



An  
Coimisiún  
Pleanála

## Inspector's Report

### ACP-323352-25

<b>Development</b>	Demolition of garage and construction of house to rear of existing dwelling with new garage. Associated site works.
<b>Location</b>	2 Johnstown Avenue, Kilpedder, Co. Wicklow, A63 D796
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	25/60137
<b>Applicant(s)</b>	Robert Clarke
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v. Refusal
<b>Appellant(s)</b>	Robert Clarke
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> February 2026
<b>Inspector</b>	Susan McHugh

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	6
3.3. Prescribed Bodies .....	7
3.4. Third Party Observations .....	7
4.0 Planning History.....	7
5.0 Policy Context.....	10
5.1. Development Plan.....	10
5.2. National Policy .....	12
5.3. Water Framework Directive.....	14
5.4. Natural Heritage Designations .....	15
5.5. EIA Screening .....	15
6.0 The Appeal .....	16
6.1. Grounds of Appeal .....	16
6.2. Planning Authority Response.....	18
6.3. Observations.....	18
7.0 Assessment.....	18
7.1. Infill Development .....	18
7.2. Foul Drainage Capacity .....	19
8.0 AA Screening.....	23
9.0 WFD Screening .....	25

10.0	Recommendation .....	26
11.0	Reasons and Considerations.....	26

**Appendix 1** – Form 1: EIA Pre-Screening

**Appendix 2** – Form 2: EIA Preliminary Examination

**Appendix 3** – Appropriate Assessment Screening Determination

**Appendix 4** - Uisce Éireann’s Annual Environmental Report for 2024

**Appendix 5** – Environmental Protection Agency Annual Environmental Report 2024

**Appendix 6** - EPA Urban Wastewater locations and emission points.

## 1.0 Site Location and Description

- 1.1. The subject site is located at No. 2 Johnstown Avenue, Johnstown, Kilpeddar, Co. Wicklow, A63 D796. It is located within an existing residential area, approximately 5km south of Delgany village centre. The N11 / R774 interchange is a short distance north.
- 1.2. It is an infill site consisting of the rear garden space on the southern side of an existing dwelling (No. 2 Johnstown Avenue). The site is accessed from Johnstown Avenue which serves a number of houses.
- 1.3. The site is adjoined by existing residential development on each side and the surrounding vicinity is characterised by a mix of low density detached housing. Building styles are varied and wide-ranging, and houses are mainly one and two storeys in height. There is a footpath on both sides of the street, north and south, and a bus stop within roughly a 150m walk from the site on the L5046.
- 1.4. The site is bounded to the side/east by a short cul de sac Kilpeddar Grove. Houses No. 4 and No. 5 which are located at the end of the cul de sac share their western side boundaries with the appeal site. The site is bounded to the rear/south by the rear garden of No. 2 Hazelwood, and to the west by the rear garden of No. 4 Johnstown Avenue.
- 1.5. There is mature landscaping throughout the property, which is mainly in the form of established tree stands and bushes. This vegetation is most prevalent on the east, south and west site boundaries. The existing garage has a stated area of 55sqm.
- 1.6. The site is linked to Kilpeddar Village by an existing pedestrian path, where bus stops, convenience store and other services exist. A speed limit of 30kmph applies along Johnstown Ave.
- 1.7. The site which is 'L' shaped has a stated area of approximately 950sqm.

## 2.0 Proposed Development

- 2.1. The proposed development is for an infill house with garage on a back land site and associated site works.

- 2.2. The proposed 3 bedroom house has a stated area of 172sqm, and proposed garage has a stated area of 42sqm.
- 2.3. The Planning Authority requested further information on 24<sup>th</sup> April 2025, including details of the Applicant's ability to comply with policy in relation to local housing need (CPO 6.37) (Item 1), to submit an alternative site layout plan showing sufficient sight distances from the proposed entrance to the site (Item 2), and floor plan details for the proposed garage (item 3).
- 2.4. The Applicant responded with further information on 29<sup>th</sup> May 2025, with a sworn declaration stating that they have been resident for more than 3 years at no. 2 Johnstown Avenue, and willingness to enter into a section 47 Agreement, a revised site layout showing sightlines of 23m at the junction of the proposed entrance and the public road, and floor plans and elevations of the proposed garage on site.
- 2.5. The Planning Authority requested clarification of further information 16<sup>th</sup> June 2025 with further documentary evidence of personal details to demonstrate a local housing need / compliance with CPO 6.37.
- 2.6. The Report of the Assistant Planner recommended a **grant** of permission.
- 2.7. The Report of the Senior Engineer notes that there is no treatment capacity in Kilpedder and Uisce Éireann have no plans to upgrade same, within the lifetime of a permission. On UÉ's WWTP capacity register the capacity is designated as Red and no planned upgrades are identified. This is potentially due to the lack of the assimilative capacity of the watercourse into which the treated effluent from the WWTP discharges.
- 2.8. The application was accompanied by the following;
  - Social Housing Exemption – Section 96 Completed Form

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

The Planning Authority **refused** permission on 16<sup>th</sup> July 2025 for the following reason.

