



An
Coimisiún
Pleanála

Inspector's Report ACP-323136-25

Development	Construction of a detached one and half storey house with single storey element, single storey garage septic tank, and percolation area private well and all associated site works.
Location	Silliothill, Kilcullen, Co Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2560470
Applicant(s)	Elaine O'Hanlon
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Elaine O'Hanlon
Observer(s)	1. Danielle O'Hanlon 2. David Hughes
Date of Site Inspection	24/10/25

Inspector

Ronan Murphy

1.0 Site Location and Description

- 1.1. The appeal site is located in Silliothill, which is a rural area located approximately 2km to the north-east of the village of Kilcullen in County Kildare. The general character of the area in which the appeal site is located comprises of a type of rural residential cluster with a number of dwellings within a relatively small area. In addition to this, there is a Concrete Plant to the far west of the site which is visible from the appeal site.
- 1.2. The appeal site is accessed via a narrow rural track which connects to a small rural cul-de-sac which in turn accesses to the R448, which provides access to Kilcullen Village.
- 1.3. The site has a stated area of c. 0.800 and is generally rectangular in shape. The site of the proposed dwelling is located at the south-western end of a larger field which is under pasture. The topography of the site generally rises to the south-western corner of the site. There is a mature boundary to the south of the site, but the location of the proposed dwelling has no other planted boundaries.
- 1.4. The site is bound by an existing dwelling to the west, the access agricultural track to the north, the balance of the agricultural field to the east and an agricultural field to the south.

2.0 Proposed Development

- 2.1. The proposed development comprises of the construction of a detached one and a half storey house with single storey element, single storey domestic garage, recessed entrance, septic tank, and percolation area, private well and associated site works.
- 2.2. The proposed dwelling would have a floor area of c. 211m² and would have a maximum height of c. 7.46m. The proposed dwelling would be finished in nap plaster with a natural stone finish to the single storey element.
- 2.3. The proposed garage would have a floor area of 42m² and would have a maximum height of c.4.9m.

- 2.4. The proposed development includes a septic tanks and percolation area to the east of the proposed dwelling and garage. In addition to this, a private well is proposed to the north-west of the dwelling.
- 2.5. In addition to this a new vehicular access is proposed to the site from a small laneway to the north of the site.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 By order dated 276/25 Kildare County Council decided to refuse planning permission for the following reasons:

- 1. Having regard to the level of existing development on the family landholding and the documentation submitted with the planning application, the Planning Authority is not satisfied that the Applicant has a demonstratable economic or social need to live in this rural area, or that the housing need of the Applicant could not be met within nearby settlements. It is therefore considered that the proposed development does not meet the housing need criteria for an area under Strong Urban Influence and would result in a haphazard and unsustainable form of development, contrary to National Policy Objectives 19 and 33 of the National Planning Framework, and to the Sustainable Rural Housing Guidelines, issued under S28 of the Planning and Development Act 2000 (as amended). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the planning history associated with the landholding from which the subject site is being acquired, the proposed development would be contrary to Objective HOO44 of the Kildare County Development Plan 2023-2029. Objective HOO44 prohibits residential development on a landholding, where there is a history of development through the speculative sale of sites to an unrelated third party, notwithstanding the Applicant's compliance with the local need criteria. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

3. *Policy HOP12 of the Kildare County Development Plan 2023-2029 seeks to ensure that the siting and design of any proposed dwelling shall integrate appropriately with its physical surroundings. The design of all new dwellings in rural areas should respond sensitively to the characteristics of the receiving environment. New dwellings should blend into and not dominate the local landscape. Proposals must comply with Appendix 4 Rural House Design Guide and Chapter 15 Development Management Standards. Having regard to the elevated nature of the site, the scale of the proposed dwelling is inappropriate in this prominent location and as such, the proposal would dominate the rural landscape. The proposed development would therefore seriously injure the character of the rural landscape, would not successfully integrate with the character of the rural area and the environment, and would therefore be contrary to HOP12 and the proper planning and sustainable development of the area.*
4. *Policy HO P26 of the Kildare County Development Plan 2023-2029 seeks to Sensitively consider the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Councils ‘Single Rural Dwelling Density’ Toolkit (see Appendix 11)” and “examine and consider the extent and density of existing development in the area”. Having regard to the level of existing development in the area it is considered that the proposed development would result in the further suburbanisation of the receiving environment and would erode the rural character of the immediate area, contrary to HO P26 of the Kildare County Development Plan 2023-2029 and to the proper planning and sustainable development of the area*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. There is one area planners report on file, dated 25/6/25. With regard to housing need the area planner states that the housing need of the applicant could be met by one of the existing units within the family landholding or within nearby settlements.

