



Section 57 Declaration

Question	Review of Section 57 Declaration works affecting protected structure at 19 Fairview Cottages, Kildare Town, Co. Kildare
Location	19 Fairview Cottages, Kildare Town, Co. Kildare.
Declaration	
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	57-043
Applicant for Declaration	Branach Developments Limited
Planning Authority Decision	No Declaration
Referral	
Referred by	Branach Developments Limited
Owner/ Occupier	Branach Developments Limited
Observer(s)	None
Date of Site Inspection	31 st October 2025
Inspector	Matthew O Connor

1.0 Introduction

- 1.1 This is a referral under Section 57(8) of the Planning and Development Act 2000 (as amended) whereby An Coimisiún Pleanála review a declaration as to whether works would/would not materially affect the character of the structure or of any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

2.0 Site Location and Description

- 2.1. The subject site is located at No. 19 Fairview Cottages in the settlement of Kildare Town, Co. Kildare. The building is a single storey terraced cottage comprising a Protected Structure (RPS No. B22-21) with a description of "House". The Record of Protected Structures for County Kildare indicates that the structure is on the National Inventory of Architectural Heritage (NIAH Ref. 11817089), however, the structure is not presently listed on the National Built Heritage Service (NBHS) website. The existing Protected Structure fronts onto a hard-surfaced laneway accessible from Chapel Lane and is situated to the rear of a terrace of single storey cottages, Fairview Cottages, fronting onto Shraud Street and to the rear of a terrace of two-storey houses in the Lourdesville housing estate. The subject site is not within the Architectural Conservation Area (ACA) for Kildare Town.
- 2.2. At the time of my site inspection, it was evident that the subject structure was in a state of disrepair with the door and window opes on the front elevation blocked up, rendering partially removed, graffiti on the facade, no fascia or guttering, the roof exposed and missing slates and ridge tiles with a number of other loose slates and weeds on the eaves. I also observed that the adjoining terrace of similar cottages have been subject to recent refurbishment works with new rendering, fascias and soffits, slated rooves and the doors and window opes on the front elevations boarded up with plywood.

3.0 The Question

- 3.1. On 26th May 2025, Branach Developments Limited submitted a request to the Planning Authority seeking a declaration under Section 57 of the Planning and Development Act 2000 (as amended). The application was accompanied by site location maps, existing and proposed planning drawings, and, a series of photographs of the existing structure.

3.2. The details of the nature and scale of the development proposed (both internal and external) was stated as follows:

'New timber sash windows and doors to suit the period structure, lime rendered and pebble dashed façade, new cut rook with re-claimed natural slate to match existing, painted timber fascia and soffit, half round gutters and downpipes to be cast iron, renovate existing structure and extension to current building regulations using traditional building material where applicable'.

4.0 Planning Authority Declaration

4.1. Correspondence

4.1.1. On 13th August 2025 the Planning Authority issued a letter to the applicant, Branach Developments Limited which is summarised as follows:

Having examined the application and associated details, the Planning Authority advises that:

- *Legislative provisions and Ministerial Guidelines (Section 28) relating to Protected Structures outline that the protection given under the P&D Act 2000 extends to all parts of the structure, including its exterior and interior, and potentially to the exterior and interior of any structures within the curtilage of the structure.*
- *The works outlined in the Section 57 declaration cumulatively have the potential to materially affect the character of this protected structure.*

The Planning Authority concluded that the proposed works described by the applicant would result in changes to the external appearance of the structure, changes to the internal layout and proposed renovation and extension would materially affect the character of the protected structure and would result in the loss of original fabric.

It is not appropriate for the Planning Authority to issue a Section 57 Declaration at this time and it is considered that the proposed works require planning permission.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- None.

4.2.2. Other Technical Reports

- None.

5.0 Planning History

5.1. The following planning history is directly associated with the subject site with descriptions abridged as follows:

19/608 Permission GRANTED to (1) demolish 3 no. derelict cottages including No. 19 Fairview Cottages – a Protected Structure; (2) Construction of 7 no. part storey and a half, part single storey dwellings to rear of existing Fairview Cottages; (3) Associated siteworks including new pedestrian entrances to each site, construction of pathway/grass tree lined verge to southern boundary; (5) Resurfacing and widening of laneway, and (6) All associated siteworks. The development was revised by significant further information to include the re-use/redevelopment of all existing derelict cottages over demolition and revisions to new dwellings to include dual aspect frontages.

17/1489 Permission GRANTED for the following works to Fairview Cottages (Protected Structures): (1) Renovation and extension of existing protected cottages No. 2-12 of Fairview Cottages, removal of extensions with new single storey extensions to rear of cottages. (2) Demolition of 5 no. sub-standard cottages (Nos. 15-19). (3) Construction of 2 no. residential blocks consisting of 11 no. duplex townhouses and 5 apartments over Block 1. (4) associated siteworks. (5) Resurfacing and widening of laneway, and (6) All associated siteworks relevant to the proposed development. The development was revised by significant further information to consisting of the removal of new residential units to rear of site from scheme.

