



An
Coimisiún
Pleanála

Inspector's Report PL-500241-CW-25

Development	New private dwelling with garage site entrance and all associated site works
Location	Browneshill Avenue , Kernanstown , Carlow
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	2560254
Applicant(s)	Aleida Becker
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party Normal Planning Appeal
Appellant(s)	Aleida Becker
Observer(s)	None
Date of Site Inspection	29 th January 2026
Inspector	Kathy Tuck

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.62ha and is situated along Browneshill Avenue, Carlow. Browneshill is located approximately c.3.6km to the east of Carlow Town Centre. The surrounding area comprises of a number of single and two storey dwellings.
- 1.2. The subject site rises slightly from the roadside boundary to the south and is currently undeveloped. The site is bounded to the north by the L1027 (Browneshill Avenue)

2.0 Proposed Development

- 2.1. This application is seeking permission for the provision of a single storey 4 no. bedroom dwelling which has a stated area of 278.6sq.m. The dwelling is finished with a pitched roof profile which has a ridge level of c.4.9m.
- 2.2. Plans submitted indicate that the dwelling is to be finished with timber cladding and an aluminium seam roof. Permission is also sought for a garage but no details have been provided as to scale of such.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a decision on the 20th October 2025 to refuse planning permission for 2 no. reasons as are follows:

1. The subject site is on lands zoned Demesne Landscape in the Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030. The objective of the zoning is 'To protect and conserve the special character of demesne landscapes and provide for research activities'. A dwelling is neither a permitted use or open for consideration on lands zoned Demesne Landscape as such the proposed development would, if permitted, contravene the Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030 and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development materially conflicts with the terms of Planning Permission PL Ref 98/192, which required that the lands, of which the proposed site forms part, be sterilised indefinitely from further development and is subject to a Section 47 Agreement. The proposed development, if permitted, would set an undesirable precedent for further such development in the County and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer sets out details of the site location, the proposed development, internal reports received, relevant planning history, pre-planning consultations held, relevant local planning policy and provides for an AA and EIA Screening determination.

The assessment notes the location of the subject site within an area zoned as Demesne Landscape where residential development is neither open for consideration or permitted in principle and therefore it concludes that the proposal would not be permitted in principle. Further concern relates to a sterilisation agreement pertaining to the subject site which if the proposal was permitted would conflict with.

With regard to the design of the dwelling, the planning officer notes concern over the visual impact of the dwelling and considers that the design does not reflect an example of a well designed rural dwelling as it would detract from the surrounding landscape.

As such the report recommends that permission be refused in line with the decision issued.

3.2.2. Other Technical Reports

Fire Officer – report dated 19th September 2025 notes no objection subject to condition.

Roads Department - report dated 15th October 2025 notes no objection subject to condition.

Environment Department - report dated 29th September 2025 notes no objection subject.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

None received.

4.0 **Planning History**

Subject site

PA Ref PL9/192 Permission granted for a two storey residence with septic tank, percolation area and car garage. This is subject to a Section 47 Sterilization Agreement

5.0 **Policy Context**

5.1. **Carlow County Development Plan 2022-2028**

The subject site is situated outside of the Carlow Town Council Boundary and therefore there is no zoning objective pertaining to the site under the County Plan.

Relevant Sections:

Chapter 3 – Housing

Section 3.16 Single Housing in the Countryside

Map 3.2 Rural Housing Policy Zones

Chapter 9 – Landscape and Green Infrastructure

Chapter 10 - Natural and Built Heritage

Chapter 15 - Town and Village Plans / Rural Nodes

Section 15.1 Key Town - Carlow Town :

- A Joint Urban Area Plan (UAP) for the Greater Carlow Urban Area (inclusive of Carlow Environs and Graiguecullen) which will be informed by a Local Transport Plan will commence no later than one year following the adoption of this Plan. The UAP will govern the greater urban area and include zonings, policies and objectives including Carlow Environs and Graiguecullen.
- **Policy CSP.3:** Prepare a statutory Joint Urban Area Plan (UAP) for the Greater Carlow Urban Area with Laois County Council which will be informed by the preparation of a local transport plan prepared in consultation with the National Transport Authority and Transport Infrastructure Ireland. The UAP will align with the aims of this Core Strategy while having regard to the regional policy objectives as contained in the Regional Spatial and Economic Strategy for the Southern Region (RPO 11 and RPO 14) and the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly (RPO 4.75).