1. The proposed development would be prejudicial to public health and premature because of the existing deficiency in the sewerage facilities serving Kilpedder and this deficient is unlikely to be made good within the lifetime of a permission.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The 1<sup>st</sup> Planners Report notes the subject site is located within the development boundary of a Level 7 Settlement (Large Village) (Kilpedder/Willowgrove).
- The lands are not zoned. Therefore, the proposal is required to comply with the objectives / standards for infill development as well as all relevant objectives and standards for the rural area as set out in the 2022-2028-CDP.
- Proposed dwelling in the rear garden of the existing dwelling on site is considered acceptable subject to appropriate design and scale.
- Proposed two storey dwelling is considered acceptable in terms of visual amenity, size and scale.
- No floor plans submitted for the proposed garage.
- Proposed dwelling will not have a major impact on existing house to the north.
- Concerns raised by third party's regarding the overall size and scale of the dwelling and its potential impact on private amenity space of surrounding dwellings do not arise given the separation distances and proposed boundary treatments.
- The 2<sup>nd</sup> Planners Report notes signed declaration but without supporting other supporting evidence.
- Proposed sightlines and garage acceptable.
- The 3<sup>rd</sup> Planners Report notes 19 no. electrical bills dated 2022,2023,2024 and 2025 addressed to them at No.2 Johnstown Avenue.

### 3.2.2. Other Technical Reports

- **Transportation:** Report dated 12/03/2025 recommends no observations.

### 3.3. Prescribed Bodies

- **Irish Water:** No report.
- **Transport Infrastructure Ireland TII:** Report dated 11/03/2025 recommends no objection on basis PA abides by official policy in relation to development on/affecting national roads.

### 3.4. Third Party Observations

3.4.1. Three no. submissions were received from the following parties;

- Cllr. Gail Dunne
- Anthony Quinn
- Anna Massey

3.4.2. Issues raised can be summarised as follows;

- Loss of amenity/privacy of rear garden
- Overlooking from windows in west elevation
- Boundary treatment requirements

## 4.0 Planning History

### *Appeal Site*

**PA Reg.Ref.96/4345:** Permission **granted** 11/07/1996 for retention of existing external access door to self-contained granny flat contrary to condition 4 of previously approved permission Reg. Ref. 95/2593.

**PA. Reg.Ref.95/2593:** Permission **granted** 19/10/1995 for attic conversion with roof lights, change of use of garage to self-contained flat and garage.

**PA Reg.Ref.94/1007:** Permission **granted** 16/01/1995 for pitched roof bungalow with integral garage & conservatory.

### *Kilpedder Grove to the East*

**PA Reg.Ref. 25/60919:** Permission **granted** 14/01/2026 for change of house type to that approved under PRR 24/60574 consisting of proposed subdivision of site, construction of new 4 bedroom detached dwelling, proposed new entrance to serve proposed dwelling, all together with associated site works necessary to complete this development including necessary works to boundaries, car parking and, private amenity space areas and alterations to existing services to provide connections to proposed development at No.4 Kilpedder Grove.

**PA Reg.Ref. 24/60574:** Permission **granted** 06/03/2025 for proposed subdivision of site, construction of new 4 bedroom detached dwelling, proposed new entrance to serve proposed dwelling, all together with associated site works necessary to complete this development including necessary works to boundaries, car parking and, private amenity space areas and alterations to existing services to provide connections to proposed development at No.4 Kilpedder Grove.

**PA Reg.Ref. 23/60350:** Permission **granted** 14/05/2024 for construction of a new 2 storey dwelling to the side garden of existing house, off street parking area, connection to mains services and associated site works at No. 6 Kilpedder Grove.

**PA Reg.Ref. 24/60360:** Permission **granted** 10/09/2024 for change of house type to that approved under PRR 22/713 consisting of subdivision of site, construction of dwelling, close up existing garden entrance and form new entrance on to public road, connections to mains water and mains sewer, construction of boundary walls and associated site works at No.8 Kilpedder Grove.

**PA Reg.Ref.21/1173 ABP-312673-22:** Permission **granted** 20/06/2022 for construction of house in parcel of land to the East of No. 5 Kilpedder Grove, new driveway and parking area. This permission has been implemented on site. Irish Water report raised no objection subject to standard conditions.

*Concurrent Application Willow Cottage (140m South)*

**PA Reg.Ref. 25/60508 PL-500598-WW-26:** Permission **refused** by PA 12/01/2026 for demolition of the existing derelict dwelling and construction of a residential scheme comprised of 10 No. 4-bed houses, 22 No. car parking spaces; cycle parking; hard and soft landscaping, including public open space and private gardens; public lighting; boundary treatments; internal roads; reconfiguration of existing entrances at L5046 to provide a single multi-modal entrance; and all associated

works above and below ground at a site of 0.4596 Ha., Located at Willow Cottage and the L5046 Local Road, Johnstown, Kilpedder.

The reasons for refusal relate to the junction and access arrangements, to surface water management and SuDS. No report was received from Uisce Éireann and condition recommended regarding water supply and drainage. Currently on appeal to ACP with Decision Pending.

**PA Reg.Ref.22/777 ABP-314715-22:** Permission **granted** 01/03/2024 for demolition of derelict dwelling and outbuildings; construction of 4 houses; 10 no. car parking spaces; cycle parking; landscaping; internal roads and reconfiguration of existing entrances at L5046 and all associated works, at Willow Cottage and the L5046 Local Road, Johnstown, Kilpedder, Co. Wicklow.