06/193 Permission REFUSED for the demolition of existing cottages numbers 2 to 19 Fairview Cottages - (Protected Structures) and the construction of 27 number apartments over 3 floors. The development comprised: (a) removal of the existing cottages Nos. 2 to 13. Retention of front walls of cottages, construction of 6 no. two-bed apartments and 4 no. one-bed apartments at ground floor and dormer levels; (b) change of use of existing building known as Fairview House from offices to 2 no. two-bed apartments; (c) demolition

of cottages No. 15 to 19 and construction of 6 no. two bed apartments and 9 no. one-bed apartments over three floors.

This application was appealed to An Bord Pleanála under Ref. PL 09.217409 however the appeal was subsequently withdrawn.

5.2. The following planning applications are also considered relevant as they relate to the neighbouring/adjoining lands:

25/60934 Permission GRANTED on 12th December 2025 for: 1. Retention for Cottages Nos. 02-11 including (a) removal of vandalised fire damaged substandard party, reinstated new party walls constructed to Fire Safety Building Regulations; (b) removal of vandalised fire damaged unsafe chimneys and reconstructed using the existing brick to affirm the continuation of the existing Vernacular street scape; and, (c) removal of existing derelict vandalised fire-damaged extensions and their replacement with single-storey rear extensions.

21/679 Permission GRANTED for: 1. Alterations/revisions to site boundaries previously granted under Reg. Refs. 17/1489, 19/608 and 20/1431; 2. remove permission to relocate existing entrance previously granted under Reg. Ref. 20/1431; 3. Revisions to dwelling no.1 previously granted under Reg. Ref. 19/608 including revisions to elevations and reduced floor area to accommodate Item 1 above; and, 4. All associated site works.

20/1431 Permission GRANTED for: 1. Relocation of existing vehicular entrance to Fairview House to accommodate new development granted under Reg. Ref. 19/608; 2. Change of design to existing cottages on Shraud Street previously granted under Reg. Ref. 17/1498 with alterations to previous design include increased number of bedrooms from 1 to 2 in Cottages No. 2,3 and 7 and increased number of bedrooms from 2 to 3 in Cottages No. 12 and 13; and, 3. All associated site works.

6.0 Statutory Provisions

6.1. Planning & Development Act 2000 (as amended)

6.1.1. Section 2 (1) of the Act provides the following definitions of relevance:

‘development’ has the meaning assigned to it by Section 3.

“protected structure” means—

(a) a structure, or

(b) a specified part of a structure,

which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;

“record of protected structures” means the record included under *section 51* in a development plan;

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in *subparagraph (i)* or *(iii)*;

‘works’ includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

6.1.2. In Section 3(1) of the Act, ‘development’ is defined as ‘the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.’

6.1.3. Section 4(1) of the Act outlines numerous circumstances whereby development is deemed to be exempted development for the purposes of the Act.

- 6.1.4. Section 57 of the Act. provides for legislation relating to works affecting the character of protected structures or proposed protected structures.
- 6.1.5. Subsection 57(1) of the Act states that works to a Protected Structure would only be exempt if it would not materially affect the character of:
- (a) the structure, or
 - (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.
- 6.1.6. Subsection 57(2) of the Act states that ‘an owner or occupier of a protected structure may make a written request to the planning authority, within whose functional area that structure is situated, to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or of any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest’.
- 6.1.7. Subsection 57(3) of the Act requires that a declaration must be issued to the permission who made a request under subsection (2) within 12 weeks of the request being received.
- 6.1.8. Subsection 57(4) of the Act states that before issuing a declaration, a planning authority or An Coimisiún Pleanála shall have regard to any guidelines issued under section 52 of the Act and any recommendations made to the authority under section 53 of the Act.
- 6.1.9. Subsection 57(8) of the Act states that ‘any person to whom a declaration under subsection (3), or a declaration reviewed under subsection (7) has been issued, may, on payment to the Board of such fee as may be prescribed, refer the declaration for review by the Board within 4 weeks from the date of the issuing of the declaration, or the declaration as reviewed, as the case may be.’

7.0 Policy Context

7.1. Development Plan

- 7.1.1. The Kildare County Development Plan 2023-2029 is the relevant Development Plan.
- 7.1.2. Chapter 11 relates to ‘Built and Cultural Heritage’. Section 11.14 refers to Architectural Heritage and notes that the urban and rural areas of County Kildare contain a wealth

of architectural and archaeological heritage. It is the explicit intention of the Development Plan to protect and conserve buildings, structures and sites of special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest; encourage the rehabilitation, renovation and reuse of existing older buildings where appropriate and promote best conservation practice in the maintenance and refurbishment of our built heritage, in line with national guidelines; and to provide support to owners/custodians of buildings of heritage significance through pre-planning guidance, statutory declarations, and grant schemes, wherever feasible.

7.1.3. Section 11.5 relates to 'Protected Structures' and the following policy and objectives are of note.

Pol. AH P6 Protect, conserve and manage the archaeological and architectural heritage of the county and to encourage sensitive sustainable development in order to ensure its survival, protection and maintenance for future generations.

Obj. AH O20 Conserve and protect buildings, structures and sites contained on the Record of Protected Structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

Obj. AH O21 Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.

