



Development	(A) Retention of the demolition of a longstanding building in a ruinous condition; (B) the retention of a detached dwelling and all associated site works.
Location	Broadleas Commons, Ballymore Eustace, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	25/143
Applicant(s)	Alina Zinkiene
Type of Application	Retention
Planning Authority Decision	Refuse Retention
Type of Appeal	First Party Appeal
Appellant(s)	Alina Zinkiene
Observer(s)	None
Date of Site Inspection	10 th March 2026
Inspector	Emer Doyle

Table of Contents

1.0	Site Location and Description	3
2.0	Proposed Development	3
3.0	Planning Authority Decision	3
4.0	Planning History.....	4
5.0	Policy Context	5
6.0	EIA Screening.....	7
7.0	The Appeal.....	7
8.0	Assessment.....	8
9.0	AA Screening.....	12
10.0	Water Framework Directive.....	12
11.0	Recommendation	13
12.0	Reasons and Considerations.....	13
	Appendix 1: Form 1 EIA Pre-Screening	16
	Appendix 2: Form 2 - EIA Preliminary Examination	19
	Appendix 3: Water Framework Directive	

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.224 hectares and is located in the rural townland of Broadleas Commons, c. 2.5km to the south of the village of Ballymore Eustace, Co. Kildare and c. 2.5km north of the village of Hollywood, Co. Wicklow.
- 1.2. The site is located at the end of a cul de sac located off a minor road which joins up a local road (L2026) at one end and the R411 at the other end. There is an old farmhouse and a number of sheds located on the minor road to the north and a number of one off dwellings are located off the minor road close to its junction with the R411.

2.0 Proposed Development

- 2.1. Retention permission is sought for the following:
 - Demolition of building in ruinous condition
 - Removal of septic tank
 - Construction of dwelling with a floor area of c. 232m²

Permission is sought for the following:

- Completion of dwelling
- Wastewater treatment system and soil polishing filter
- Upgrading of existing access for use in connection with the dwelling
- Hardstanding for parking, landscaping and all associated works.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for development for two reasons relating to the rural housing policy and non-compliance with the criteria set out in Policy HO P20.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The Planning Report noted that no information had been submitted to demonstrate compliance with the rural housing policy or Policy HO P20.

3.2.2. Other Technical Reports

Area Engineer: No objection subject to conditions.

Transport, Mobility and Open Spaces: No objection subject to conditions requiring upgrading of road and improvement of passing bay adjacent to two houses closer to southern junction or the construction of a new passing bay.

Environmental Health Officer: Notes that water supply source is indicated as being both 'public mains' an 'private well'. Requires the applicant to indicate the proposed well location on a revised site layout.

Environment Section: No objection subject to conditions.

3.3. **Prescribed Bodies**

- None.

3.4. **Third Party Observations**

- None.

4.0 **Planning History**

- #### 4.1. **UD 8043:** The planner's report notes that enforcement proceedings commenced in relation to the erection of a dwelling without permission.

5.0 Policy Context

5.1. National Policy

- National Planning Framework First Revision April 2025 – National Policy Objective 28 relates to rural housing in the countryside.
- Climate Action Plans (2024 and 2025) and Ireland's 4th National Biodiversity Action Plan (NBAP) 2023-2030.
- Sustainable Rural Housing Guidelines for Planning Authorities (DoEHLG, 2005)

5.2. Regional Policy

- Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 – Rural Areas: RPO 4.80 relates to the management of urban generated growth in total areas and RPO 4.81 relates to siting and design criteria for rural housing.

5.3. Kildare County Development Plan 2023-2029

- The site is located on unzoned land. The Council's overall goal for rural housing is contained within Chapter 3 of the Plan.
- The site is located on lands identified as Eastern Uplands which have a high sensitivity rating. Table 13.4 identifies that rural housing has medium sensitivity in this landscape.
- The site is located within Zone 1 as set out on Map V1-3.1 Rural Housing Policy Zones – Area under Strong Urban Influence.
- Section 3.13.3 sets out the Rural Housing Policy
- Section 3.13.5 sets out the policy in relation to restoration/ refurbishment of Traditional Structures.
- HO P11 Facilitate, subject to all appropriate environmental assessments proposals for dwellings in the countryside outside of settlements in

accordance with NPF Policy NPO 19 for new Housing in the Open Countryside in conjunction with the rural housing policy zone map (Map 3.1) and accompanying Schedule of Category of Applicant and Local Need Criteria set out in Table 3.4 and in accordance with the objectives set out below. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.