- 3.2.3. The area planners report states that the proposed development in conjunction with the level of existing and permitted development in the area would exacerbate the excessive density in the area.
- 3.2.4. The area planner notes that there are a significant number of authorised and unauthorised dwellings on the original landholding, and it is states that to permit the proposed dwelling would further exacerbate the level of speculative development on the original landholding.
- 3.2.5. In terms of design it is noted that the design has not changed since the previously refused permission on the land and that the design would dominate the rural landscape and is contrary to the siting and design principles as set out in Appendix 4 (Rural House Design Guide) of the Kildare County Development Plan 2023-2029 and therefore would not comply with Policy HO P12 of the Kildare County Development Plan 2023-2029 which seeks to ensure that the siting and design of any proposed dwelling shall integrate appropriately with its physical surroundings
- 3.2.6. Other Technical Reports
- **MD Engineer:** Report dated 4/6/25 outlining no objection, subject to conditions.
 - **Water Services:** Report dated 27/5/25 outlining no objection, subject to conditions.
 - **Environment Section:** Report dated 23/5/25 outlining no objection, subject to conditions.
 - **Environment Section- Planning Inspection Report:** Report 22/5/25 stating that the site is suitable for proposed septic tank and percolation area.

3.3. Prescribed Bodies

- 3.3.1 No responses on file.

4.0 Planning History

There is a substantial planning history associated with the appeal site and the surrounding area. It is noted that the planning officers report includes a number of historic applications and outlined that the Local Authority have initiated a number of unauthorised development cases relating to dwellings in the vicinity of the proposed site. This is noted but the most recent cases are outlined below.

Appeal site

Reg. Ref. 24/61347: Application for the construction of a detached one and half storey house with single storey element, single storey detached domestic garage, recessed entrance septic tank, and percolation area, private well and all associated site works. Permission was refused for 4 No. reasons as set out below:

- 1. Policy HO P11 of the Kildare County Development Plan 2023-2029 seeks to facilitate proposals for dwellings in the countryside outside of settlements in accordance with the National Planning Framework Policy NPO 19 in conjunction with the Rural Housing Policy zone map and accompanying Schedule of Category of Applicant and Local Need Criteria. In order to establish genuine local need, the Applicant was assessed against Category B (i) of Zone 1 as set out in Table 3.4 of the Plan. Based on the information submitted with the application, the Applicant has not sufficiently demonstrated that they have grown up and spent 16 years living in the rural area of Kildare in an area under Strong Urban Influence as identified in the Kildare County Development Plan 2023-2029. The proposed development is therefore contrary to policy HO P11 of the Kildare County Development Plan 2023-2029 and to the proper planning and sustainable development of the area.*
- 2. Having regard to the level of existing development on the family landholding and the documentation submitted with the planning application, the Planning Authority is not satisfied that the Applicant has a demonstrable economic or social need to live in this rural area, or that the housing need of the Applicant could be met by one of the existing units within the family landholding or within nearby settlements. It is therefore considered that the proposed development does not meet the housing need criteria for an area under Strong Urban*

influence and would result in a haphazard and unsustainable form of development, contrary to National Policy Objectives 19 and 33 of the National Planning Framework, and to the Sustainable Rural Housing Guidelines, issued under S28 of the Planning and Development Act 2000 (as amended). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 3. Policy HOP12 of the Kildare County Development Plan 2023-2029 seeks to ensure that the siting and design of any proposed dwelling shall integrate appropriately with its physical surroundings. The design of all new dwellings in rural areas should respond sensitively to the characteristics of the receiving environment. New dwellings should blend into and not dominate the local landscape. Proposals must comply with Appendix 4 Rural House Design Guide and Chapter 15 Development Management Standards. It is considered that the proposed development, by way of its scale, massing, design, and siting would seriously injure the character of the rural landscape, would not successfully integrate with the character of the rural area and the environment and would therefore be contrary to HOP12 and the proper planning and sustainable development of the area.*
- 4. Policy HOP26 of the Kildare County Development Plan 2023-2029 seeks to Sensitively consider the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Councils ‘Single Rural Dwelling Density’ Toolkit (see Appendix 11)” and “examine and consider the extent and density of existing Kildare County Council - Inspection Purposes Only development in the area”. Having regard to the level of existing development in the area it is considered that the proposed development would result in the further suburbanisation of the receiving environment and would erode the rural character of the immediate area, contrary to HOP26 of the Kildare County Development Plan 2023-2029 and to the proper planning and sustainable development of the area.*

Adjacent site to the west

Reg. Ref. 07/2609: Application for new two storey dwelling, double domestic garage, and effluent treatment system. Permission granted, subject to conditions.

Reg. Ref. 12/669: Application for an extension of duration with respect to 07/2609. Extension of duration refused due to the septic tank not being in compliance with the EPA Code of Practice.

Reg. Ref. 13/225: Application for an extension of duration with respect to 07/2609. Extension of duration granted.

Other sites in the area

Reg. Ref. 23/253 (ABP- 317226-23): Application made by the same applicant in the current case on a site c. 100m to the east of the appeal site for dwelling on a site northeast of the site. Permission was refused; this decision was subject to a first party appeal and the decision to refuse permission was upheld by the Board.

Reg. Ref. 22/972: Application made by the same applicant in the current case on a site c. 100m to the east of the appeal site for permission for a dwelling on a site northeast of this site. Permission was refused subject to 2 reasons relating to siting and design considerations and the potential of the carving out of a large field could lead to the potential for infill developments.

Reg. Ref. 22/29: Application for a detached, single storey dwelling along with ancillary development consisting of improvement works to existing vehicular access, on-site treatment system with associated percolation area, driveway, landscaping, boundary treatment, and associated site works (including regrading of ground levels). Permission granted, subject to conditions.