Obj. AH O23 Require an Architectural Heritage Assessment Report, as described in Appendix B of the Architectural Heritage Protection, Guidelines for Planning Authorities (2011), to accompany all applications with potential for visual or physical impacts on a Protected Structure, its curtilage, demesne and setting. This report should be prepared by a

person with conservation expertise that is appropriate to the significance of the historic building or site and the complexity of the proposed works.

- Obj. AH O33 Promote best practice and the use of skilled specialist practitioners in the conservation of, and any works to, protected structures. Architectural Heritage Impact Assessment reports should make reference to the DHLGH Advice Series on how best to repair and maintain historic buildings. The AHIA report should summarise the principal impacts on the character and special interest of the structure or site and describe how it is proposed to minimise these impacts. It may also describe how the works have been designed or specified to have regard to the character of the architectural heritage.
- Obj. AH O37 Promote the use of energy upgrade materials and technologies that follow good conservation practice and are compatible with the character and vapour permeable construction of traditionally built structures. AH O38 Support appropriate and sensitive thermal upgrade of protected structures and other heritage buildings. These works shall be undertaken with the necessary planning permission / statutory declarations with the advice of Kildare County Council's Architectural Conservation Officer
- Obj. AH O39 Promote the maintenance and appropriate re-use of buildings of architectural, cultural, historic and aesthetic merit which make a positive contribution to the character, appearance and quality of the streetscape or landscape and the sustainable development of the county. Any works associated with the re-use of such buildings should be carried out in accordance with best conservation practice.
- Obj. AH O41 Promote the retention of original or early building fabric including timber sash windows, stonework, brickwork, joinery, render and slate. Likewise, the Council will encourage the re-instatement of historically correct traditional features.
- Obj. AH O43 Ensure that national guidelines and the principles of conservation best practice are followed in assessing the significance of a Protected

Structure and in considering the impact of proposed development on the character and special interest of the structure, its curtilage, demesne and setting.

7.1.4. The subject building is listed as Ref: No. B22-21 on the Record of Protected Structures and is described as a “House”. Which is contained in Appendix 6 of the Kildare County Development Plan 2023-2029.

7.2. Kildare Town Local Area Plan 2023-2029

7.2.1. The subject site is zoned ‘B’ - Existing Residential/Infill which has an objective ‘*to protect and enhance the amenity of established residential communities and promote sustainable intensification*’.

7.2.2. Section 8.2 relates to the Record of Protected Structures and Table 8.1 reaffirms the subject structures designation on County’s Record of Protected Structures. The following Architectural Heritage Objectives are deemed to be relevant:

BHO 1.1 Protect the architectural heritage of Kildare Town by ensuring the protection and conservation of all protected structures and structures of historic significance (or parts of structures), including the curtilage and attendant grounds of structures detailed in Table 8-1 and Map 8.1 and Map 8.2 or any additional structure placed on the Record of Protected Structures.

BHO 1.2 Support the sensitive conservation and restoration of protected structures and their attendant grounds and operate flexibility with regard to the sustainable reuse of these buildings to facilitate their ongoing use, subject to good conservation principles.

BHO 1.4 Actively seek funding from the Heritage Council for Kildare Town to enable Kildare County Council to carry out a full review of protected structures in the town to include the analysis and categorisation of the condition of each building in order to formulate a plan to safeguard and sustainably reuse these buildings within the lifetime of the Local Area Plan.

7.3. Architectural Heritage Protection - Guidelines for Planning Authorities (2011)

- 7.3.1. These Guidelines serve as a practical guide for Planning Authorities and other users on the protection of architectural heritage. The purpose is to offer guidance to planning authorities on issuing a declaration on a protected structures and contains supplementary detailed guidance to support planning authorities in their role to protect the architectural heritage when a protected structure is the subject of development proposals and when a declaration is sought in relation to a protected structure.
- 7.3.2. Chapter 4 refers specifically to ‘Declarations’. Section 4.1 outlines the Purpose and Limits of a Declaration; Section 4.2 sets out the Role of An Bord Pleanála; Section 4.3 details the Preparation and Evaluation Procedures for Declarations; Section 4.4 informs on the Inspection; Section 4.5 relates to the Evaluation when considering or reviewing a Section 57 Declaration application. In addition, Section 4.11 relates to Maintenance and it is indicated that consideration of routine maintenance in a declaration requires that the works always follow conservation principles and best practice. Section 4.12 provides Sample Phrases for Use in Declarations when drawing up declarations and includes – changes to the exterior appearance of walls, roofs or openings; changes to the internal layout, surfaces, finishes or linings installation/repair of mechanical services and extensions. Section 4.13 relates to Exemptions and states that some works to a protected structure might not require planning permission (depending on the nature of the works involved and the special interest of the structure) and the examples include redecoration; restoration of character; demolition/alteration of a modern extension and routine maintenance.
- 7.3.3. Chapter 6 of the Guidelines relates to Development Control. With respect to ‘General Types of Development’, it is stated that extensions to a protected structure do not have protected status themselves unless they contribute to the character of the structure. Therefore, works to such an extension which do not affect the character of the protected structure itself, for example to the interior of the extension, would come within the normal rules relating to exemptions. However, new openings proposed from the principal structure into the extension would affect it.
- 7.3.4. Part 2 of the Guidelines sets out Detailed Guidance Notes which are aimed at assisting planning authorities in carrying out inspections for Declarations and identifying the

special interests of a structure. These matters are set out in a number of chapters with the following titles:

- Chapter 7: Conservation Principles
- Chapter 8: Walls and Other Structural Features.
- Chapter 9: Roofs
- Chapter 10: Openings: Doors and Windows
- Chapter 11: Interiors

8.0 The Referral

8.1. Referrer's Case

A referral was received from the owners of the site, Branach Developments Limited, against Kildare County Council's decision not to issue a Section 57 Declaration. The applicant's grounds are summarised as follows:

- Heritage Appropriate Conservation: Proposed interventions are conservation-led and employ traditional materials and techniques which are consistent with the Architectural Heritage Protection Guidelines and represent best practice. The works will stabilise/restore the structures historic character rather than harm it.
- Prevention of Fabric Loss & Consistency with Policy and Context: The character of the structure is already compromised by neglect, loss of features and decay. The proposals intended to re-establish character and align with national policy provision of ensuring protected structures remain in viable use via conservation.
- Contradiction with Planning Permission Reg. Ref. 19608: The Planning Authority approved the demolition of this Protected Structure (Reg. Ref. 19608). It is now inconsistent and unreasonable to refuse conservation-led works designed to preserve and restore the property.
- Misinterpretation by the Planning Authority: The Planning Authority's decision appears based on an assumption that intact fabric remains. The character has already been lost through decay, alteration and dereliction with the works not materially affecting what little character remains but will recreate lost character in an appropriate/authentic manner.

- Conclusion: The proposed works do not materially affect the character of the building and represent essential conservation aligned with statutory and policy guidance and should be confirmed as exempt under Section 57 of the Planning & Development Act 2000 (as amended).

8.2. Planning Authority Response

8.2.1. A response was received from the Planning Authority dated 10th November 2025 and states the following:

While the condition of No. 19 Fairview Cottages (RPS Ref. B22-21) is acknowledged, it is considered that the extent of works proposed under the Section 57 Application are outside the scope of Section 57 Planning & Development Act 2000 (as amended) and should be the subject of a separate planning application, which should have regard to inter alia Section 5.3 of the Architectural Heritage Protection Guidelines for Planning Authorities (20011), Chapter 4, Declaration and Chapters 6, 7, 8, 9, 10, 11, 13 and 14.

Note: Your attention is drawn to the standard and extent of works carried out on the wider complex of Fairview Cottages without the benefit of planning permission. This is currently the subject of a separate retention application (pl. ref. 25/60934).

8.3. Further Responses

None.

9.0 Assessment

9.1. Introduction

9.1.1. This is a referral under Section 57(8) of the Planning and Development Act 2000 (as amended). In my view, the pertinent issue before the Commission is not to make a determination as to the acceptability of the proposed works in terms of the proper planning and sustainable development of the area but to consider if the proposed works would or would not materially affect the character of the Protected Structure or any element the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. In the interests of absolute clarity, the subject cottage is a Protected Structure (RPS No. B22-21) on the Record of Protected Structures in the Kildare County Development Plan 2023-2029 and is described as a "House". From review of the Record of Protected

Structures, I note that the subject building has a Reference No. 11817089 associated with the National Inventory of Architectural Heritage (NIAH). However, I am unable to find any current record associated this reference number on the NBHS website and there is no record of same on the associated online map. Having examined the application details and all other documentation on file, the submission received in relation to the referral, the correspondence of the Planning Authority and the relevant local policies and national guidance, I am satisfied that the substantive issue in this referral relates to the type of works proposed by the Referrer, Branach Developments Limited, and whether these works would or would not materially affect the character of the Protected Structure or any element of its category of special interest.

9.1.2. The Commission is required under subsection 57(4) to have regard to any guidelines issued under Section 52 of the Act which include the Architectural Heritage Protection - Guidelines for Planning Authorities (2011) hereafter referred to as 'the guidelines'. In noting Section 4.1.4 of the guidelines which relates to the purpose and limits of a Declaration, it is stated that declarations can be issued to permit specific minor works, including enabling works that, in the opinion of the planning authority, would not materially affect the character of the protected structure. It is further stated that a declaration must not exempt works that would have a material effect on the character of a protected structure and cannot exempt development that would not otherwise be exempt from a requirement for planning permission.

9.2. Site Inspection

9.2.1. I conducted a site inspection of the subject building on 31st October 2025. I observed the single storey cottage in a state of disrepair with opes (door and windows) on the front elevation blocked-up. I noted that rough course/pebble dash rendering on this elevation had partially come away and there was graffiti on the façade. Additionally, I observed that there were no fascia or guttering/downpipes to the front elevation and that the roof was partly exposed with battens and rafters visible on account missing slates and ridge tiles. From my inspections, I noted that there were also a number of other loose slates on the roofslope and that weeds were growing from the eaves. I observed the part-yellow brick, part-red brick chimney stack to be in good condition. I was unable to access the interior of the building on account of the front being blocked-up and the surrounding lands being screened by hoarding from on-going development works. As such, I can only rely on the photographs provided by the Referrer on file.