5.2. Carlow Graiguecullen Joint Urban Local Area Plan 2024-2030

5.2.1. Zoning

The subject site is situated within the boundary of the Carlow Graiguecullen Joint Local Area Plan where the land use zoning pertain to the subject site is identified as being 'Demesne Landscape'.

The Demesne Landscape Zoning Objective seeks '*To protect and conserve the special character of demesne landscapes and provide for research activities*'.

Demesne Landscapes are areas, including Oak Park Demesne and Browneshill Demesne, usually consist of expansive areas of mostly agricultural lands punctuated by individual fine specimen mature trees, stands of trees and mature hedgerow, and are often characterised by historic boundary walls and field patterns laid out in association with a demesne house. The purpose of this zoning is to conserve the special character of these demesne landscapes by retaining their open character along with the associated field and planting patterns. The undertaking of scientific research is also provided for within this zoning category.

Section 12.0 of Chapter 12 states Where conflict arises between this JULAP and these County Development Plans, the provisions of the respective County Development Plan will take precedence.

5.2.2. **Relevant Sections are as Follows**

Chapter 3 – Core Strategy and Housing.

Chapter 5 – Urban Design, Town Centre and Regeneration

Chapter 7 – Infrastructure and Environmental Service.

Chapter 9 – Built and Archaeological Heritage.

There are 3 no. protected structures within 200m of the subject site which include:

- Browne's Hill House RPS CW052 situated c.95m to the south of the site.
- Garden House RPS CW310 situated c.118.5m to the south of the site.
- Browne's Hill House Stable RPS CW051 situated c.179.99m south of the site.

Chapter 10 – Natural Heritage Green Infrastructure and Landscape.

- Section 10.4 Landscape
 - 6. Demesne Landscape
 - (ii) Browneshill Demesne

Browneshill Demesne, located at the eastern end of the joint urban area. The large historic country house in the demesne was built in 1793 and is one of only a small number of surviving Georgian mansions in County Carlow. The high wall around the historic estate was built as part of a Famine Relief project in the 1840s. The mature natural landscape and naturally screen well-established dwellings associated with Browneshill provides high quality topographical variation to a comparatively lower contiguous landscape. The area also offers the only naturally elevated and expansive view of the surrounding area. Another significant feature in the demesne is the Browneshill Dolmen.

General Recommendations:

1. To promote agricultural practices to create a sustainable rural economy including field research and laboratory research related to agriculture, rural diversification, and bioenergy.
2. Maintain and enhance the 18th and 19th century estate landscapes and associated structures, parkland, and woodland to develop them as a tourism resource, as well as the Brownhill Dolmen.
3. Preserve fine tree specimens of landscape significance.
4. Conserve valuable habitats, including any national nature conservation designations.

Policy LC. P2 Protect the character and setting of demesne landscapes in Carlow- Graiguecullen, including Oak Park Demesne to the north of the joint urban area and Brownhill Demesne to the east.

5.3. **Natural Heritage Designations**

The subject site is not situated within or directly abutting any Natura 2000 designated sites. The site is situated approximately c.3.7km to the east of the River Barrow and River Nore SAC (Site Code 002162) and c.7.6km to the west of the Slaney River Valley SAC (Site Code 000781).

6.0 **EIA Screening**

The scale of the proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.

7.0 The Appeal

7.1. Grounds of Appeal

This is a 1st Party appeal against the decision of the Planning Authority to refuse planning permission. The Grounds of the appeal can be summarised as follows:

- Refusal based on a misinterpretation of the zoning status of the site.
- Overreliance on an outdated agreement that no longer aligns with the Councils current policies and objectives.
- During pre-planning consultation, it was indicated that land use zoning was “Demesne” no “ Residential” within the Carlow Graiguecullen Joint Local Area Plan 2024-2030.
- Through an oversight or procedural gap Council overlooked a formal submission made by landowner – favourable received on 1st Oct 2021 (CW-C10-75)
 - Requested 0.674ha of land be re-zoned from “Demesne” no “Residential”.
 - Grounded in Section 3.16.1.2 of the Development Plan which supports infill housing in settlement boundaries.
 - Proposal emphasized environmental sensitivity and aligns with Carlows Housing Strategy.
- Application was submitted based on perceived zoning whereby the Planning Authority would acknowledge the submission made by the landowner.
 - Refusal from Planning Authority confirms this oversight.
 - Refusal bases on zoning in the Carlow Graiguecullen Joint Local Area Plan 2024-2030 and not the Carlow County Development Plan 2022-2028 where the site falls outside any zoned area.
- Legal opinion obtained, and included within appeal documents, clarifies subject sites planning context and its suitability for development.