5.0 Policy Context

Development Plan

- 5.1 The *Kildare County Development Plan 2023-2029* is the operative plan for the area. The following policies and objectives are pertinent:

HO P2: which seeks to accord with various national and regional plans and appropriate Section 28 guidelines.

Section 3.13.3 Compliance with the Rural Housing Requirements: 'Rural generated housing demand will be facilitated having regard, inter alia, to the applicant's genuine

local and housing need, together with the protection of key economic, environmental, natural and heritage assets, such as the road network, water quality, sensitive landscapes, habitats, and the built heritage....'. Urban generated rural housing, defined for the purposes of this CDP as 'housing pressure generated by proposals, or an application made for a dwelling in a rural area by persons originating and/or working in urban areas,' will not be considered. Section 3.13.3 also provides a definition of 'economic' and 'social' need.

HO P11: which seeks to facilitate, subject to all appropriate environmental assessments proposals for dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside in conjunction with the rural housing policy zone map (Map 3.1).

HO 043: which requires that applicants demonstrate that they do not own or have not been previously granted permission for a one-off rural dwelling in Kildare.

HO 044: which seeks to restrict residential development on a landholding, where there is a history of development through the speculative sale or development of sites to an unrelated third party.

HO 045: which seeks to restrict occupancy of the dwelling as a place of permanent residence for a period of ten years to the applicant.

HO 059: Which seeks to Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre¹¹, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and building on their own landholding

HO P12: which seeks to ensure that the siting and design of any proposed dwelling shall integrate appropriately with its physical surroundings and the natural and cultural heritage of the area whilst respecting the character of the receiving environment. Proposals must comply with Appendix 4 Rural House Design Guide and Chapter 15 Development Management Standards.

HOP 13: which seeks to restrict further development which would exacerbate or extend an existing pattern of ribbon development, defined as 5 or more houses along 250 metres on one side of any road.

HOP 14: which seeks to resist further development which would serve to extend ribbon development, save in circumstances where a “gap site” is evident within the existing ribbon pattern where one individual dwelling is proposed.

HOP 26: which seeks to sensitively consider the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Councils ‘Single Rural Dwelling Density’ Toolkit (see Appendix 11) and facilitate where possible those with a demonstrable social or economic need to reside in the area.

HOP 27: which seeks to require all applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2021).

HOP 30: which seeks to require that proposals retain and maintain existing hedgerows in all instances, with the exception only of the section required to be removed to provide visibility at the proposed site entrance.

HOP 32: which seeks to require that the design of entrance gateways should be in keeping with the rural setting.

Appendix 4: Rural House Design Guide.

Appendix 11: Single Rural Dwelling Density Toolkit

5.2 National Planning Framework (2040)-First Revision April 2025

5.2.1 National Policy Objective (NPO) 28 states it is an objective to 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

5.3 Section 28 Ministerial Guidelines

5.3.1 Sustainable Rural Housing Guidelines for Planning Authorities, 2005

5.3.1.1 The subject site is located within an area identified as 'Area under strong urban influences' as shown on Map 1: Indicative Outline of the NSS rural area types in the Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The Guidelines note that in these areas the objective should be to consolidate and sustain the stability of the population and in particular to strike the appropriate balance between development activity in smaller towns and villages and wider rural areas.

5.3.3 EPA Code of Practice Domestic Wastewater Treatment Systems, population equivalent of less than 10, 2021.

5.3.1.1 This document provides guidance on the site characterization, design, operation, and maintenance of domestic wastewater treatment systems.

5.4 EU Water Framework Directive

5.4.1 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.

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

5.4.3 The subject site is located c. 2km to the north of the Liffey _060 River Waterbody IE_EA_09L010700. In proximity to the appeal site, this waterbody is classified as moderate ecological status. This is illustrated on the EPA mapping (<https://gis.epa.ie/EPAMaps/agriculture>).

5.4.4 I have assessed the application for a dwelling, detached garage, septic tank and percolation area and vehicular access 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.

5.4.5 The reason for this conclusion is as follows:

- The small scale and nature of the development; and
- The adequate treatment of wastewater with the site.

5.5 Natural Heritage Designations

5.5.1 The subject site is not located within or adjacent to a European Site. The nearest designated sites are the Pollardstown Fen SAC (Site code: 000396) and the Pollardstown Fen pNHA (Site code: 000396) which are located c. 7.5km to the north-west of the site.

5.5.2 In addition to this, the site is located c. 1.9km to the south-east of the Grand Canal (Site code:002104) and the Curragh (Kildare) pNHA (Site code:000392) which is located c. 4.8km to the south-west of the site.

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

5.6 EIA Screening

5.6.1 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. Please see Appendix 1.