*Within Hazelwood Estate to the South (Mentioned in the Appeal)*

**PA Reg. Ref. 20/271:** Permission **granted** 12/11/2020 for construction of four dormer bungalows comprising of 3 No. Type A 261.6sqm dwellings and 1 No. Type B 276.5sqm dwelling, all with detached garages and connections to existing public foul sewer on previously approved sites 4, 7, 8 and 9 granted under Reg. Ref 00/2741. Together with all associated site development works at Hazelwood, Johnstown, Kilpedder. Condition No. 6 refers to Irish Water requirements.

**PA Reg.Ref. 16/526 PL27.247036:** Permission **refused** 24/02/2017 for 4 houses with detached garages, decommissioning of septic tanks and subsequent connection of 3 houses to public foul sewer on the basis that the development would be 'premature pending confirmation of availability of adequate capacity in the upgraded Kilpedder wastewater treatment plant. The proposed development would be prejudicial to public health and would pose an unacceptable risk of environmental pollution and would, therefore, be contrary to the proper planning and sustainable development of the area.'

*The Stables (Site to the West)*

**PA Reg. Ref. 24/60415:** Permission **granted** 15/10/2024 the construction of 2 No., four-bedroom dwelling houses of 202 sqm each, with associated site, drainage and landscape works to include new driveway entrances for each dwelling, with the

demolition of the existing sheds and stables buildings to facilitate the works, at 'The Stables'. Johnstown Farm, Kilpedder, Greystones, Co. Wicklow.

#### *White Cottage*

**PA Reg. Ref. 20/531:** Permission **granted** 01/03/2021 for (1) New 129 sq.m. two storey 4-bedroom dwelling. (2) New vehicular entrance off main road. (3) Connection to all public services. (4) All necessary ancillary works and site works to facilitate this development.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The site is located within the administrative boundary of Wicklow County Council. The operative Development Plan for the area is the Wicklow County Development Plan, (WCDP), 2022-2028.

5.1.2. The following extracts from the Wicklow County Development Plan, (WCDP), are of particular interest to the appeal.

#### **Chapter 4 – Settlement Strategy**

Kilpedder is part of the Greystones Municipal District and is designated as a Level 7 Settlement – Village (Type 1) in the Settlement Strategy for Wicklow.

A growth rate of 5-10% is identified as appropriate for rural villages and open countryside, (i.e. Level 7-10 settlements).

Level 7 Settlements - The Settlement Strategy for Type 1 Villages states that the scale of new residential development should be in proportion to the scale, pattern, and grain of the existing village. Expansion of the village should be commensurate within the existing village structure and should proceed based on a number of well-integrated sites including infill sites within and around the village centre rather than focusing on one very large site. To facilitate commensurate growth, any individual scheme for new housing should not be larger than 10 units.

Regarding Level 6-9 of the Settlement Hierarchy, all of the targeted housing growth can be accommodated within the existing footprint of these settlements.

## **Chapter 6 – Housing**

### Table 6.4 – Density Standards –

- Villages under 400 Population – Any individual scheme for new housing shall not be larger than 10 units.

### Section 6.4 – Housing Objectives –

CPO 6.1 - New housing development shall be required to locate on suitably zoned or designated land in settlements and will only be considered in the open countryside when it is for the provision of a rural dwelling for those with a demonstrable housing social or economic need to live in the open countryside.

CPO 6.2 - The sale of all developments of residential units, whether houses, duplexes or apartments, to commercial institutional investment bodies shall be prohibited.

CPO 6.37 - To implement the following housing occupancy controls for Type 1 Villages (Level 7), as set out in the Settlement Strategy:

Multi-House Development 50% no restriction 50% Applicant / purchaser of any new home must be either:

- resident for at least 3 years duration in County Wicklow or,
- in permanent employment for at least 3 years duration in County Wicklow, of within 30km of the Type 1 village in question prior to making of application / purchase of new house.

Single House 100% Applicant / purchaser of any new home must be either:

- a resident for at least 3 years duration in County Wicklow or
- in permanent employment for at least 3 years duration in County Wicklow, of within 30km of the Type 1 village in question prior to making of application / purchase of new house.

## **Volume 3 - Appendix 1 – Development and Design Standards**

Section 3.0 – Mixed Use & Housing Developments – sets out the development standards for new housing in Wicklow.

## 5.2. National Policy

5.2.1. 'Housing For All - a New Housing Plan for Ireland (September 2021)' is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price,
- Built to a high standard in the right place,
- Offering a high quality of life.

5.2.2. The Revised National Planning Framework (April 2025) recognises the need to plan for a population of between 6.1 to 6.3 million people by 2040, and plan for approximately 50,000 units per annum over that period, to meet additional population and employment growth over and above the original 2018 NPF projections. This reflects the latest research and modelling by the Economic and Social Research Institute (ESRI), which forecasts substantial population growth over the next decade. The Revised NPF, with the subsequent provision of updated planned housing requirements at a local authority level, aims to ensure that housing supply meets both new demand and addresses existing need, creating a sustainable future for housing in Ireland.

In order to ensure that the revised population projections and related housing requirements can be delivered on, service provision will also require co-ordination and prioritisation to ensure that the necessary infrastructure is in place, both to support and enable housing development to take place, and to ensure that housing delivery is aligned with the provision of services and facilities for communities. This includes the provision of education, childcare, healthcare and recreational facilities to support the expansion of existing settlements and the creation of new sustainable communities.

In addition to accounting for the ESRI's baseline projection of 6.1m people by 2040, the NPF also includes provision for strategic planning for up to 6.3 million people by 2040 (the ESRI high migration scenario), which is required to be aligned with strategic planning for Transport Orientated Development (TOD) in and around

Ireland's five cities to support the delivery of new sustainable communities at brownfield and greenfield locations along existing or planned high capacity public transport corridors.