- States that the County Development Plan takes precedence over the Carlow Graiguecullen Joint Local Area Plan 2024-2030.
- Council influences by sterilisation agreement that no longer reflective of policy and stands in contradiction to objectives promoting compact growth and sustainable infill in serviced areas.
- Landowner review the Section 47 sterilisation agreement
 - Pertains to adjacent parcel of land which was sold by a family member in 1998.
 - Predates current development plan.
 - Should not be used to hinder development proposals.
 - Agreement requests careful consideration of any new development rather than outright refusing permission.
 - Carefully designed dwelling with respect to its surroundings and aligns with national policy
- Section 47(4) of the 2000 Act (as amended) provides for enforcement of sterilisation agreements and is no longer aligned with current planning policy.
 - This presumes that agreement remains aligned with planning authorities objectives *“shall be construed as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by the Minister, the Board or the planning authority under this Act, so long as those powers are not exercised so as to contravene materially the provisions of the development plan”*.
 - In this case sterilisation agreements conflicts with Councils goal in promoting compact growth and sustainable infill development as per the Carlow County Development Plan 2022-2028.
 - Continuing to enforce this outdated restriction undermines the strategic intent of development plans and principles of good planning.

Following objectives of the Carlow County Development Plan 2022-2028 clearly supports this position:

- Objective CSO 1.1

- Objective CSO 2.2
- Objective HHO 1.3
- Objective IO 1.1
 - Proposal supports these objectives through sensitive and considerate design
 - Contributes positively to residential character of serviced area.
 - Meets all relevant planning and environmental standards .
 - Consistent with principles of sustainable development as outlined in both national and local policy.
 - No objection from neighbours/public.
 - Provides a strong local need within a well known community.

The appeal was also accompanied by a submission from a Solicitor which states the following:

Cover letter:

- Carlow/Graigue Plan is governed by Laois County Council and Carlow County Council – the County Plan for each County stands above the joint plan:
 - This is their interpretation that is referenced as hoping to be correct.
- Carlow County Plan is therefore the relevant document to have regard to when considering the Planning Permission in an area that is deemed to be rural.
- Infill aspect of site important – hoping this will get it over the line.
- An original or copy of what was received from the Council in 2024 is vital together with any map – representation that the Council cannot resile from in subsequent dealings on the property.

Carlow Graiguecullen Development Plan:

- Council fails to take into account that the landowner made a successful submission to the Council in 2001 to have the designated zoning for the subject site changed from demesne landscape to residential.

- Submission favourably received by County Council – confirmed by letter attached dated 1st October 2021.
- Request was considered entirely consistent with Carlow County Development Plan 2022-2028.
- Section 3.16.1.2 – deals with rural housing.
- Landowner relied on response received from the Planning Authority.
- Carlow Graiguecullen Joint Local Area Plan 2024-2030 designed to guide the management of an urban border:
 - Chapter 12 provides for land use zoning objectives.
 - Acknowledged that lands are designated ‘Demesne Landscape’.
 - Important to note that where there is a conflict in zoning between the Carlow County Plan and the Carlow Graiguecullen Joint Local Area Plan – respective County Plan shall have priority as per chapter 12 of the Carlow Graiguecullen Joint Local Area Plan.
 - Planning Authority failed to consider the application of the County Plan – significant omission as there is a conflict between the Carlow Graiguecullen Joint Local Area Plan and County Plan.
- Lands hold no particular zoning and rural in nature
 - Letter to the landowner dated 1st October 2021 – use of subject lands fall within the consideration of Chapter 3 of the County Plan.
 - The lands are captured on the land use zoning map of Carlow Graiguecullen Joint Local Area but are situated well outside the urban area of said plan that is design to deal with the joint area.
 - Submitted location of site is more correctly considered by reference to the criteria of the Carlow County Development Plan.
 - No zoning provided in Development Plan and such they fall to be considered as a rural area.
 - Precedence afford to the Carlow County Plan is relevant – development falls to be first considered under the County Plan with consideration

under the LAP being second taking into account only to the extent that that the proposed development could offend the designated zoning.