The images show the rear of the building to be covered with creeper vegetation/ivy with the photographs of the interior show in a poor condition with most of the ceiling collapsed, some plasterboard removed, walls exposed, and extensive materials from the building on the floor. Based on the photographs provided, I am satisfied that the interior of this building is as illustrated on the submitted drawings and reflects to current condition of the building which is not presently in a habitable condition or well maintained.

9.2.2. I further note from my inspection that there is an adjoining terrace of cottages of similar form style and arrangement however, it is evident that these buildings have been subject to recent/ongoing refurbishment work. Whilst I observed that these buildings had the doors and window openings on their front elevations boarded up with plywood, new guttering, fascias, soffits, rendering and roofes have been installed. I also note that the adjoining terrace of cottages fronting onto Shraud Street have also been subject to recent modification/refurbishment works.

9.2.3. Having inspected the site and reviewed the submitted particulars on the file, I am satisfied that there is sufficient information to enable me an adequate assessment on the materiality of the type of works proposed by the Referrer as to whether or not such works would or would not materially affect the character of the protected structure or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

9.3. Declaration of the Planning Authority

9.3.1. On 13th August 2025, the Planning Authority issued correspondence to Branach Developments Limited (the Referrer) informing that the works outlined in the Section 57 Declaration application cumulatively have the potential to materially affect the character of the Protected Structure and would result in the loss of original fabric of the structure. On the basis, the Planning Authority stated that it would not be appropriate to issue a Section 57 Declaration at this time and that it is considered that the proposed works would require planning permission.

9.4. Scope of Referral Request

9.4.1. The Referrer has requested that the proposed works listed in the Application for a Section 57 Declaration be reviewed by An Coimisiún Pleanála and that a Section 57 Declaration be issued for the proposed works. The details of the nature and scale of

the development proposed (both internal and external) as submitted on the Application Form dated 26th May 2025 and date stamped by the Planning Authority stated:

'New timber sash windows and doors to suit the period structure, lime rendered and pebble dashed façade, new cut roof with re-claimed natural slate to match existing, painted timber fascia and soffit, half round gutters and downpipes to be cast iron, renovate existing structure and extension to current building regulations using traditional building material where applicable'

9.4.2. With the above in mind, I draw the attention of the Commission to the attachment submitted with the referral to An Coimisiún Pleanála which has an Application Form for a Section 57 Declaration appended - also dated 26th May 2025. However, the details of the nature and scale of the development proposed differ from that of the application form received by the Planning Authority and states as follows:

'Reclaimed natural slates, painted timber fascia and soffit, double glazed sash timber windows, existing window cills retained, lime rendered pebble dash finish, cast iron guttering and down pipes'

9.4.3. It is unclear to me as to why the Referrer has appended an Application Form for a Section 57 Declaration dated 26th May 2025 with this referral which contains a different description of proposed works to that of the Application Form received by the Planning Authority. I note that the scope of works in both applications is broadly similar in terms of the new timber sash windows, lime rendered pebble dash, cast iron guttering, painted timber and fascia and soffit. However, I note that significant elements listed the original Application Form namely the new cut roof and the renovation of the existing structure and extension to current building regulations and use of traditional materials have been omitted from the description of works in the Application Form submitted with the referral. I further note the description submitted with the referral includes reference to existing window cills being retained which was not stated on the original Application Form. Having regard to the above, I do not consider it appropriate to have regard to the development works detailed on the Application Form submitted with the referral. In my view, it is important that I assess this referral against the description that was originally submitted with the Application Form to Kildare County Council and which was the subject of consideration by that Planning Authority in the first instance.

9.5. *Affect on the character and interest of the Protected Structure*

9.5.1. In consideration of the subject works forming this referral, I note that Section 57(1) of the Planning & Development Act 2000 (as amended) states that the carrying out of works to a protected structure, shall be exempted development only if those works would not materially affect the character of - (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. This matter is re-emphasised in the Architectural Heritage Protection - Guidelines for Planning Authorities (2011). The Referrer claims that the proposed interventions are conservation led and will employ traditional materials and techniques that would stabilise and restore the historic character of the building rather than harm it. Moreover, it is further contended by the Referrer that the subject building has already been severely compromised by neglect and loss of features with the proposed works intended to re-establish the buildings character.

9.5.2. Section 4.12: Sample Phrases for Use in Declarations of the guidelines notes that certain works might require planning permission depending on the individual circumstances and the special interests of a structure. Such works include changes to the exterior appearance of walls, roofs or openings and makes specific reference to the removal of render or works that would result in the removal of natural slate roof-covering, replacement of existing structural elements, rainwater goods or addition of fascia boards or boxing in of eaves. Additionally, the alterations to structural openings or replacement of doors or windows and changes to the internal layout (including those required for fire access) or improvement of access and alterations that would affect the original or early surviving plan form or section and the breaking out of new openings between rooms or spaces along with the insertion of new doors or screens. Furthermore, changes to the internal surfaces, finishes or linings such as the replacement of floor surfaces, works to plasterwork ceilings and the removal of paint or wallpaper. Other works referenced also include the insertion of fire detection or security systems, equipment or fixtures; fixing of panelling.