The implementation of the NPF will continue to align with the National Development Plan and form as one single vision for Ireland under 'Project Ireland 2040' to be fully supported by the Government's investment strategy for public capital investment and investment by the State sector in general.

5.2.3. 'Project Ireland 2040 – The National Planning Framework' (NPF) is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (c) aims to deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate towns and villages of all types and scale as environmental assets.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

- 5.2.4. Climate Action Plan 2025 (CAP25) is the third statutory annual update to Ireland's Climate Action Plan under the Climate Action and Low Carbon Development (Amendment) Act 2021.
- 5.2.5. The Plan lays out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.
- 5.2.6. Climate Action Plan 2025 builds upon previous year's Plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024.
- 5.2.7. Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:
- NPF Implementation: Housing Growth Requirements' - Guidelines for Planning Authorities (July 2025)
  - Sustainable Urban Housing: Design Standards for New Apartments (2022) (the Apartment Guidelines).
  - Urban Development and Building Heights, Guidelines for Planning Authorities (2018) (the Building Height Guidelines).
  - Design Manual for Urban Roads and Streets (DMURS) (2019).
  - Quality Housing for Sustainable Communities: Design Guidelines, (2007).

### 5.3. **Water Framework Directive**

- 5.3.1. The European Union Water Framework Directive 2000/60/EC (WFD) was adopted in 2000 as a single piece of legislation covering rivers, lakes, groundwater and transitional (estuarine) and coastal waters and includes heavily modified and artificial waterbodies. The overarching aim of the WFD is to prevent further deterioration of

and to protect, enhance and restore the status of all bodies of water with the aim of achieving at least 'good' ecological status by 2015 (or where certain derogations have been justified to 2021 or 2027).

5.3.2. The site is located within the Ovoca-Varty (Catchment ID 10) Water Framework Directive catchment area and in the Newcastle (Wicklow)\_SC\_010 Sub-catchment.

5.3.3. The nearest river waterbody to the site is the Kilcoole Stream (EPA code Wicklow\_010) which is located c. 400m north of the site. The Kilcoole Stream which is of moderate water quality status flows in an easterly direction where it enters the sea at an outflow south of Greystones at Kilcoole.

#### 5.4. **Natural Heritage Designations**

5.4.1. There are no designated areas in the immediate vicinity of the site.

- The Murrough Wetlands SAC is located c. 4km to the East
- The Murrough SPA is located c. 4.4km to the East
- The Murrough pNHA is located c. 4km to the East
- Glen of the Downs SAC is located c. 1.8km to the North
- Carriggower Bog SAC is located c.3.4km to the West
- Bray Head SAC) is located 5.5km to the Northeast

5.4.2. The Murrough pNHA is located c. 4km to the East.

#### 5.5. **EIA Screening**

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

EIA Pre-Screening is attached as Appendix 1 and EIA Preliminary Examination is attached as Appendix 2 of this report.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of the first party appeal relate to the reason for refusal and include the following.

- Case planner recommendation to grant permission includes condition No. 4 relating to Uisce Éireann, noting Uisce Éireann did not respond to referral request.
- Notes recent decisions of the PA to grant permission for dwellings close to the appeal site. PA Reg.Ref. 24/60360 (September 2024), 24/60415 (October 2024) and 24/60574 (February 2025) which contained the 'typical Uisce Éireann condition.

- Unclear why the 'typical' condition was not attached to a grant of permission as recommended by the case planner.

- Senior Engineers decision to override the recommendation refers to the Irish Water WWTP Capacity Register. Notes accompanying the register states *'All new connections are subject to UÉ's connections charging policy and at all times the issue of a connection is a matter for the discretion of UÉ.'*

*The capacity available at treatment plants changes regularly based upon the loads received from new and existing customers. Our registers are only an indication of available capacity based on available information at the date of issue and are subject to change.'*

*The registers provide wastewater treatment capacity information only and do not provide an indication of network capacity. In cases where a new development is planned.....we assess whether the wastewater network can support a new development during the connection process.'*

- Submit decision to over-ride and refuse permission was ill-informed, as it did not exercise discretion nor any assessment by Uisce Éireann.
- Capacity Register was published in December 2024, and permission granted under PA Reg.Ref.24/60415 for dwelling at 4 Kilpedder Grove is noted.

Permission granted in February 2025 without any reply to the referral request from Uisce Éireann. Regardless the typical condition was attached as number 8.