- Policy HO P20 relates to the replacement of dwellings no longer suitable for habitation.

HO P20	<p>Facilitate, where it is demonstrated by an applicant that a dwelling is no longer suitable for habitation, its replacement with a new dwelling subject to the applicant demonstrating and submitting the following with the application:</p> <ol style="list-style-type: none"> I. The structure must last have been used as a dwelling and the external walls must be identifiable/visible. II. A report from a suitably qualified competent person shall be submitted to verify that the dwelling is habitable (or not) and that replacement of the dwelling is the most sustainable option. III. Documentary evidence of the most recent date of occupation. IV. Normally a condition to demolish the existing dwelling will be included in any grant of permission. V. Normal planning considerations will be taken into account in the assessment of planning applications for replacement dwellings. <p>In cases where an applicant/occupant wishes to replace an existing habitable dwelling on the same footprint and of the same or similar floor area there will be no requirement to comply with local need criteria identified in this Plan.</p>
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5.4. Natural Heritage Designations

The appeal site is not located on or within any designated Natura 2000 sites, with the nearest designated site as follows:

- Poulaphouca Reservoir SPA (Site Code 004063) c. 1.9km to the north east
- Wicklow Mountains SAC (Site Code 002122) c. 8.2km to the east
- Wicklow Mountains SPA (Site Code 004040) c. 8.2km to the east.

6.0 EIA Screening

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

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal was received on behalf of the applicant.

- The grounds consider that both reasons for refusal relate to the rural housing policy.
- It is stated that the report of the planning officer raised no other grounds.
- The applicant does not satisfy the rural housing policy.
- Given the limited ambit of reasons for refusal, it is suggested that the Commission could consider the imposition of a condition governing the identify of future residents in order to avoid the demolition of the dwelling and the resultant construction and demolition waste.

7.2. Planning Authority Response

- The Planning Authority note the contents of the appeal and refers the Commission to the technical reports and planning assessment on file.

7.3. Observations

- None.

8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including 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:

- Rural Housing Need
- Compliance with Policy HO P20
- Other Issues

8.2. Rural Housing Need

In accordance with the Rural Housing Policy Zones Map in the Kildare CDP, the site is located in zone 1 as set out under Map V1-3.1 of the Kildare County Development Plan 2023-2029, which encompasses areas under strong urban influence.

The appeal notes that the report of the planning officer raised no objection to the principle of a new house on the site and considers that there are no technical reasons for refusal of permission in this case.

It is stated that the applicant is permanently resident in Ireland and comes from Lithuania. Further it is stated that the applicant does not satisfy the rural housing policy.

It is suggested to the Commission that given the limited ambit of reasons for refusal, the Commission could consider the imposition of a condition governing the identify of future residents in order to avoid the demolition of the dwelling and the resultant construction and demolition waste. This is considered by the appeal to be a compromise which would be reasonable in the circumstances.

In terms of the information presented with the application and appeal, no information has been submitted with regard to the rural housing policy. This is a requirement of Policy HO P11. I note that it is explicitly stated in the appeal that the applicant does not satisfy the rural housing policy.

I consider that the application of an occupancy condition is a reasonable way of controlling the development of one off dwellings in the rural countryside to those who comply with the rural housing policy. I consider that the proposal as set out in the

appeal to allow the imposition of a condition allowing for a future resident complying with the rural housing policy would undermine the rural housing policy, would be onerous and difficult to control and would set a poor planning precedent. As such, I consider that this is not an appropriate manner of dealing with this type of retention application. Further, I do not agree with the view set out in the appeal that this is the only issue in this case and I shall examine this in the following sections.

8.3. Compliance with Policy HO P20

The planning authority considered that the applicant failed to demonstrate compliance with Policy HO P20 in relation to replacement dwellings. The only information submitted to the Planning Authority in relation to Policy HO P20 is a single photograph on Page 6 of the document entitled 'Report on Residential Development at Broadleas Commons, Ballymore Eustace, Co. Kildare.