6 The Appeal

6.5 Grounds of Appeal

6.5.1 A first party appeal has been submitted by Whyte Planning Consultants Limited on behalf of Elaine O'Hanlon. The grounds of appeal can be summarised as follows:

Reason for refusal No.1

- Significant local need documents were submitted with the planning application which was not recognised by the local authority. The Coimisiún is requested to recognise the applicant's compliance with the local need policy of Kildare County Council and the NPF.
- The applicant was deemed to be compliant with local needs by the order and direction of the board under appeal reference BD-016232-24 (ABP-217226-25)

Reason No.2

- The site in question is not "acquired," it has been in the ownership of the applicant's mother (Folio No. KE38273F) since 2002 and has minimal planning history. Planning permission was granted for the applicant's sister in 2007 and extended in 2013.
- Planning Authority have deliberately and consciously constructed a reason for refusal to attempt to rectify unauthorised development which took place on the overall landholding. The applicant was a child and a teenager when this development took place, and the local authority have mechanisms such as enforcement.
- It is not reasonable or fair to lay the blame of the works and the inaction of the planning authority on the applicant to design a reason for refusal for permission for a home for bona fide local need applicant.
- The site is taken from the mother's land and has been in her ownership since 2002 and was not developed. Lands which have been developed for

unauthorised development are completely separate from the applicant's site and it should be recognised that the applicant has done nothing wrong.

- It is impossible, unrealistic, and illogical that one alleged unauthorised house be used to satisfy the needs of the applicant.
- The planning authority has no concept of the housing crisis in Kildare and if there is a site available to the applicant to build affordably planning permission should be granted on this common-sense basis.

Reason No.3

- The preferred house type on site is the house type that has been submitted.
- The house type has been previously accepted as appropriate on a different site to the north (Reg. Ref. 23/253. ABP-317226-23).
- While it is noted that the current site is different, there are concerns with the approach of the planning officer, the applicant has taken an objective view of this reason for refusal, and they do not agree with it. If the inspector and board are able to accommodate the applicant in a positive presumption, the first party would propose a new house type-a split level, single storey bungalow located in the same position as that proposed.
- While this would be a material alteration, the principle of the development is exactly the same.
- On all of the applications lodged by the applicant not one planning officer was able to give a consistent comment on the house type, all planning officers varied in their assessment.
- The skyline is dominated by the applicants' sisters house-a two-storey house. The general typology in the area is a two storey house the concrete bleaching plant is far more visually obtrusive than the proposed development.
- Hard to believe that a house, either two storey or single storey would dominate the rural landscape.

Reason No. 4

- This reason for refusal should not have been included. The density of houses in the area is well within the accepted range, and the appeal site could be considered an infill site.
- The planning authority has manipulated the assessment of the site to constitute a reason for refusal.
- The quantitative density element has been relatively successful in Kildare and to now dismiss the obvious compliance with rural density to form an entirely subjective assessment of the application to encourage a refusal does not seem fair and reasonable.

6.6 Planning Authority Response

6.6.1 A response from the Planning Authority was received on 22/8/25 which states that the Planning Authority has reviewed the content of the first party appeal and the Coimisiún is referred to the Planning Authority's Report and report of the various technical departments.

6.7 Observations

6.7.1 Two separate observations have been received from 1. Danielle O'Hanlon and 2. David Hughes.

Danielle O'Hanlon

- The first party has submitted multiple applications to build a home and has been refused for a variety of inconsistent reasons.
- The applicant grew up in the area and was born 10m from the appeal site. There is a significant amount of local needs evidence, previously deemed local by An Bord Pleanála.
- Difficult to understand why the local authority do not deem to be local.
- Inaccuracies by the local authority for example using the incorrect name in documentation. The applicant had no knowledge of applications made in other people's name and they should not be prosecuted for other people's mistakes.

- Neighbour had no problems getting planning permission (permission no.229) Neighbouring site much closer to the ring fort than the appeal site.
- The ridge height of the dwelling is lower than the neighbouring site and is well screened. Pictures taken by the local authority not adequate and show the dwelling at a higher elevation.
- The proposal would not dominate the area, the Kilsaran plant which is an eyesore dominates the landscape.
- The suggestion that the applicant could have their housing needs met in other surrounding areas such as Two-mile House, Athgarvan and Kilcullen would seem to have a disregard for current house prices. Hurtful to suggest that the applicant should have to move away from family when there is land there already.

David Hughes

- The development is way too close to the Ring Fort Ref. KD024-027 which links the site to Dun Ailinne which is currently a candidate for the UNESCO World Heritage Site designation under the Royal Site theme. It is a medieval Ring Fort understood to be the site of the annual assembly known as 'Oenach Carmain' which was held in the medieval period.
- A heritage impact assessment should have been submitted as part of the application.
- The design of the house would look completely out of place with the surrounding area. The hedgerow will lose its leaves in the autumn leaving the proposed building visible.
- Previously the Bord found in favour of the applicant with respect to local need, possibly because of her farming activities with her father, in this appeal there is no mention of farming.

6.8 Further Responses

6.8.1 There are no further responses on file.

7 Assessment

7.1. I make the Coimisiún aware that the first party appeal includes an amended design for the proposed dwelling. I make the Coimisiún aware that the response of the Planning Authority dated 22/8/25 states that it has reviewed the contents of the first party appeal. Therefore, I am of the opinion that the Planning Authority has had the opportunity to consider the amended plans submitted by the first party within the appeal.