- PA decision to refuse permission is inconsistent and is compounded by the fact that the refusal only deals with an issue which is not the responsibility of the authority.
- Refer to another application for 4 no. houses nearby under PA Reg.Ref.20/271, and Aecom Consulting Engineers Report submitted in response to RFI. Report outlined improvements made in 2017/2018, specifically to an increase in capacity following the control of ingress of surface water into the system. Report outlines further improvement works carried out in 2019/20, which combined reduced loading by 130.5m<sup>3</sup> per day.
- Report refers to the Irish Water 'Settlements with Wastewater Discharge Authorisations-Waste Water Authorisations- Wastewater Capacity/Waste Water Discharge Licences (WWDL) and Certificates of Authorisation (CoA) dated 29<sup>th</sup> April 2020.
- Submit that this IW report confirmed that there was spare capacity for an additional PE equivalent of 84. At a rate of 2.7 PE per unit, a capacity that could accommodate c.31 dwellings.
- Review of planning permissions granted in the area since 2020 indicates that permission exists for c. 12 dwellings. These include PA Reg.Ref. 20-536, 22-31, 22-713, 22-777(for 4 dwellings), 2360350, 2460415 and 2460574, Permissions 21-1173 and 22-777 were subject of appeals, ABP Ref. 312673 and 314715 refer.
- Even if the above review of permissions since 2020 is not complete, it is considered that there exists a very wide degree of tolerance regarding a capacity for 31 dwellings in 2020 and any decrease in capacity by the granting of permission for the original 4 dwellings in 2020 and for c.12 dwellings since.
- Decision of PA to refuse permission is inconsistent and unreasonable.
- Wastewater Treatment Capacity is at the discretion of Uisce Éireann.

- Request Commission grant permission with a condition in relation to Uisce Éireann.

6.1.2. The grounds of appeal were accompanied by the following;

- PA Reg.Ref.20/271 – Technical Note in RFI prepared by Aecom Consulting Engineers (dated 30<sup>th</sup> August 2020)
- PA Reg.Ref.20/271 - Planners report
- Aerial Image of Kilpedder with location of foul sewer outlined in red

## 6.2. **Planning Authority Response**

- None.

## 6.3. **Observations**

The appeal was circulated by the Commission to Uisce Éireann, but no response was received.

## 7.0 **Assessment**

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

- Infill Development
- Foul Drainage Capacity

### 7.1. **Infill Development**

7.1.1. The subject site is located within the settlement boundary of Kilpedder as shown in Map No. 04.06c of the WCDP. Housing objective CPO 6.1 requires that all new housing is located on suitably zoned or designated land in settlements.

7.1.2. I am satisfied that the proposed development to demolish the existing structure and construct a single dwelling on an infill site within a settlement boundary is acceptable in principle subject to the policies and objectives of the WCDP.

## **7.2. Foul Drainage Capacity**

7.2.1. It is proposed to connect to the existing foul drainage network and WWTP serving Kilpedder.

7.2.2. Reason for Refusal No. 1 relates to the existing deficiency in the sewerage facilities serving Kilpedder, which are unlikely to be made good within the lifetime of a permission.

7.2.3. The grounds of appeal note a number of recent decisions (2024-2025) of the PA to grant permission for dwellings close to the appeal site. I have listed the applications mentioned in the appeal under section 4 of this report.

7.2.4. The first party appellant also notes that these grants of permission contained a 'typical' Uisce Éireann condition. It is submitted that the PA have been inconsistent in their decision on this application and should have included the Uisce Éireann condition rather than refuse planning permission.

7.2.5. I would note that notwithstanding these other planning applications and permissions the subject application is considered on its own merits.

7.2.6. I would however draw the Commissions attention to two of the recent decisions where a grant of permission included an Uisce Éireann standard condition. The grant of permission under PA Reg.Ref. 25/60919 at No. 4 Kilpedder Grove was for a change of house type on foot of a previous permission granted under PA Reg.Ref. 24/60574. Similarly, the grant of planning permission under PA Reg.Ref. 24/60360: was also for change of house type to that approved under PA Reg.Ref. 22/713. It could be argued therefore that the principle of a grant of permission had already been approved under the earlier permissions.

7.2.7. The applicant notes the decision of the PA in respect of PA Reg.Ref. 24/60574: whereby permission was granted 06/03/2025 for the subdivision of site, and construction of new 4-bedroom detached dwelling, at No.4 Kilpedder Grove. I would note the incorrect Case reference is quoted in the grounds of appeal and 24/60415

refers to a different site. I do accept however that the standard Uisce Éireann condition was attached despite no report from UÉ.

- 7.2.8. The applicant has specifically drawn attention to a previous application for four no. houses assessed by the PA under PA Reg.Ref.20/271 and have submitted a copy of the Consulting Engineers Report prepared by Aecom and the Planners report in support of the subject appeal.
- 7.2.9. The applicant has argued on the basis of this Consulting Engineers assessment on this previous application that the available capacity for 31 dwellings in 2020 has not been exceeded. I have examined the Consulting Engineers Report prepared by Aecom submitted to the PA under PA Reg.Ref.20/271, dated 30<sup>th</sup> August 2020, and note the permissions granted in the intervening five years.
- 7.2.10. I have examined the application and note no pre connection enquiry or connection agreement, were submitted with the application. I also note neither were submitted by the first party appellant with the grounds of appeal.
- 7.2.11. Uisce Eireann have not commented on the application and have remained silent on the first party appeal to the Commission. Uisce Éireann own and operate such networks and are the only body with authority to determine if connections are acceptable and appropriate or not.
- 7.2.12. I accept that in the absence of any report from Uisce Éireann the report of the Senior Executive Engineer (SEE) carries considerable weight. While the report comes following the assessment by the case planner (further to a RFI and Clarification of FI), the overturning of the recommendation of the case planner by the SEE the recommendation to refuse permission is in my opinion considered warranted in this instance. This is notwithstanding the modest scale of the proposed residential infill house which as a 3-bed dwelling unit has a PE of 5.
- 7.2.13. The basis for the SEE recommendation dated 16<sup>th</sup> July 2025 is clearly stated as having had regard to the *'UÉ's WWTP Capacity Register, the capacity is designated as Red and no planned upgrades are identified. This is potentially due to the lack of the assimilative capacity of the watercourse into which the treated effluent from the WWTP discharges.'*