- Reference to the County Plan is subject to the deviation provided to the landowner in the
- Chapter 3 of eth County Plan promotes residential growth to development of infill lands – such as the subject site.
 - Section 3.7 require high quality design – application has been sensitive to these requirements. No objection on file to the contrary.
 - Sensitive design further endorsed in section 3.15 – dealing with Urban Infill development.
 - Section 3.16.9 presents greatest weight for applicant – policy to give consideration to single housing on infill (gap) sites in a continuous line of existing houses with road frontage.
 - Letter from Council dated 1st Oct 2021 affirms the application of Section 3.16.9.

Section 47 Sterilisation Agreement:

A.

- Sterilisation agreement over 25 years old – landscape and requirement for such has changed over time.
- Sterilisation provides agreement that landowner will not develop land without prior agreement from the Council.
- Proviso is to acknowledge the discretion of the Planning Authority to set aside the Sterilisation agreement so that it does not have a permanent application to the property – can be set aside after due consideration.
- Planning Authority should give due consideration to the continued efficiency of such an agreement in the context of a specific application and not the general concern of creating precedent.
- Concern of creating a precedent is to ignore the discretion that is afforded to the Planning Authority in specific circumstances and as such the application of

a Sterilisation agreement needs to be subjective in declaring the basis for its continued application after such a significant term of years have expired.

- More manifest in the context of objectives and policies of County Development Plan.

B.

- Due regard should be given to policies and objectives of the County Development Plan in considering if appropriate to exercise their powers to set aside Sterilisation agreement.
- Planning Authority need to objectively assess the circumstances of continued Sterilisation agreement and the Planning Authority in this instance did not set out a reason as to why the agreement should continue in the face of policies and objectives to be pursued by the Planning Authority as provided in the County Plan.
- Planning Authority should provide a compelling reason to continue with the Sterilisation agreement contrary to the provisions of the Development Plan.

C.

- The letter to the Landowner on the 1st October 2021 is an exercise in the discretion of the Planning Authority in the Sterilisation agreement.
- Letter provides designation within development plan so the subject lands as residential.
- Planning Authority informed landowner that lands are considered appropriate for residential development – Planning Authority cant have it both ways assuring the applicant that residential development was appropriate and on the other hand refusing permission because of an old Sterilisation agreement.

The 1st Party appeal was accompanied by the following:

1. Copy of zoning submission CLW-40-75.
2. A copy of the planning application lodged to the Planning Authority.
3. The decision issued by the Planning Authority.
4. Maps of the County Development Plan.

5. A copy of the Sterilisation agreement.
6. Legal Opinion (summarised above).

7.2. **Planning Authority Response**

A response from the Planning Authority was received on the 4th December 2025. The response reiterates the land use zoning pertaining to the site as per the Carlow Graiguecullen Joint Local Area Plan 2024-2030 and sets out the zoning objective. Further reference is made to the indefinite sterilisation order pertaining to the site.

7.3. **Observations**

None received.

8.0 **Assessment**

8.1. **Introduction**

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

- Principle of Development
- Sterilisation Order

8.2. **Principle of Development**

- 8.2.1. The subject site is situated at Browneshill Avenue , Kernanstown , Carlow. The site is situated outside of the development boundary of Carlow Town Centre, as per the Carlow Town Land use zoning Map 15.1 of the County Development Plan 2022-2028.
- 8.2.2. Section 15.1 of the Carlow County Development Plan notes that a Joint Urban Area Plan (UAP) for the Greater Carlow Urban Area (inclusive of Carlow Environs and Graiguecullen) will be prepared no later than one year following the adoption of this

Plan. The UAP will govern the greater urban area and include zonings, policies and objectives including Carlow Environs and Graiguecullen. This is supported by Policy CSP.3 of said plan.