9.5.3. In noting the above, I also refer the Commission to Section 4.13: 'Exemptions' of the guidelines which outline that depending on the nature of the works involved and the special interest of the structure, some works to a protected structure might not require planning permission. The examples provided are not exhaustive but include

re-decoration (the application, but not removal, of paint or wallpaper, where plasterwork features or underlying coatings or underlays are not compromised, and the repair of damaged plasterwork in compatible materials to match existing work); restoration of character (replacement of previous inappropriate alterations such as windows or fibre-cement roof tiles); demolition or alteration of a modern extension; routine maintenance (to keep the building watertight, the securing but not replacing of existing elements such as doors and windows, clearing gutters/downpipes, refixing of loose slates or painting and minor alterations to services – but excluding the installation of major services.

9.5.4. The proposed works seek to install new timber sash windows and doors to suit the period structure. Having regard to the consideration of proposals affecting windows as set out in Chapter 10: Openings - Doors and Windows of the guidelines, the replacement of entire windows should only be permitted where the existing windows are missing or verifiably decayed beyond repair. From my inspection of the site, the window openings are currently blocked up but photographs indicate some window frames remain. It is not clear however, as to whether these frames are original or relate to later window fixtures. Therefore, it may be the case that original window features have been lost. In any event, I consider that the installation of new windows (of appropriate design, size and materials) where the original windows are not in situ would be consistent with best conservation practice. Nevertheless, I consider that such detail would require approval by the planning authority so that new windows would not detract from the character of the subject building. I am also of the view that the same approach applies in relation to doors.

9.5.6. The proposed works include a 'lime rendered and pebble dashed façade'. It is evident from my inspection that some of the existing external dashed finishes on the cottage is damaged and has fallen away from the structure exposing the render/plaster to the front elevation. According to Chapter 8: Walls and Other Structural Elements of the guidelines, render contributes to the character of a protected structure and should generally not be removed as it eradicates part of the history of the building. The guidelines inform in relation to repairing render finishes that where old rendering has failed or the coating has separated from its backing that only the loose material should normally be removed and that sound areas of coating should be retained and patched with new material which matches in terms of colour, material, texture and strength of

the original finish. The guidelines also state that where it is permitted to strip off and replace a plain or roughcast render finish, the planning authority should normally require, by condition, that it is replaced on a like-for-like basis and the specification, mix and finish be approved by the planning authority before any work commences. It is my view that the references in the guidelines with respect to '*permission*' or works being '*permitted*' is an implication that planning permission is required for such works.

9.5.7. The proposed works include a new cut roof with application of re-claimed natural slate to match existing slates. Chapter 9: Roofs of the guidelines provides detailed guidance on both roofing details and cladding materials and outline that a roof is a major element that gives the building its distinctive profile. The aspects of a roof, which may contribute to the special interest of a protected structure include the profile and structure of the roof and cladding materials. In consideration of proposals to alter a roof structure, the guidelines state that unnecessary removal of a roof, or part of a roof, in order to replace it in replica, should not generally be permitted. Once again, it is my view in this regard that the reference in the Guidelines with respect to works being '*permitted*' is an implication that planning permission is required for such works. With regard to cladding materials, the guidelines inform that the type and nature of cladding materials used on a roof have a significant impact on the appearance and special interest of a building. The retention of traditional roofing materials and the development of new sources of these materials should be encouraged rather than replaced and that proposals involving the removal or partial removal/alteration of the cladding materials of a protected structure require careful scrutiny. The consideration of proposals affecting slates set out in the guidelines state that sound slates should be carefully retained in situ and many slates as possible of the should be re-used on the more prominent slopes of the roof, with matching new materials on other, concealed slopes. Additionally, new cladding materials used in repair works should be compatible with the existing ones in terms of colour, size, texture, thickness and durability with 'artificial slates' not being permitted in conjunction with, or as a replacement for natural slates. I consider that the application of natural slates to match the existing slates which are to be retained on the roof would be consistent with best conservation practice.

9.5.8. The proposed works include painted timber fascia and soffit and half round gutters and downpipes to be cast iron. Having inspected the cottage, there is no guttering or rainwater goods present. There is timber boarding along the eaves which is a fascia

but it is not clear if this is an original feature. There is no soffit on the front elevation. According to Chapter 9: Roofs of the guidelines, alterations to the treatment of the eaves and verges of a roof, which materially alter the character of the roof and the entire structure, should not be permitted. In addition, it is stated that rainwater goods contribute to the special character of a structure. From my review, there is no clear guidance on replacement of guttering or fascias soffits and therefore, I consider it prudent to fall back to Chapter 7: Conservation Principles of the guidelines in terms of promoting minimum intervention. The guidance states that an acceptable option to replace a lost element would be to incorporate, as a new feature, a design that is sympathetic with the remaining historical features of the building. In this regard, the guidelines state that where a new feature is permitted, it should be conditioned that such new feature(s) take into account the size, scale and material of the building itself and that care be taken to avoid creating a false historical appearance. I would have concern that the addition of fascia boards, soffits and guttering has the potential to alter the appearance of the eaves and roof and could impact on the entire façade and therefore such works require special attention to be deemed appropriate to the character of the structure.