This policy facilitates a replacement dwelling on the same footprint and of the same or similar floor area to applicants who do not meet the requirements of the rural housing policy. The applicant must demonstrate a number of criteria including:

- The structure was last used as a dwelling and the external walls must be identifiable/ visible
- A report from a suitably qualified competent person verifying that the dwelling is not habitable and that replacement of the dwelling is the most sustainable option
- Documentary evidence of the most recent date of occupation

None of this information has been provided with the application. The planning report points out that 'none of this information was recorded, and as the demolition of the dwelling has already taken place, none of the above points can now be demonstrated.'

I concur with the Planning Authority that there is very limited information to properly assess this application with regard to this policy. The appeal does not address this in any way or provide additional information to support the application. Notwithstanding this, there is a requirement for the replacement dwelling to be on the same footprint and of the same or similar floor area to the original dwelling. Having examined the mapping, the single photograph of the old dwelling, together with the site layout plan

and drawings submitted, I am not satisfied that the replacement dwelling is of a similar floor area to the original dwelling. In terms of the footprint, it is clear that whilst part of the replacement dwelling is on part of the original footprint, the replacement dwelling is of a substantially larger size and a different shape as such, there is discrepancies between the footprints of both dwellings.

As such, having regard to the policy set out in HO P20 of the Kildare County Development Plan 2022-2028, relating to replacement dwellings, I am not satisfied that the applicant has submitted sufficient information to demonstrate compliance with this policy.

8.4. **Other Matters**

Traffic Safety- The proposed development is located on a private road which serves a number of houses and is poorly aligned with poor surface treatment. I note the Area Engineer has not raised this as an issue. The Transport Section in the report dated the 17th of October 2025 has included conditions 1-4 which require significant works to the road and the improvement of an existing passing bay adjacent to the junction with the R411 with the developer liable for the cost. I consider that these conditions would be very costly and onerous for the applicant and I have concerns that she may not have consent to carry out these works as it is not clear whose responsibility the maintenance of the road is. It may be under the control of a third party. I note that the site and newspaper notices refer to the upgrading of the existing access for use in connection with this house but no details or drawings have been submitted in this regard. I refer the Commission to the condition of the road in the photographs taken on the site inspection. I consider that the applicant has failed to demonstrate that satisfactory access can be achieved without significant works to the existing access road which may be outside the control of the applicant. The minor road serving the site is seriously substandard and the traffic generated by the development proposed to be retained would endanger traffic safety in my view.

Visual Amenity- The site is located within the Eastern Uplands character area which is designated as having high sensitivity in Table 13.2. Table 13.4 identifies the likely compatibility between a range of land uses and the landscape areas of the county

and rural housing is given a medium compatibility rating within this category. There are no views or prospects listed for protection in the vicinity.

The site is relatively level and is located off a cul de sac off a private road. The dwelling proposed is of standard design with a ridge height of 6.5m. The house has been substantially built and having regard to the site inspection carried out, I consider that it has a low visual impact, other than in the immediately vicinity of the site. As such, I am satisfied that the dwelling can be satisfactorily assimilated into the landscape without detracting from the visual amenities of the area.

Waste Water Treatment System – I note that a septic tank was removed and permission is sought for retention of same. The Environment Section raised no concerns. The EHO noted that the application form stated that both mains water and a well were proposed. The site will be served by mains water according to both the site characterisation form and the cover letter submitted by the applicant and as such, I consider that the application form has a minor error in this regard. It is proposed to provide a 6PE Sepcon BAF concrete treatment system together with a soil polishing filter. The site itself was reasonably dry underfoot with no signs of rushes or ponding and I consider that sufficient detail has been provided to demonstrate that the site can accommodate an effluent treatment system as proposed.

9.0 AA Screening

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

The subject site is located approximately 1.9km to the north east of Poulaphouca Reservoir SPA (Site Code 004063).

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- The nature and relatively minor scale of the proposed development/ retention of development
- The distance from European Sites and the absence of any ecological or hydrological pathways to any European Site.
- Taking into account the determination of the Planning Authority.