- 7.2.14. I have had regard to the UÉ's Annual Environmental Report for 2024 which shows that the plant is overloaded. Section 2.1.4.2 refers specifically to the Treatment Capacity Report Summary – Kilpedder WWTP (see Appendix 4 attached).
- 7.2.15. The plant was constructed to have a peak (max) hydraulic capacity of 405 m<sup>3</sup>/day. The plant currently has a hydraulic loading (annual max) of 784 m<sup>3</sup>/day and an average hydraulic loading of 357 m<sup>3</sup>/day. The plant was constructed to have an organic capacity of 600pe.
- 7.2.16. The plant currently deals with a (peak week) loading of 670pe which leaves no organic capacity remaining. I note the comment underneath the table '*Nominal design capacities can be based on conservative design principles. In some cases, assessment of existing plants has shown organic capacities significantly higher than the nominal design capacity. Accordingly, plants that appear to be overloaded when comparing a collected peak load with the nominal design capacity can be fully compliant due to the safety factors in the original design.*'
- 7.2.17. The report does not however specify if this applies in the case of the Kilpedder WWTP.
- 7.2.18. Updates on UÉ WWTP Capacity Register for Wicklow can be found on the Uisce Éireann (formerly Irish Water) public website. An update was published in August 2025, (which follows the decision of the PA).
- 7.2.19. I assessed the website on the 24<sup>th</sup> February 2026 and Kilpedder (WWTP D0416) is still indicated as Red with no WWTP Project Planned/Underway. Red is defined as 'no spare capacity available at present.'
- 7.2.20. I also consulted the [EPA Annual Environmental Report 2024](#) which lists WW Discharge Licence no. D0416. The Urban Wastewater Licence was issued in 2013. It serves an Urban Area PE of 670 and Plant Design PE is 600.
- The Annual Environmental Report AER 2024 was received April 2025 on Licence Reference LR093885.
  - A Site Visit SV31449 took place on 19th Aug 2025 and Report issued in Sept 2025 references an Enforcement Plan visit.

- An Incident INCI031263 was recorded (between 19th Aug and 29th Aug) after being notified in Sept 2025 categorised as 1. Minor and with a Low likelihood of reoccurrence.
- A grab sample on 19th Aug 2025 at Kilpedder WWTP by the EPA while conducting a planned ORM site audit has yielded a non-compliant result for Ammonia of 1.4mg/l (ELV 0.7mg/l). No issues have been identified at the plant and UÉ will update once more results are received.
- Operational (Ammonia) Test Results: 01/08/2025 -- 0.38mg/l 29/08/2025 -- 0.12mg/l 04/09/2025 -- 0.25mg/l 17/9/2025 -- 0.23mg/l
- Activity at the time of the incident - Normal Treatment Processes--  
 Unscheduled cleaning of surface of clarifier on previous afternoon which likely was cause of some short-term disturbance to clarifier (contents) etc.
- The Breach of ELV remains open as of 3<sup>rd</sup> October 2025.

7.2.21. I further note that the waterbody into which the WWTP discharges is the Kilcoole Stream currently has a 'moderate' status and urban wastewater has been identified as a 'significant pressure' to the waterbody achieving a good status by 2027 as required under Article 4 of the Water Framework Directive.

7.2.22. I have concluded in the absence of any report from Uisce Éireann and relying solely on publicly available information from the Uisce Éireann website and EPA Annual Environmental Reports for WWTP and the report of the SEE that there would not appear to be sufficient capacity within the Kilpedder WWTP at present. The proposed development would be premature therefore pending the upgrade of same.

7.2.23. I fully accept the case presented by the First Party in relation to the inconsistency of approach taken by the PA in relation to recent decisions. I also accept that the modest scale of the proposed development, would not give rise to significant additional loading.

7.2.24. Notwithstanding and in view of the foregoing, I am satisfied that decision of the PA should be upheld and that in this instance permission should be refused.

## 8.0 AA Screening

The application is not accompanied by a Stage 1 Screening report or by a Natura Impact Statement (NIS). The matter of appropriate assessment under the Habitats Directive is addressed in the Planners Report on file.

The proposed development site lies within 5.5 km of the following European sites:

- The Murrough Wetlands SAC (site code 002249) is located c. 4km to the East
- The Murrough SPA (Site Code 004186) is located c. 4.4km to the East
- The Murrough pNHA (Site Code 000730) is located c. 4km to the East
- Glen of the Downs SAC (site code 000719) is located c. 1.8km to the North
- Carriggower Bog SAC (site code 000716) is located c.3.4km to the West
- Bray Head SAC (site code 000714) is located 5.5km to the Northeast

I consider that there is no potential for direct effects on European Sites.

In terms of the potential for impacts I refer in particular to the likely significant effects on the Murrough Wetlands SAC and the Murrough cSPA.

The Kilpedder Wastewater Treatment plant is upstream of the Murrough Wetlands SAC and the Murrough SPA. It discharges to the Kilcoole Stream, which flows in a south-easterly direction draining into the SAC and immediately adjacent to the SPA. Thus, there are downstream hydrological links between the wastewater treatment plant and the Murrough SPA and the Murrough Wetlands SAC.

In terms of the **conservation objectives** these are set out below.

