAC (Site code: 000397) which is c.6km to

the south-east of the appeal site and the Poulaphouca Reservoir SPA (Site code: 004063) which is located c. 8.1km to the south of the site.

5.4.2 In addition to this the site is located c. 13km to the north-west of the Wicklow Mountains SAC (Site code: 002122), c. 13.1km to the south-east of the Ballynafagh Bog SAC (Site code: 000391) and c. 13.7km to the east of the Mouds Bog SAC (Site code: 002331)

5.5.3 In addition to this, the appeal site is located c.3.3km to the south of the Grand Canal pNHA (Site code: 002104), C.6km to the north of the Red Bog, Kildare pNHA (Site code: 000397) and c. 8.8km to the west of the Slade Of Saggart And Crooksling Glen pNHA (Site code: 000211).

5.5.4 A screening exercise for Appropriate Assessment will be undertaken in Section 8 below.

5.5 EIA Screening

5.5.1 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, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6 The Appeal

6.1 A first party appeal has been received from Declan Brassil and Company on behalf of Cavan Developments Kill Limited. The appeal includes appendices A-C. The appeal can be summarised as follows:

- Permission for a use in a historic permission that has lapsed does not have the effect of 'designating' or affording some status or protection to that use in perpetuity after the permission has lapsed.
- The residential units permitted under Reg. Ref. 071474 and subsequent applications has been constructed and occupied and the existing capacity in established childcare facilities has catered for the existing childcare needs associated with the Killheale Manor dwellings.
- The clear preference for established operators is for facilities with a minimum of 60 childcare spaces.
- The lack of demand for the permitted facility over the lifetime of its permission demonstrates that the existing demand generated by Killheale Manor is being met elsewhere in Kill.
- It is not consistent with national and county level policy that a residential development is refused permission on a serviced, zoned, and viable infill site on the basis of a non-implementation of a lapsed permission.
- The development of 7 houses is consistent with the pattern of development in the area.
- The Childcare Guidelines provide a measure of flexibility to Planning Authorities where it is recognised that additional facilities are not required where adequate

childcare provision is deemed to be located within close proximity of a new housing area.

- A total of three childcare facilities are operating within Kill, all of which are easily accessible from the appeal site. There is a further facility in Johnstown which given the scale of settlement and its proximity to Kill provides childcare services for the wider area.
- There is capacity for a further 95 childcare spaces currently or imminently available which is more than adequate to meet the existing demand and there is no basis for 'designating' the appeal site as a creche site.
- The creche facility at Newtown Manor, built by the first party, is currently vacant and given the lack of interest of any operators to run the facility the first party was not in a position to finance or commence construction on its second permitted facility. The lack of interest demonstrates that the permitted facility was not and is not viable and that demand is being met elsewhere.
- Under construction creche facilities at Hillfort (55 spaces) was not taken into account at Further Information stage. In addition to this the first party has a built and unoccupied facility (40 spaces). This information was not presented to Kildare County Council when it made its decision. This constitutes a material change in circumstances that allows the Coimisiún to make a different decision and to grant planning permission.
- The proposal is not contrary to Objectives SC 077 and SC 079 of the Kildare County Development Plan 2023-2029.

6.2 Planning Authority Response

- Letter dated 18/8/25 stating that the contents of the appeal are noted that the facility referred to in the appeal at Newtown Manor is not a purpose-built childcare facility and as such operators have not found it a suitable premises to conduct business.

- The Kildare Childcare committee has clearly outlined that there is an unmet demand for childcare facilities in the Kill area. The Planning Authority considers that a purpose-built facility on the subject site would go some way towards addressing this unmet demand.