9.5.9. The proposed works seek to renovate the existing structure and rear extension to current building regulations and to use traditional building material (where applicable). It is not clear from the details submitted when this extension was erected onto the original cottage (i.e. in modern times or as an early adaption to the cottage). The rear extension is indicated on the submitted drawings as being flat roofed with a floor area of approximately 22sq.m and has a rear door and a window on the eastern side profile. The proposed external works will include a new window to the rear of the extension. According to the guidelines, it is stated that in general, modern extensions to a protected structure do not have protected status themselves unless they contribute to the character of the structure. Therefore, works to such an extension which do not affect the character of the protected structure itself e.g. the interior of that extension would come within the normal rules relating to exemptions. However, it is also stated that new openings proposed from the principal structure into the extension would affect it and so care should be taken where works are proposed to extensions to ensure that they do not have an adverse effect on the character of the structure. From review of the submitted drawings, part of the rear wall in the original cottage plan is to be

removed to provide increased connectivity to the rear extension. I am of the view that this work would materially affect the character of a protected structure and requires planning permission.

9.5.10. In considering the proposed renovation of the existing cottage using traditional methods, I note that the precise scope of these renovation works has not been specified but the submitted floor plans indicate that the cottage will be reconfigured to provide 2 no. bedrooms, a shared kitchen/dining room and a W/C. The principle 3 room floor plan will be retained which is welcome from a conservation perspective however as noted above, a section of the rear wall/existing door will be removed to create greater connectivity between the cottage floor plans and the rear extension. Based on the information provided by the Referrer, I am of the view that the works to the interior will include redecoration and other routine maintenance/repair works to bring the cottage back into a habitable condition. Chapter 11: Interiors of the guidelines state that the interior of any protected structure is of primary importance and is protected. In making an assessment of the interior of a protected structure, the guidelines state that a planning authority should obtain all necessary expert and specialist advice ideally on a room-by-room basis where consideration can be given to elements such as the floor, ceiling and walls and any interesting features or fittings present. The guidelines also inform that where there are any features considered to be worthy of protection that they should ideally be retained in situ and that such elements be repaired rather than replaced where decayed or damaged. Furthermore, the guidance states that the introduction or alteration of services within the interior of a protected structure requires extremely careful consideration.

9.5.11. I acknowledge from the submitted drawings that the internal area is in poor condition with the ceiling partially collapsed, plastering removed and the floor condition is unidentifiable due to extensive overlay of debris. However, I am of the view that the detailed consideration needs to be given to the precise nature of all of the internal works proposed, including new/modern services. To this end, I note that the guidelines indicate that good conservation practices do allow for structures to evolve and become adaptable to meet changing needs – particularly for modern living. However, the challenge lies with how and where change can occur to ensure that the heritage of the structure is not damaged by inappropriate interventions that are unsympathetic or cause damage to the fabric of the structure. With this in mind, I consider that there is

some scope to consider that the works to the subject cottage would not conflict with original features or would not detract from the original cottage. However, as indicated above, I consider that the partially removal of the rear wall from the original cottage floor plan would impact on original features of the cottage and requires assessment by the Planning Authority by way of planning permission. Moreover, in order to protect the special interest of the cottage and to promote minimum interventions, I am of the view that the works to the interior of the original cottage is not clear and notwithstanding the current condition of the cottage, I consider that necessary assessment of works is required which is consistent with best conservation practice and reflects consistency with the Architectural Heritage Protection Guidelines so that such works do not conflict with the original features or elements of the cottage.

9.6. Concluding Remarks

9.6.1. In summary, Section 57(1) of the Planning & Development Act 2000 (as amended) states that the carrying out of works to a protected structure shall be exempted development only if those works would not materially affect the character of the structure or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. The Architectural Heritage Protection - Guidelines for Planning Authorities (2011) set out that the purpose and limits of a Declaration is to permit specific minor works, including enabling works where it is the Planning Authority's opinion that such works would not materially affect the character of the protected structure. With the above in mind, I consider that works which would materially affect the character of the protected structure and as a result require planning permission include changes to the exterior appearance of the building, changes to the internal layout which would affect the original or early surviving layout or sections, changes to the internal finishes, fixtures and fittings, that would involve loss or damage to the original or early surviving elements, installation of services that would be visible from the exterior, and, the erection or demolition of extensions.

9.6.2. Whilst I acknowledge that the proposed elements are intended to use traditional techniques and materials to provide for conservation-led interventions to protect the cottage building in accordance with best practice as to bring the cottage back to a habitable condition, I am of the view that such works require careful consideration and detailed assessment. I consider that the listed works to the exterior of the building

namely pebble dashing, rainwater goods, fascias/soffits, new roof and slates in addition to new windows and doors will result in visual alterations to the external appearance of the existing building. It is my opinion that these works cannot be considered within the remit of a Section 57 Declaration on the basis that said works have the potential to materially affect the character of the structure and elements of the structure which contribute to its special architectural, historical and social interest. In my view, any alteration to the exterior of the cottage has the potential to result in direct impacts on the character of the cottage and/or confuse the value of this Protected Structure and as a result requires planning permission.