### The Murrough Wetlands SAC

The Conservation Objectives are to restore the favourable conservation condition of the Annex I habitat(s) and/ or Annex II species for which the SAC has been selected.

The Murrough SAC is a coastal wetland complex 15km in length and up to 1km inland. It is approx. 5.5km downstream of the site of the proposed development. The site is of importance as it is the largest coastal wetland complex on the east coast and contains a wide range of coastal and freshwater habitats including six listed on Annex I as well as containing threatened plants and areas of rich invertebrate fauna.

It is an important site for wintering and breeding birds and over lands with the designated SPA. The qualifying interests are:

- Annual vegetation of drift lines [1210]
- Perennial vegetation of stony banks [1220]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Calcareous fens with *Cladium mariscus* and species of the *Caricion davalliana* [7210]\*
- Alkaline fens [7230].

### The Murrough SPA

The Conservation Objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

- Red-throated Diver (*Gavia stellata*) [A001]
- Greylag Goose (*Anser anser*) [A043]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Wigeon (*Anas penelope*) [A050]
- Teal (*Anas crecca*) [A052]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Herring Gull (*Larus argentatus*) [A184]
- Little Tern (*Sterna albifrons*) [A195]

The second objective is to maintain the favourable conservation condition of the wetland habitats at The Murrough SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

This is a coastal wetland complex that stretches for 13km from a location east of Kilcoole village southwards and in places up to 1km in width. As described above the site is not hydrologically connected to the site of the proposed development, which is a direct distance of 4.4km away.

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on The Murrough Wetlands SAC and Murrough SPA in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The domestic nature and small scale of works.
- The location and 5.5km separation distance between the European sites and the discharge location from the Kilpedder WWTP upstream.

## 9.0 WFD Screening

- 9.1.1. The site is situated in an urban area. Kilcoole Stream is situated c. 400m north of the site however the intervening area mainly comprises built ground and urban development. The Kilcoole Stream which is of moderate water quality status flows in an easterly direction where it enters the sea at an outflow south of Greystones at Kilcoole.
- 9.1.2. I note the water quality status of the Kilcoole Stream into which the Kilpedder WWTP discharges is listed as 'moderate' status. It is noteworthy that the upstream and downstream water quality data seem to show very little impact on the receiving waters, yet the WFD App shows the plant is a Significant Pressure.
- 9.1.3. The site is located within the Ovoca-Varty (Catchment ID 10) Water Framework Directive catchment area and in the Newcastle (Wicklow)\_SC\_010 Sub-catchment.
- 9.1.4. The proposed development seeks to construct 1 no. residential unit and all associated works including connection to public water services.
- 9.1.5. I have assessed the proposed development 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.

9.1.6. 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.

9.1.7. The reason for this conclusion is as follows:

- The urban infill and domestic nature and the moderate scale of the works.
- The location of the site removed from any waterbodies and lack of any hydrological connectivity.
- Connection to existing public water services.

## 9.2. Screening Conclusion

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

## 10.0 Recommendation

10.1. I recommend that planning permission is **refused** for the development.

## 11.0 Reasons and Considerations

1. It is considered that the proposed development would be premature pending confirmation of availability of adequate capacity in the Kilpedder wastewater treatment plant. The proposed development would be prejudicial to public health 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 me, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

---

Susan McHugh  
Senior Planning Inspector

24<sup>th</sup> February 2026

**Appendix 1 - Form 1**  
**EIA Pre-Screening**

<b>An Bord Pleanála Case Reference</b>	<b>ACP-323352-25</b>		
<b>Proposed Development Summary</b>	Demolition of garage and construction of house to rear of existing dwelling with new garage. Associated site works.		
<b>Development Address</b>	2 Johnstown Avenue, Kilpedder, Co. Wicklow, A63 D796.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	X	Class 10(b)(i) – 500 residential units	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	X	Class 10(b)(i) – 500 residential units	Preliminary examination required (Form 2)
<b>5. Has Schedule 7A information been submitted?</b>			
<b>No</b>	X	<b>Screening determination remains as above (Q1 to Q4)</b>	

Yes		Screening Determination required
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Inspector: \_\_\_\_\_

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

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	<b>ACP-323352-25</b>
<b>Proposed Development Summary</b>	Demolition of garage and construction of house to rear of existing dwelling with new garage. Associated site works.
<b>Development Address</b>	2 Johnstown Avenue, Kilpedder, Co. Wicklow, A63 D796.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (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).	Permission is being sought for the demolition of garage and construction of house to rear of existing dwelling with new garage.  Access to the dwelling is provided from Johnstown Avenue.  Water connection and wastewater services will be provided from existing mains within the vicinity of the subject site.  The development would not result in the production of significant waste, emissions, or pollutants.
<b>Location of development</b>  (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 proposed site is located within a Kilpedder Village; there are no significant sensitivities in the immediate area. The subject site is not located within a designated site, the nearest are as follows: <ul style="list-style-type: none"> <li>• The Murrough Wetlands SAC (site code 002249) is located c. 4km to the East</li> <li>• The Murrough SPA (Site Code 004186) is located c. 4.4km to the East</li> <li>• The Murrough pNHA (Site Code 000730) is located c. 4km to the East</li> <li>• Glen of the Downs SAC (site code 000719) is located c. 1.8km to the North</li> <li>• Carriggower Bog SAC (site code 000716) is located c.3.4km to the West</li> </ul>

	<ul style="list-style-type: none"> <li>• Bray Head SAC (site code 000714) is located 5.5km to the Northeast</li> </ul> <p>My appropriate assessment screening concludes that there is no potential for impacts on the Murrough Wetlands SAC and The Murrough SPA habitats as a result of water quality and the increased loading of an existing deficient wastewater treatment system.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>The site size measures c. 950sqm. The size of the development is not exceptional in the context of an urban environment. There are existing dwellings adjacent to the proposed site, to the north, east, south and west. The proposed development is a relatively small development in the urban context. There is no real likelihood of significant cumulative effects within the existing and permitted projects in the area.</p>
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.