6.3 Observations

6.3.1 There are no observations on file.

6.4 Further Responses

6.4.1 There are no further responses on file.

7 Assessment

7.1 Having examined the appeal details and all other documentation on file, including the reports of the local authority and inspected the site. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Creche
- Flooding
- Appropriate Assessment

7.2 Principle of development

7.2.1 As per the current local area plan for Kill, the appeal site is within the 'B' – Existing Residential/ Infill" zone with the associated land use objective *'To protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services'*

7.2.2 Residential is permitted in principle in the B-Existing Residential /Infill zone. I am satisfied that the proposed uses are in accordance with the sites zoning objective and that the proposed development is acceptable in principle, subject to a full assessment.

Infill development

7.2.3 The appeal site is surrounded by residential development to the north, east and west, with a landscaped area of open space to the south. By reason of the existing pattern of development in the vicinity of the site the appeal site can reasonably be seen to constitute an infill site.

7.2.4 Having regard to the Guidelines for Sustainable Residential Development and Compact Settlements and the provisions of the current development plan and local area plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections.

Density / Layout / Design

7.2.5 I make the Coimisiún aware that this assessment is based on the plans submitted with the initial application as well as the updated plans and particulars submitted at Further Information stage with respect to the location of the existing substation to the front of proposed dwellings E1 and F.

Density

7.2.6 The density of the proposed development would be 35 units per hectare. It is noted that Table 2.1 – Development Capacity of Small Towns set out in Appendix 2 of the *Kildare County Development Plan 2023-2029* sets out a density range of 35-40 units per hectare for Kill. In addition to this, the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024, set out national planning policy and guidance in relation to the planning and development of urban and rural settlements. Kill is a small / medium sized town and Table 3.6 sets a density range of 25 dph to 40 dph which shall be applied at town edges.

7.2.7 I am satisfied that the density of the proposed development complies with both national and local guidance and is acceptable.

Layout

7.2.8 The proposed development comprises of 7 dwellings set out in set out in two terraces. Having considered the plans submitted with the application and having regard to the location of the appeal site within an existing residential development, in broad terms,

I am satisfied that the layout of the proposed development is acceptable, and it successfully integrates with the surrounding streetscape which is residential in character.

Design

7.2.9 The proposed houses would have maximum heights 9.57m and would be finished in a mixture of brick 'Ivanhoe Katrina' with marble dash to the side and rear elevations to match the surrounding houses in the development.

7.2.10 Having considered the submitted plans and having been on site I am of the opinion that the overall design of the proposed dwellings is similar to the existing dwellings within the overall development and as such would integrate with the character of the area in a satisfactory manner.

7.2.11 Notwithstanding this, I note that there is an existing ESB substation to the front of Unit 1 (to the south of the proposed development). While this is not an ideal layout, I note that the substation is proposed to be enclosed by a brick wall to the rear and sides with a timber panel fence to the front. In addition to this the existing ESB substation would be screened by way of landscaping. On balance while the location is not ideal, I am satisfied that the substation would not have an undue impact on the amenity of Unit 1 of the proposed development.

7.2.12 Having considered the foregoing, I am satisfied that the design of the proposed development not visually detract from the residential amenity of the surrounding area.

Quality of the proposed units

Unit Mix

7.2.11 Given the location of the proposed development within a housing estate, I am satisfied that the mix of houses is acceptable.

Floor areas -houses

7.2.12 In assessing the proposed development, I have regard to the design rationale and layout of units as outlined in the applicants cover letter. I note that all the dwellings exceed the minimum overall floor area requirements as set out in Quality Housing for Sustainable Communities: Design Guidelines 2023. This is considered to be acceptable.

Private open space-houses

7.2.13 Private open space to serve each of the dwellings is proposed by way of back gardens.

The relevant private open space areas for the dwellings range between c.73m² to 115m² and therefore I am satisfied that the back gardens would exceed the minimum area standards set out in SPPR2 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024. This is considered to be acceptable.

Car /bicycle parking

7.2.14 I refer the Coimisiún to the Transport Statement prepared by Pinnacle Consulting Engineers which states that 7 car parking spaces are proposed for the development. Drawing No. D-2005-PL-02 'Contiguous Elevations and Proposed Site Plan' shows 1 car park per dwelling to the front of each proposed dwelling.