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

10.0 Water Framework Directive

10.1. Please refer to Appendix 2.

The nearest water body is the River LIFFEY_040, IE_EA_09L010400 c.150m to the east of the site (good water body status) and the groundwater body is Kilcullen IE_EA_G_003. This groundwater body is stated as being 'At Risk' in relation to not

meeting their Water Framework Directive objectives. The proposed development is detailed in section 2.0 of my report. No water deterioration concerns were raised in the planning appeal.

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. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Small scale and nature of the development
- Location-distance from nearest water bodies and/or lack of hydrological connections

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

11.0 Recommendation

I recommend that planning permission should be refused for the reasons and considerations as set out below.

12.0 Reasons and Considerations

1. Having regard to the location of the site of the development proposed to be retained within an area designated 'Zone 1-Areas under Strong Urban Influence' in the Kildare County Development Plan 2023-2029, and in the absence of

sufficient evidence to demonstrate compliance with Table 3.4 of the development plan in terms of local need criteria, it is considered that based on the information submitted with the planning application and the appeal, the applicant has not sufficiently demonstrated compliance with the rural housing policy local needs criteria as outlined in Section 3.13.3 and Table 3.4 of the Kildare County Development Plan 2023-2029. The development proposed to be retained and the proposed development would be contrary to Policy HO P11 of the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the width, alignment and surface treatment of the access road to the site, it is considered that that the applicant has failed to demonstrate that satisfactory access can be achieved without significant works to the existing access road which may be outside the control of the applicant. The minor road serving the site is seriously substandard and the traffic generated by the development proposed to be retained would therefore endanger public safety by reason of traffic hazard and obstruction of road users.

3. Having regard to the policy set out in HO P20 of the Kildare County Development Plan 2022-2028, relating to replacement dwellings, the Commission is not satisfied that the applicant has submitted sufficient information to demonstrate compliance with this policy. As such, to permit the retention of the replacement dwelling would be contrary to the Council's policy to provide for replacement dwellings in strictly limited circumstances 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, following my

professional assessment and recommendation set out in my report in an improper or inappropriate way.”

Emer Doyle

Planning Inspector

19th March 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	500190
Proposed Development Summary	(A) Retention of the demolition of a longstanding building in a ruinous condition; (B) the retention of a detached dwelling and all associated site works.
Development Address	Broadleas Commons, Ballymore Eustace, Co. Kildare.
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input type="checkbox"/> No, No further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	

<p>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</p>	
<p><input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</p>	
<p><input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
<p>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</p>	
<p><input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p>	<p>Class 10(b)(i) Infrastructure projects. Threshold: construction of more than 500 dwelling units.</p>

<p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	
<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	
<p>No <input checked="" type="checkbox"/></p>	

Inspector: _____

Date: _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	500190
Proposed Development Summary	(A) Retention of the demolition of a longstanding building in a ruinous condition; (B) the retention of a detached dwelling and all associated site works.
Development Address	Broadleas Commons, Ballymore Eustace, Co. Kildare.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The size of the development would not be described as exceptional in the context of the existing environment. The proposal will not produce significant waste, emissions or pollutants. By virtue of its development type, it does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use,	The proposed development/ development to be retained is situated within a rural area. There are no significant environmental sensitivities in the vicinity – potential impacts on Natura 2000 sites is addressed under Appropriate Assessment (Screening).

<p>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).</p>	
<p>Types and characteristics of potential impacts</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>Having regard to the limited nature and scale of the proposed development/ development to be retained, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<p>Conclusion</p>	
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>
<p>There is no real likelihood of</p>	<p>EIA is not required.</p>

significant effects on the environment.	
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Inspector: _____ **Date:** _____

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

(only where Schedule 7A information or EIAR required)

Appendix 3

Screening the need for Water Framework Directive Assessment Determination

The subject site is located at Broadleas Commons, Ballymore Eustace, Co. Kildare,. The nearest water body is the River LIFFEY_040, IE_EA_09L010400 c.150m to the east of the site (good water body status) and the groundwater body is Kilcullen IE_EA_G_003. This groundwater body is stated as being 'At Risk' in relation to not meeting their Water Framework Directive objectives. The proposed development is detailed in section 2.0 of my report. No water deterioration concerns were raised in the planning appeal.

I have assessed the retention and completion of the development to include a dwelling and wastewater treatment plant and I have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Small scale and nature of the development
- Location-distance from nearest water bodies and/or lack of hydrological connections

Conclusion

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