7.2 Having examined the appeal details and all other documentation on file and inspected the site. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development / Compliance with Rural Housing Policy
- Speculative sale of sites
- Siting and Design / character of the area
- Density
- Wastewater Management / Water Framework Directive
- Safety of vehicle access
- Flooding
- Appropriate Assessment
- Other matters-Ring Fort

7.2 Principle of development / Compliance with Rural Housing Policy

7.2.1 The appeal site is within a rural area. Map 3.1 of the *Kildare County Development Plan 2023-2029* identifies the site as being within an 'Area under Strong Urban Influence' where the provision of single housing in the countryside is based on the core considerations of demonstrable 'economic or social' need to live in a rural area and build their home, and siting, environmental and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements and the provision and availability of serviced sites in these areas.

- 7.2.2 National Policy Objective (NPO) 28 of the Revised National Planning Framework 2025 is also pertinent to the appeal and it states that in n 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
- 7.2.3 In this instance a Rural Housing Planning Application Form has been provided which states that the applicant has lived in the rural area of Kildare for 16 years, has never owned a house or been granted planning permission for a house in Co. Kildare and is currently living in her mother's home. In addition to this, I note that documentary evidence of the longstanding connection to the area has been provided as part of the application, including Birth Certificate, Bank Statements, Utility Bills, letter from Two Mile House National School, Cross and Passion College, Two Mile House GAA Club, an affidavit which states that the applicant lived in Silliothill, Kilcullen, Co. Kildare on alternate weekends between the years of 2005 and 2011. All of the information provided attest to the strong links of the applicant to the area.
- 7.2.4 Having considered the provisions of the *Kildare County Development Plan 2023-2029* and the information provided by the applicant as outlined above, I am satisfied that, the applicant has provided sufficient evidence to demonstrate that they meet the Local Need Criteria as set out in 'Category B- 'Social' of Table 3.4 and as a result would comply with Policy Objective HO P11 of the *Kildare County Development Plan 2023-2029*. Therefore, in my opinion, reason No.1 for refusal in not warranted in this case.

7.3 Speculative sale of sites

- 7.3.1 The second reason for refusal states that the proposed development would be contrary to Objective HO 044 of the *Kildare County Development Plan 2023-2029* which prohibits residential development on a landholding, where there is a history of development through the speculative sale of sites to an unrelated third party.
- 7.3.2 The first party appeal response states that the appeal site is not being acquired and has been in the ownership of the applicant's mother since 2002 and has minimal planning history aside for permission having been granted for the applicant's sister in 2007 (and extended in 2013). The first party appeal further states that the planning authority are attempting to rectify unauthorised development which apparently took

place on the applicants estranged father's landholding. It is not reasonable or fair to lay the blame of the applicant's estranged father and the inaction of the planning authority to refuse permission for a home for a bone fide local need applicant.

- 7.3.3 Objective HO 044 of the *Kildare County Development Plan 2023-2029* seeks to restrict residential development on a landholding, where there is a history of development through the speculative sale or development of sites to an unrelated third party.
- 7.3.5 I make the Coimisiún aware that there is a significant history pertaining to family land ownership in this area. It would appear that the appeal site was part of a larger land holding which can be described as the 'family landholding'. On this land holding it would appear that a number of dwellings have been built over the years. In this regard the area planner states that a significant number of authorised and unauthorised dwellings have been developed on the original family landholding over the last few decades. Many of these dwellings are now in the occupation and ownership of unrelated third parties.
- 7.3.6 However, due to a marital breakdown the appeal site was removed from the 'family landholding' and given to the applicants' mother and sister in 2002. This is confirmed by the land folio for the appeal site. Part 2 of Folio 38273F (the appeal site) states that Nuala O'Hanlon (the applicants' mother) is the owner of the land and this is dated 22/7/2022. This is included in an attachment to the first party appeal.
- 7.3.7 The applicants' sisters' portion of the land was developed for a dwelling under Reg. Ref. 07/2609, the duration of which was extended under Reg. Ref. 13/225 (please see planning history above). This dwelling is now developed and occupied by the applicants' sister. In addition to this, a previous application on the appeal site (Reg. Ref. 24/61347) made by the applicant was refused.
- 7.3.8 Having considered the above, while I note that there have been a number of dwellings developed on what is described as the 'family landholding', the appeal site has not been subject to what could be described as speculative sale of sites to an unrelated third party. In this regard only the applicants' sister and the applicant have made applications for dwellings on this portion of land. Therefore, in my opinion, the proposal would not be contrary to Policy HO 044 of the *Kildare County Development Plan 2023-2029* and therefore reason No.2 for refusal is not warranted, in my opinion.

7.4 Siting and Design

- 7.4.1 The third reason for refusal states that the proposed development would be contrary to Policy HOP 12 of the *Kildare County Development Plan 2023-2029* which seeks to ensure that the siting and design of any proposed development integrates appropriately with its surroundings, should be sensitive to the characteristics of the surrounding environment, and should blend in with the local landscape and comply with Appendix 4 Rural House Design Guide and Chapter 15 Development Management Standards.
- 7.4.2 The first party appeal states that while the design as lodged with the initial application is the preferred design, the applicant has taken an objective view of this reason for refusal and If the inspector and Coimisiún are able to accommodate the applicant in a positive presumption, the first party would propose a new house type-a split level, single storey bungalow located in the same position as that proposed.
- 7.4.3 I also note the comments of the third-party observer who states that the ridge height of the dwelling is lower than the neighbouring site and is well screened and that the proposal would not dominate the area, the Kilsaran plant which is an eyesore dominates the landscape.
- 7.4.4 In the first instance I note that there is no specific landscape protection for this area outlined in the *Kildare County Development Pan 2023-2029*. In addition to this, there are several one-off dwellings in the general area. I am satisfied that the proposed dwelling would not be out of character with the area.