7.2.15 Section 15.7.8 of the Kildare County Development Plan 2023-2029 sets out maximum parking requirements for development and states that 1 car parking space is required for units up and including 3 bed units and 1 space +0.5 visitor spaces for units of 4 bedrooms or greater. In addition to this, Table 3.8 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 and sets a maximum rate of 2 car parking space per dwelling in intermediate and peripheral areas. Having considered the foregoing, I am satisfied that the car parking provision is acceptable.

7.2.16 With respect to bicycle spaces, I note that one bicycle space per unit is proposed. Bicycle storage is proposed to the front of each of the mid terrace units, in this regard, I refer the Coimisiún to Drawing No. D-2005-PL-02 '*Contiguous Elevations and Proposed Site Plan*' submitted at further information stage which demonstrates this. I am satisfied that the bicycle parking provision is acceptable.

Residential Amenity of surrounding properties

Overlooking

7.2.17 Having regard to the layout of the proposed development and the set back of proposed units, I do not have any concerns that the proposed development would lead to any undue overlooking either externally or within the proposed development. I have come to this conclusion having noted that the separation distances are greater than 16m as

set out in SPPR1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024. This is shown on Drawing No. D-2005-PL-02 '*Contiguous Elevations and Proposed Site Plan*'.

Overshadowing / Overbearing

7.2.18 Having considered the site plan submitted with the application, I am satisfied that the proposed development would not have an undue impact on the residential amenity of surrounding properties by way of overshadowing or overbearing development. In coming to this conclusion, I have had regard to layout of the proposed development, the separation distances from established residential to the north and east.

7.3 Creche

7.3.1 The reason for refusal states that (inter alia) the proposed development which seeks the replacement of a previously permitted childcare facility with residential units would be contrary to the proper planning and sustainable development of the area. In addition to this, it is stated that the applicant has not demonstrated that the need for such a facility no longer exists and that the Kildare County Childcare Committee has identified Kill as an area in need of Full Time Childcare Based provision. The proposed development would result in the permanent loss of a strategically located site intended to meet this identified need, contrary to Objectives SC O77 and SC O79 of the Kildare County Development Plan 2023–2029, and the Section 28 Guidelines for Planning Authorities on Childcare Facilities (2001).

7.3.2 The first party put forward the case that permission should be granted for the development of 7 no. dwellings on the site on the basis that the residential development is nearing completion and that over the duration of the permission and extensions of duration to that permission that it was not possible to attract an end user to develop or operate a creche, due to the limited size and scale of the facility. In addition to this, the first party states that there is capacity for a further 95 childcare spaces currently or imminently available in the area, which is more than adequate to meet the existing demands for the area and that the creche facility at Newtown Manor, built by the first party, is currently vacant and given the lack of interest of any operators to run the facility the first party was not in a position to finance or commence construction on its second permitted facility and that permission for a use in a historic

permission that has lapsed does not have the effect of ‘designating’ or affording some status or protection to that use in perpetuity after the permission has lapsed

7.3.3 Policy SC077 of *the Kildare County Development Plan 2023-2029* has regard to the criteria specified in the Childcare Facilities for Planning Authorities, DEHLG (2001).

7.3.4 Paragraph 2.4 of the ‘Childcare Facilities, Guidelines for Planning Authorities’ states that within new communities / larger new housing developments, planning authorities should require the provision of at least one childcare facility unless there are significant reasons to the contrary e.g. the development consists of single bed apartments or where there are adequate childcare facilities in adjoining developments. In addition to this, the threshold for provision should be established having regard to the existing geographical distribution of childcare facilities and the emerging demographic profile of areas.

7.3.5 I note the argument of the first party that that permission for a use in a historic permission that has lapsed does not have the effect of ‘designating’ or affording some status or protection to that use in perpetuity. However, a creche was permitted on the land and was the subject of a number of extensions of duration permissions in the past. In my opinion, the loss of a crèche facility would have to be robustly justified in light of childcare demands and emerging demographic profiles in the area. This will be considered below.