- 8.2.3. The Carlow Graiguecullen Joint Local Area Plan 2024-2023 was adopted by Carlow County Council on the 29th July 2024. The subject site is identified within the boundary of this Local Area Plan and is designated under the Land Use Zoning Objective 'Demesne Landscape' which seeks '*To protect and conserve the special character of demesne landscapes and provide for research activities*'.
- 8.2.4. The use of residential is neither 'permitted in principle' nor 'open for consideration' under the Demesne Landscape Zoning Objective as per the zoning matrix of the LAP.
- 8.2.5. It is the contention of the Appellant that the landowner made a successful re-zoning submission to the Planning Authority as part of the preparation of the Carlow County Development Plan 2022-2028 to have the lands re-zoned from 'Demesne Landscape' to 'Residential' and that the Planning Authority in their assessment of the subject application misinterpreted the zoning status of the site. The appellant states that the zoning submission, of which a copy is attached to the appeal documentation was favourably received on 1st Oct 2021 (CW-C10-75) which requested 0.674ha of land be re-zoned from "Demesne" no "Residential" and that it was grounded in Section 3.16.1.2 of the County Development Plan which supports infill housing in settlement boundaries.
- 8.2.6. In the first instance I note that the lands subject to this appeal are not afforded any designated land use zoning within the context of the Carlow County Development Plan 2022-2028. As stated previously, the lands are situated outside of the development boundary of Carlow Town.
- 8.2.7. In the second instance, policy CSP.3 of the Carlow County Development Plan 2022-2028 makes clear reference to the preparation of a statutory Joint Urban Area Plan (UAP) for the Greater Carlow Urban Area with Laois County Council which will govern the greater urban area and include zonings, policies and objectives including Carlow Environs and Graiguecullen. The appeal site is situated outside of the development boundary of Carlow Town and within its environs and as such, as per policy CSP.3 of the Carlow County Development Plan 2022-2028, the zoning of the appeal site is therefore governed by the Carlow Graiguecullen Joint Local Area Plan 2024-2023.

- 8.2.8. While the appellant has provided a copy of the re-zoning submission made to the Planning Authority, they have not provided any evidence that this re zoning submission was in fact successful in its endeavours. This is further reflective in that the lands remain without having a zoning designation within the Carlow County Plan 2022-2028.
- 8.2.9. I note that the Appellant has included a legal opinion on the change in zoning which makes reference to the correspondence from the Council which was received on the 1st of October 2021 and indicates that the zoning submission was favourably received. There is no such document included within the appeal submission and I consider the document referred to within the Legal Opinion is in fact the landowners re-zoning submission.
- 8.2.10. From a review of the minutes of the Special Meeting of Carlow County Council to consider the Chief Executive's Report on the submissions received to the Draft Carlow County Development Plan 2022 – 2028, which was held Thursday 3rd February, ([Minutes Carlow County Council Special Meeting February 2022 Proposed Draft Development Plan.pdf](#)) I note that it was recommended by the Chief Executive that no change be made on a number of re-zoning submissions which included '*Request to rezone site behind Browneshill House, Carlow, from Demesne Landscape to New Residential (CLW-C10-75)*'. Page 65 of this document indicates that this recommendation was upheld by the Members of the Planning Authority and therefore the lands were not re-zoned as per the appellants assumption.
- 8.2.11. Section 12.0 of the Carlow Graiguecullen Joint Local Area Plan 2024-2030 states 'where conflict arises between this JULAP and the County Development Plan, and the provisions of the respective County Development Plan will take precedence'. I do not consider that there is a conflict as the appeal site is not designated with a land use zoning under the County Plan and Policy CSP.3 indicates that lands in the greater urban area will be governed in terms of land use zoning by the Carlow Graiguecullen Joint Local Area Plan 2024-2030.
- 8.2.12. The Legal Opinion submitted by the Appellant considered that as the site was not afforded any zoning designation under the Carlow County Plan 2022-2028 that they '*can fall to be considered as a development in a rural area*'. In this instance had the appellant considered the site to be in a rural area they would have had to demonstrate compliance with Section 3.16.2 -Rural Generated Housing Need of the Carlow County

Development Plan. This would require the appellant to demonstrate that they either have an economic requirement or a social requirement to reside in the area by submitting relevant documentary proof as required under Table 3.5 of the County Plan. No such evidence has been provided either as part of the original planning application documentation submitted to the Planning Authority on the 26th August 2025 or with the 1st Party Appeal documents submitted to the Commission on the 10th November 2025.