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

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

### Appendix 3

#### **Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)**

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

The proposed development comprises the construction of one infill house and all associated site works as described in section 2 of this report.

The Planning Authority, within their assessment, undertook a screening determination of the proposed development and found that significant effects are not likely to arise, either alone or in combination with other plans and projects that will result in significant effects to any Natura 2000 area. A full Appropriate Assessment of this project is therefore not required.

#### **European Sites**

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).

The boundary of the nearest European Sites located within a potential zone of influence of the proposed development. These are:

- The Murrough Wetlands SAC (site code 002249) is located c. 4km to the East
- The Murrough SPA (Site Code 004186) is located c. 4.4km to the East
- The Murrough pNHA (Site Code 000730) is located c. 4km to the East
- Glen of the Downs SAC (site code 000719) is located c. 1.8km to the North
- Carriggower Bog SAC (site code 000716) is located c.3.4km to the West
- Bray Head SAC (site code 000714) is located 5.5km to the Northeast

There are no direct natural hydrological connections from the subject site to Kilcoole Beach and the Irish Sea.

The applicant is proposing to connect to existing municipal services in terms of water supply and wastewater/drainage. Therefore, there is an indirect pathway to the European sites of the Murrough SPA via the Kilpedder Wastewater Treatment Plant. I therefore acknowledge that there are potential connections to the European sites within the Irish Sea via the wider drainage network and the Kilpedder WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.

**Likely impacts of the project (alone or in combination)**

It is proposed to separate the surface water and wastewater drainage networks, which will serve the proposed development.

With regard to surface water, it is proposed to collect rainfall runoff before the system connects to the final foul manhole prior to connecting to the Irish Water Combined network.

All wastewater generated from the new development site is to discharge to the Irish water local wastewater drainage network.

I do not consider that the increased loading from the proposed development would generate any significant demands on the existing municipal sewers for foul water. I acknowledge that there would be a marginal increase in loadings to the sewer and the WWTP.

Having regard to the distance separating the site to the nearby Natura 2000 sites there is no pathway for loss or disturbance of important habitats or important species associated with the feature of interests of any of the SPA/SAC's identified above.

Furthermore, there are no plans or projects which can act in combination with the proposed development which can give rise to significant effect to Natura 2000 sites located within the zone of influence.

## Appendix 4

### Annual Environmental Report 2024 Kilpedder D0416-01 Uisce Eireann

#### 2.1.4.2 Treatment Capacity Report Summary - Kilpedder WWTP

Treatment capacity is an assessment of the hydraulic (flow) and organic (the amount of pollutants) load a treatment plant is designed to treat versus the current loading of that plant.

Kilpedder WWTP	
Peak Hydraulic Capacity (m <sup>3</sup> /day) - As Constructed	405
DWF to the Treatment Plant (m <sup>3</sup> /day)	135
Current Hydraulic Loading - annual max (m <sup>3</sup> /day)	784
Average Hydraulic loading to the Treatment Plant (m <sup>3</sup> /day)	357
Organic Capacity (PE) - As Constructed	600
Organic Capacity (PE) - Collected Load (peak week) <sup>Note 1</sup>	670
Organic Capacity (PE) - Remaining	0
Will the capacity be exceeded in the next three years? (Yes/No)	Yes

Nominal design capacities can be based on conservative design principles. In some cases assessment of existing plants has shown organic capacities significantly higher than the nominal design capacity. Accordingly plants that appear to be overloaded when comparing a collected peak load with the nominal design capacity can be fully compliant due to the safety factors in the original design.

## Appendix 5

### Wastewater treatment capacity register Uisce Éireann – Irish Water

#### Wicklow

Published August 2025

Region	County	Settlement	Wastewater Treatment Plant (WWTP)	Reg #	Indication of Available Capacity	WWTP Project Planned/Underway
EM	Wicklow	Bray	Shanganagh WWTP	D0038	• Green	
EM	Wicklow	Greystones	Greystones WWTP	D0010	• Green	
EM	Wicklow	Wicklow	Wicklow WWTP	D0012	• Green	
EM	Wicklow	Arklow	-	D0006	• Green	Yes^
EM	Wicklow	Blessington	Blessington WWTP	D0063	• Green	
EM	Wicklow	Kilcoole	Kilcoole WWTP	D0087	• Green	
EM	Wicklow	Baltinglass	Baltinglass WWTP	D0089	• Green	
EM	Wicklow	Enniskerry	Enniskerry and Environs WWTP	D0088	• Green	
EM	Wicklow	Rathdrum	Rathdrum WWTP	D0086	• Green	
EM	Wicklow	Aughrim	Aughrim WWTP	D0222	• Red	Yes
EM	Wicklow	Kilpedder	Kilpedder WWTP	D0416	• Red	

## Appendix 6

EPA Urban Wastewater locations and emission points.

Kilpedder WWTP located W of N11 and N of appeal site