Existing childcare provision

7.3.6 The first party appeal provides an analysis of existing and under construction childcare facilities in the Kill area. This shows that there are an existing 172 childcare spaces within 4 separate facilities in Kill. I have verified this by viewing the Tusla Early Years Register at https://www.tusla.ie/uploads/content/Kildare_Aug25.pdf. In addition to this, I make the Coimisiún aware that I have consulted the Kildare County Childcare Committee website to check available childcare spaces within Kill, and I note that no childcare places were available. This can be found at <https://www.kccc.ie/News/ID/1736>.

7.3.7 The first party appeal also identifies that there are two additional childcare facilities in Kill which are either vacant or under construction and these would have a combined capacity of 95 childcare spaces. These include an existing creche in Newtown Manor (built by the applicant in this case) with a capacity for 40 children and a separate facility

under construction within the Hillfort development with a capacity of 55 spaces. Therefore, there is a theoretical total of 267 childcare spaces in Kill.

- 7.3.8 I note that the existing, vacant childcare facility at Newtown Manor which has a capacity of 40 spaces has been vacant from a substantial period of time. The first party appeal states that the scale of the creche at Newtown Manor is too small being below the minimum 60-70 childcare capacity for a business to be viable, I refer the Comiun to Appendix B of the first party appeal in this regard. Having considered the letter in Appendix B I would question the viability of the creche at Newtown Manor. In my opinion, this creche should be excluded from the overfall creche figures for Kill.
- 7.3.9 The creche at Hillfort has a capacity of 55 spaces is marginally below the minimum childcare capacity of 60-70 children, however, I am inclined to include these spaces in the total for the total figure in Kill.
- 7.3.10 Having considered the foregoing, in my opinion the number of creche spaces in Kill would be 227.

Demographics / future need for childcare spaces

- 7.3.11 The reason for refusal states that the Applicant has not demonstrated that the need for such a facility no longer exists. In this regard I note that the first party appeal does not provide any detail with respect to emerging demographic profiles in the area which provide detail with respect to the number of new preschool children likely to be generated in the Kill area.
- 7.3.12 In the absence of demographic information presented by the first party, I have considered CSO data for the Kill area since planning permission was granted for the parent permission (24/1/2008). In this regard, I note that the population of Kill increased from 2,985 in 2006 to 3,815 in 2022 (the most recent census) an increase of c.30%. In addition to this, I have considered the 2022 Census data for Kill which can be found at <https://visual.cso.ie/?body=entity/censusurbanprofiles/> This shows that there were 256 children in the 0-4 age group and 315 children within the 5-9 age group in Kill.
- 7.3.13 Having considered the population in growth in Kill over the intercensal period, I am not satisfied that the first party has demonstrated a substantial cause for the replacement of a previously permitted childcare facility with residential units. In the absence of

contrary evidence, it is clear that there is a growing demand for childcare in Kill because of housing development in the area as demonstrated in the population increase in Kill. Further to this, I am not satisfied that the existing, vacant and under construction childcare spaces of 227 as outlined above would be adequate to meet future demand within Kill. These concerns could not be dealt with by way of condition; therefore, refusal is recommended.

Viability of the permitted creche

7.3.13 The creche permitted under the parent permission had a floor area of 150m² which would equate to a facility with a capacity for 40 children. As previously discussed, a facility with a capacity of 60-70 childcare capacity is required for a childcare business to be viable. In addition to this, I note that the appellant has developed a similarly sized creche within the Newtown Manor estate which has been vacant for a substantial period of time.

7.3.14 It maybe that the appellant could consider combining the creche facilities into one larger facility which would be viable. This would require the agreement of the planning authority and subsequent to that would be subject to a full statutory process.

7.3.15 In my opinion, the appeal site would be the more suitable location for a combined creche as the site is undeveloped and is closer to the town centre. This scenario may allow the appellant to change the use of the existing, vacant creche into residential units. Again, this would require the agreement of the planning authority and would be the subject of a full statutory process.