Siting

- 7.4.5 The proposed dwelling is located at the western end of the appeal site, c. 92.7m from the eastern boundary of the land, c. 20m from the northern boundary of the land, c. 22.5m from the western boundary of the land and c. 24m from the southern boundary of the land.
- 7.4.6 The topography of the land is noteworthy and rises from the roadside (northern) boundary of the land. The proposed dwelling would be c. 2m above the northern boundary of the land.
- 7.4.7 Policy HO P12 of the *Kildare County Development Plan 2023-2029* states that (inter alia) proposals must comply with Appendix 4 Rural House Design Guide and Chapter

15 Development Management Standards. Having considered the siting of the proposed development at an elevated location to the western side of a large field; I have concerns that the proposal would fail to achieve compliance with the Rural House Design Guide as set out in Appendix 4 of the *Kildare County Development Plan 2023 – 2029*. In particular this document sets out design requirements for rural dwellings and seeks natural boundaries and clustering to lessen visual impact that comes with exposed sites. Section 2.3 of this document encourages applicants to choose a site with identifiable and well-established boundaries which separate the site naturally from its surroundings and that applicants should use sites with at least two boundaries in situ and preferably three. Section 2.4 outlines that applicants should avoid (inter alia) sites carved out of larger fields and sites which require more than one new boundary.

- 7.4.8 In my opinion, the site as shown on the site location plan and site layout plan shows a dwelling which is carved out from a larger open field where only one boundary currently exists (the southern boundary). I do note that there is a partial hedgerow on the eastern roadside boundary of the overall site. However, this boundary is c. 92.7m away from the proposed dwelling and does not provide an effective boundary screening for the proposed dwelling.
- 7.4.9 While I note that the applicant does propose landscaping (including Silver Birch) to the north-east and north-west of the proposed dwelling, in my opinion, this ‘carving out’ of a site which has only one boundary is contrary to Section 2.3 and Section 2.4 of Appendix 4 of the *Kildare County Development Plan 2023-2029*.
- 7.4.10 The Coimisiún may consider this matter could be dealt with by way of condition which requires the relocation of the dwelling to a position closer to the eastern boundary of the land (for example) where the topography of the site is lower and an existing eastern roadside boundary to complement the existing southern boundary. However, I am of the opinion that that such a relocation would be a material alteration to the scheme and as such I recommend that the application be refused on this basis.

Design-Initial application

- 7.4.11 The development, which was initially proposed comprised of a part single, part two storey dwelling with a maximum height of c.7.4m and a floor area of 211m². The ground floor would comprise of a kitchen/ living/ dining room, bedroom, office, WC, and utility room. The first floor would comprise of three bedrooms and a bathroom.

The proposed dwelling would be finished in a mixture of nap plaster for the two-storey element with a natural stone finish to the single storey element.

7.4.12 In addition to this, the development included a garage, located to the south-west of the proposed dwelling with a height of c. 4.9m, a floor area of c.42m² and would be finished in a nap plaster.

7.4.13 Having considered the plans submitted with the initial application, I do have concerns that the proposed dwelling would be prominent having regard to its elevated location and its two-storey height. I am of the opinion that the proposed dwelling would not integrate acceptably into its surroundings. In this regard, I note that the existing dwelling to the west of the appeal site is clearly visible in views from the access road to the area. The proposed dwelling would be more prominent in views and therefore, I am not satisfied that the initial design of the proposed dwelling would comply with Policy HOP12 of the *Kildare County Development Plan 2023-2029* which seeks to ensure that the siting and design of any proposed dwelling integrates appropriately with its physical surroundings.

Design-Amended in the first party appeal

7.4.14 The proposed dwelling as set out in the amended designs would be located in the same area on the site as the initial dwelling. However, the design of the dwelling has been altered to a single storey design which has a maximum height of 5.4m with a nap plaster finish. The proposed garage is located to the south-east of the dwelling. The garage would have a height of c. 4.9m with a nap plaster finish. The garage would have an area of c. 42m².

7.4.15 In my opinion, the amended design responds to the character of the area in a more acceptable manner than the design proposed in the initial application and would be less prominent in views from the surrounding area. The scale of the amended proposed dwelling is appropriate to its setting and as such I am satisfied that the dwelling design proposed is acceptable and in accordance with the development plan rural house design guidance. Should the Coimisiún be of a mind to grant planning permission, then I would recommend that such permission be based on the amended design provided by the appellant as part of their first party appeal.