9.6.3. I further note that the proposed works seek to renovate the cottage and rear extension through use of traditional materials. I acknowledge the poor internal condition of the cottage and the potential lack of original surviving features. Notwithstanding, I am of the view that the works identified by the Referrer would require significant physical interventions, the scope of which is largely unknown, and may invariably include the use of modern materials (for services) and replicated materials all of which have the potential to detract from the Protected Structure and diminish the character which would be contrary to good conservation practice as set out in the guidelines. Therefore, it is my opinion that the subject development works cannot be considered as minor works and would require appropriate scrutiny and expert advice. Moreover, I am of the view that the partial removal of an original wall in the cottage would materially affect the character of the protected structure and as a result requires planning permission. With this in mind, I would reiterate to the Commission that a Section 57 Declaration is not a means to circumvent the requirement for planning permission.

9.6.4. In the interests of clarity, it is my opinion that the proposed internal and external works outlined by the Referrer come under the definition of “works” in relation to protected structures as per the Planning & Development Act 2000 (as amended) and as a result have the potential to detract from the character and setting of the protected structure. I do not consider that all of the works proposed reflect a reasonable and balanced approach in the context of the active use of the property whilst also protecting the character and setting of the protected structure. In addition, I do not consider that all of subject works can be reasonably considered context of a Section 57 Declaration as it is guided towards specific minor works only and is primarily intended as a service provided by a Planning Authority to the owner/occupier of a Protected Structure in

order to clarify them of their duties and rights. Furthermore, I am also satisfied that the correspondence issued by Kildare County Council had due consideration to the proposed scope of works to the cottage and I acknowledge the position of the Planning Authority which indicated that the proposed works would cumulatively have the potential to materially affect the character of this protected structure both internally and externally.

9.6.5. As a further point, I note that the Referrer outlines that the Planning Authority previously granted permission for the demolition of the subject structure and claims that it would be inconsistent and unreasonable to now refuse conservation works aimed at preserving the building. I do not consider this ground to be applicable in the subject context as the scope of the Section 57 of the Planning and Development Act 2000 (as amended) is confined and limited to a declaration as to the type of works the authority considers would or would not materially affect the character of a protected structure and therefore, does not relate to planning permission or site planning history. As such, this referral will be assessed on its own merits insofar as it relates to Section 57 of the Planning & Development Act 2000 (as amended).

10.0 Conclusion

10.1. The subject building at No. 19 Fairview Cottages is a Protected Structure in the Kildare County Development Plan 2023-2029. A Section 57 Declaration can be issued to permit specific minor works, including enabling works that would not materially affect the character of the protected structure however, such a Declaration is not an alternative to planning permission and is not a mechanism to determine significant works to a protected structure outside of the formal planning process.

11.0 Recommendation

11.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the following proposed works comprising: *‘new timber sash windows and doors to suit the period structure, lime rendered and pebble dashed façade, new cut roof with re-claimed natural slate to match existing, painted timber fascia and soffit, half round gutters and downpipes to be cast iron, renovate existing structure and*

extension to current building regulations using traditional building material where applicable' would/would not materially affect the character of the structure or of any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest:

AND WHEREAS Branach Developments Limited requested a declaration on this question from Kildare County Council and the Council issued correspondence on the 13th day of August 2025 stating that the works cumulatively have the potential to materially affect the character of the protected structure and would result in the loss of original fabric of the structure and therefore it would not be appropriate for the Planning Authority to issue a Section 57 Declaration.

AND WHEREAS Branach Developments referred this Section 57 declaration application for review to An Coimisiún Pleanála on the 26th day of August 2025:

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2, 3, 4 and 57 of the Planning and Development Act, 2000, as amended,
- (b) the location of the subject structure at No. 19 Fairview Cottages, Kildare, Co. Kildare and the inclusion of this structure in the Record of Protected Structures, as set out in Appendix 6 the Kildare County Development Plan 2023- 2029,
- (c) the provisions of the 'Architectural Heritage Protection Guidelines for Planning Authorities' issued by the Department of Arts, Heritage and the Gaeltacht (2011),
- (d) the documentation submitted by all parties as part of the referral, and,
- (e) the inspection of the site by the Planning Inspector.

AND WHEREAS An Coimisiún Pleanála has concluded that:

Having regard to the scope of works identified by the referrers and the detail available, it cannot be determined whether all of the works would not materially affect the character of the protected structure (RPS No. B22-21) and as a result require planning permission.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 57(8) of the Planning & Development Act 2000 (as amended), hereby decides that *'new timber sash windows and doors to suit the period structure, lime rendered and pebble dashed façade, new cut roof with re-claimed natural slate to match existing, painted timber fascia and soffit, half round gutters and downpipes to be cast iron, renovate existing structure and extension to current building regulations using traditional building material where applicable'*, as indicated on the Section 57 Declaration application form submitted by Branach Developments Limited and received by Kildare County Council on 26th May 2025 would materially affect the character of the Protected Structure and as a result would require planning permission.

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.

Matthew O Connor
Planning Inspector

22nd January 2026