7.4 Flooding

7.4.1 I have consulted the flood mapping system (www.floodinfo.ie) and I note that the subject land is within Flood Zone 'C'.

7.4.2 Having considered all the foregoing; I consider the proposed development would not result increase the risk of flood either within the site itself or the surrounding area. The proposal is acceptable from a flood risk perspective.

8 AA Screening

8.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The application is for seven houses

and associated site development works within an existing housing estate in Kill, Co. Kildare.

- 8.2 The subject site is not located within or adjacent to a European Site. The nearest designated sites are the Red Bog, Kildare SAC (Site code: 000397) which is c.6km to the south-east of the appeal site and the Poulaphouca Reservoir SPA (Site code: 004063) which is located c. 8.1km to the south of the site.
- 8.3 In addition to this the site is located c. 13km to the north-west of the Wicklow Mountains SAC (Site code: 002122), c. 13.1km to the south-east of the Ballynafagh Bog SAC (Site code: 000391) and c. 13.7km to the east of the Mouds Bog SAC (Site code: 002331)
- 8.4 In addition to this, the appeal site is located c.3.3km to the south of the Grand Canal pNHA (Site code: 002104), C.6km to the north of the Red Bog, Kildare pNHA (Site code: 000397) and c. 8.8km to the west of the Slade Of Saggart And Crooksling Glen pNHA (Site code: 000211).
- 8.5 There is no hydrological link between the subject site and the European sites.
- 8.6 Having considered the nature, scale, and location of the proposed development, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 8.7 This determination is based on:
- Small scale and domestic nature of the development
 - Distance from European sites.
 - No hydrological connections to the European sites.
- 8.8 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.
- 8.9 Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9 Recommendation

9.1 I recommend that planning permission be refused.

10 Reasons and Considerations

Having regard to the Childcare Facilities Guidelines (2001) and the *Kildare County Development Plan 2023-2029*, it is considered that the proposed development for seven dwellings in place of a previously permitted creche facility would result in the unacceptable loss of social infrastructure to serve the existing and future population of Kill and would be contrary to objective SC O77 of the *Kildare County Development Plan 2023–2029*, and 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.

Ronan Murphy
Planning Inspector

20 October 2025

Form 1 - EIA Pre-Screening

Case Reference	ACP-323111-25
Proposed Development Summary	Seven houses and associated site development works.
Development Address	Kilheale Avenue & Kilheale Drive, Kilheale Manor, Kill, Co. Kildare
	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 checked="" type="checkbox"/> Yes, it is a 'Project.' Proceed to Q2. <div style="border: 1px solid black; height: 150px; width: 100%;"></div>
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	Part 2 Class 10 (b) (i) Construction of more than 500 dwelling units. The proposed development is for 7 dwellings.
<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	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Part 2 Class 10 (b) (i) Construction of more than 500 dwelling units. The proposed development is for 7 dwellings.</p>

<p>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)?</p>	
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ACP-323111-25
Proposed Development Summary	Seven houses and associated site development works.
Development Address	Kilheale Avenue & Kilheale Drive, Kilheale Manor, Kill, Co. Kildare
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).	Briefly comment on the key characteristics of the development, having regard to the criteria listed. The development of seven dwellings and associated site works comes forward as a standalone project, and it does not involve 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. The site is on zoned residential land and is not exceptional in the context of permitted adjacent land uses.
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).	Briefly comment on the location of the development, having regard to the criteria listed. The development is situated on a site within a residential development in proximity to Kill town centre. The development site is landlocked and is proposed to be accessed from the internal road network of the existing residential development. Having noted the Appropriate Assessment Screening Report it is noted that there is no direct hydrological links to any European sites. The development is removed from sensitive natural habitats, dense centres of population and designated sites and landscapes of identified significance in the County Development Plan.

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 characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects. Having regard to the nature of the proposed development, its location removed from sensitive habitats/ features; likely limited magnitude and spatial extent of effects; and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)