7.5 Density

- 7.5.1 The fourth reason for refusal states that the proposed development would result in the further suburbanisation of the receiving environment and would erode the rural character of the immediate area which is contrary to HO P26 of the *Kildare County Development Plan 2023-2029*.
- 7.5.2 In response to this the first party appeal states that the density of houses in the area is well within the accepted range having regard to the Kildare County Councils 'Single Rural Dwelling Density' Toolkit as set out in Appendix 11 of the *Kildare County Development Plan 2023-2029*. In addition, the first party state that the site should be considered as an infill site and that the quantitative density element has been relatively successful in Kildare and to now dismiss the obvious compliance with rural density to form an entirely subjective assessment of the application to encourage a refusal does not seem fair and reasonable.
- 7.5.3 In the first instance, in my opinion, the appeal site could not be considered to be an infill site, as there is no development on either side of the site (there is a dwelling to the west of the appeal site).
- 7.5.4 Appendix 11 of the *Kildare County Development Plan 2023-2029* states that one of the evaluation criteria is the examination of Rural Residential Density (RRD) at the scale of a square kilometre surrounding the proposed site for a one-off house. In general, a Rural Residential Density of less than 15 units per square kilometre will be acceptable, while in very enclosed landscapes with well-defined hedgerows and/or mature trees, which would partly screen or enclose one-off houses a Rural Residential Density of 30 units per square kilometres may be open for consideration. Finally, there will be a presumption against a Rural Residential Density of 30 dwellings per square kilometre, however this may be exceeded in certain circumstances.
- 7.5.5 In the first instance, I note that Appendix 11 makes it clear that the toolkit is not intended to be a rigid tool and there may be instances where the existing pattern of development may facilitate some consolidation of one-off housing. Notwithstanding this, I make the Coimisiún aware that I have used the Single Rural Dwelling Density' Toolkit at <https://webgeo.kildarecoco.ie/rrdt> and the results show that there are 19 houses within a 1 km radius of the appeal site.

- 7.5.6 I note that the area planners report also finds that there are 19 houses within a 1km radius of the appeal site, however it is noted that this figure excludes 8 unauthorised dwellings in the area. I make the Coimisiún aware that I am inclined not to include the dwellings which are unauthorised in this assessment. I have come to this conclusion as the status of these dwellings are not known at this time.
- 7.5.7 Having considered the above I am satisfied that the proposed dwelling is 'open for consideration' as the Rural Residential Density is below 30. However, I note that the 'open for consideration' designation is only applicable where the dwelling is located within very enclosed landscapes with well-defined hedgerows and/or mature trees, which would partly screen or enclose one-off houses.
- 7.5.8 Having considered the above, I am not satisfied that the appeal site could be considered to be very enclosed. In this regard, as previously discussed it is my opinion that the appeal site is carved out from a larger open field where only one boundary currently exists and therefore the site could be more accurately described as open as opposed to enclosed.
- 7.5.9 Therefore, I conclude that the proposed development would fail to comply with the 'open for consideration' criteria set out in Appendix 11 of the *Kildare County Development Plan 2023-2029*. For this reason, the proposed development would fail to comply with Policy HO P26 of the *Kildare County Development Plan 2023-2029* and refusal is recommended on this basis.

7.6 Wastewater Management

- 7.6.1 The dwelling is proposed to be serviced by a septic tank and percolation area. I refer the Coimisiún to the Site Characterisation Form which was submitted to the Local Authority. Groundwater is identified as a potential target risk, but surface water will also be a target. The Site Characterisation Form shows that the percolation tests carried out on site suggests that the soils and subsoils are clays that are Sandy or gravelly though content is low. Compaction Levels are not high and there is no evidence of a water table.
- 7.6.2 The form shows that soil is Glaciofluvial Sands & Gravels and Gravels derived from Limestones at subsurface. No bedrock or groundwater was encountered in the trial holes. The percolation tests yielded a sub-surface T value of 22.00, this would comply

with the standards set out in Table 6.4 of the EPA Code of Practice: Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10) 2021.

7.6.3 The site Characteristics Form details that minimum separation distances will be met and exceeded in all instances. In addition to this, water would be supplied by way of a private well. The well would be located to the northwest of the dwelling c.62m from the septic tank and c. 58m from the percolation area.

7.6.4 Having reviewed the Geological Survey Ireland's GIS Mapping, I note that the proposed wastewater treatment system has been sited over a Regionally Important Gravel Aquifer which is a Poor Aquifer and Generally Unproductive and has a high vulnerability with a recourse protection categorisation of R1. Having regard to the soil depth and the septic tanks / percolation area, as shown in the Site Characterisation Form, I am satisfied that the effluent will be suitably treated.

7.6.5 Therefore, I am satisfied that wastewater treatment would comply with the EPA Code of Practice: Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10) 2021.

7.7 Safety of the Vehicle Access

7.7.1 Access to the site would be from a recessed entrance to the north-west of the site. The proposed vehicular entrance opens onto an agricultural lane/track spur which in turn is accessed from a Cul de sac and then opens out to the R448.

7.7.2 While I note that there are no sightlines shown on the proposed site plan submitted with the application, I am satisfied that the proposal would not lead to any traffic or pedestrian safety concerns. I have come to this conclusion having regard to the narrow nature of the access lane / track onto which the site opens, the relatively low volumes of traffic along the access lane and the fact that the northern boundary of the land does not have any hedgerow which would limit visibility.

7.8 Flooding

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

7.8.3 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.

7.9 Other matters

Ring fort

- 7.9.1 One of the third-party observers outlines concerns that the proposed development is too close to the Barrow Ring Fort Ref. KD024-027 which links the site to Dun Ailinne which is currently a candidate for the UNESCO Word Heritage Site designation under the Royal Site theme. It is a medieval Ring Fort understood to be the site of the annual assembly know as 'Oenach Carmain' which was held in the medieval period. The third-party observer is of the opinion that a heritage impact assessment should have been included with the application.
- 7.9.2 I note that the appeal site is located c. 200m from the Ring Fort Ref. KD024-027 which is identified in Appendix 5 (Record of Monuments and Places) of the *Kildare County Development Plan 2023-2029*. It is noted that the Barrow Ring Fort is deemed to be the site of the annual assembly known as Oenach Carmain which was held in the medieval period with the barrow as the ritual centre.
- 7.9.3 While I note the distance of the proposed development from the Ring Fort, Section 11.6 of the *Kildare County Development Plan 2023-2029* states that any proposed development (due to its location, size or nature) with the potential to affect the archaeological heritage resource will be subject to an Archaeological Impact Assessment. This includes proposals close to archaeological monuments. I am of the opinion that a setback of c.200m from a recorded monument such as KD024-027 is close (not withstanding any proposals to screen a development) and that the application should have included an Archaeological Impact Assessment.
- 7.9.4 While I note the above, I am satisfied that this matter could be dealt with by way of a condition requiring a full Archaeological Impact Assessment be submitted prior to the commencement of development. This would ensure that any archaeological potential is discovered before works commence.

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 proposed development is located within a rural area of County Kildare and comprises of a part two storey-part single storey dwelling, separate garage, and wastewater treatment facility.
- 8.2 The subject site is not located within or adjacent to a European Site. The nearest designated sites are the Pollardstown Fen SAC (Site code: 000396) and the Pollardstown Fen pNHA (Site code: 000396) which are located c. 7.5km to the north-west of the site. In addition to this, the site is located c. 1.9km to the south-east of the Grand Canal (Site code:002104) and the Curragh (Kildare) pNHA (Site code:000392) which is located c. 4.8km to the south-west of the site.
- 8.3 There is no hydrological link between the subject site and the European sites.
- 8.4 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.
- 8.5 This determination is based on:
- Small scale and domestic nature of the development
 - Distance from European sites.
 - No hydrological connections to the European sites.
- 8.6 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.
- 8.7 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

1. Having regard to the location of the site of the proposed development within an area designated 'Zone 1 - Areas under Strong Urban Influence' in the *Kildare County Development Plan 2023-2029* Policy HO P12 places an emphasis on ensuring the siting and design of any proposed dwelling integrates appropriately with its physical surroundings and the natural heritage of the area. Proposals must comply with Appendix 4 (Rural House Design Guide) and Chapter 15 (Development Management Standards). The proposed development, located along an agricultural access, requiring more than one new boundary and not located adjacent to an existing cluster of structures, does not accord with the policy HO P12 and the principles of Section 2.3 and 2.4 of the Rural Design Guide as set out in Appendix 4 of the *Kildare County Development Plan 2023-2029*. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site of the proposed development within an area designated 'Zone 1 - Areas under Strong Urban Influence' in the *Kildare County Development Plan 2023-2029* Policy HO P26 places an emphasis on sensitively considering the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Councils 'Single Rural Dwelling Density' Toolkit as set out in Appendix 11. Applicants are required to demonstrate that no significant negative environmental effects will occur as a result of the development. The proposed development which is located within an area which has a Rural Dwelling Density which exceeds 15 dwellings per square kilometre, on a site which is not within a very enclosed landscapes with well-defined hedgerows and/or mature trees, would not comply with Appendix 11 of the *Kildare County Development Plan 2023-2029* and would therefore

be contrary to Policy *HO P26 of the Kildare County Development Plan 2023-2029* and 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

28 October 2025

Form 1 - EIA Pre-Screening

Case Reference	ACP-323136-25
Proposed Development Summary	Construction of a detached one and half storey house with single storey element, single storey garage septic tank, and percolation area private well and all associated site works.
Development Address	Silliothill, Kilcullen, 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.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input 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.	Class 10(b) of Part 2, Schedule 5 (i) Construction of more than 500 dwelling units
<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 checked="" 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>1 dwelling on 0.800ha</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-323136-25
Proposed Development Summary	Construction of a detached one and half storey house with single storey element, single storey garage septic tank, and percolation area private well and all associated site works.
Development Address	Silliothill, Kilcullen, 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).	The proposal comes forward as a stand-alone project. The development does not require any demolition works. The development 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 situated in a predominantly rural area and is not adjacent an ACA or any landscape character areas with exceptional value and high sensitivity to development. The subject land is not within or in proximity to any protected views within this landscape.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary,	Having regard to the nature of the proposed development, consisting of a two-storey dwelling, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and

intensity and complexity, duration, cumulative effects, and opportunities for mitigation).	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.
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)