- 8.2.13. Overall in conclusion, I accept the assessment of the Planning Authority and consider that having regard to the land use zoning of the subject site being 'Demesne Landscape' which seeks '*To protect and conserve the special character of demesne landscapes and provide for research activities*' as per the Carlow Graiguecullen Joint Local Area Plan 2024-2030 where residential development is neither permitted nor open for consideration, to grant permission for the proposed development would be contrary to the provisions of the Carlow Graiguecullen Joint Local Area Plan 2024-2030.

8.3. Sterilisation Order

- 8.3.1. The planning authority within their assessment makes reference to the planning history of the subject site and notes that permission granted under PA Ref 98/192, which provided for a 2-storey dwelling, included for a condition which provided for an indefinite sterilisation agreement pertaining to the appeal site.
- 8.3.2. Condition no. 1 of PA Ref 98/192 states that '*prior to the commencement of any development on site, the landowner, to enter into an agreement with the Planning Authority under Section 38 of the Local Government (Planning and Development) Act 1963 as amended by Section 39 of the Local Government (Planning and Development) Act 1976 to sterilise the area outlined on the attached map. Reason: To ensure the proper planning and development of the area.*'
- 8.3.3. I note that Section 47 of the Planning and Development Act, 2000 (as amended) relates to agreements regulating development or use of land and the inclusion of agreements previously prescribed under the Local Government (Planning and Development) Act 1963 and 1976. The Sustainable Rural Housing Guidelines for Planning Authorities, 2005, offers guidance in relation to sterilisation agreements. In general, they provide for an explanation of Section 47 agreements and states that

these agreements were used to regulate development in rural areas in order to restrict rural areas under urban pressure from becoming overdeveloped.

- 8.3.4. I consider that the landowner in this instance had ample time to seek permission from the Planning Authority to have Condition no. 1 of PA Ref 98/192 removed. However, this was not undertaken and did not form part of this application for permission. As such the Section 47 Agreement remains in place. I therefore agree with the assessment of the Planning Authority and consider to permit permission in this instance would materially conflict with the terms of Planning Permission PL Ref 98/192, with a specific reference to Condition no. 1.

9.0 **Appropriate Assessment**

- 9.1. 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 River Barrow and River Nore SAC (Site Code 002162), The Slaney River Valley SAC (Site Code 000781) or any other European site, in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

- 9.1. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Distance from and weak indirect connections to the European sites.
- Taking into account screening determination by LPA.

- 9.2. See Appendix 2 of this report for Appropriate Assessment Screening Determination. No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

10.0 Water Framework Directive

- 10.1. The subject site is situated at Brownseshill Avenue , Kernanstown , Carlow. The application is seeking permission for a new private dwelling with garage site entrance and all associated site works.
- 10.2. The Burren River is situated c.402.9m to the east of the site. The site is also situated within the New Ross groundwater catchment.
- 10.3. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface & ground water bodies 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.
- 10.4. The reason for this conclusion is as follows:
- Nature of works regard the scale;
 - Location-distance from nearest Water bodies and/or lack of hydrological connections.
- 10.5. 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

- 11.1. I recommend that the decision of the Planning Authority be upheld and permission be refused for the following reasons and considerations set out below.

12.0 Reasons and Considerations

1. Having regard to the land use zoning pertaining to the subject 'Demesne Landscape' as per the Carlow Graiguecullen Joint Local Area Plan 2024-2030 which seeks to protect and conserve the special character of demesne landscapes and provide for research activities and where residential development is neither permitted nor open for consideration, to grant permission for the proposed development would therefore be contrary to the provisions of the Carlow Graiguecullen Joint Local Area Plan 2024-203 and not in keeping with the proper planning and sustainable development of the area.
2. The proposed development materially conflicts with the terms of Planning Permission PL Ref 98/192, which required that the lands, of which the proposed site forms part, be sterilised indefinitely from further development and is subject to a Section 47 Agreement. The proposed development, if permitted, would set an undesirable precedent for further such development in the County and would therefore be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Kathy Tuck

18th February 2026

Appendix 1

EIA Pre-Screening

Case Reference	ACP-500241-25
Proposed Development Summary	New private dwelling with garage site entrance and all associated site works.
Development Address	Browneshill Avenue , Kernanstown , Carlow
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 Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	

<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.

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)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____

Appendix 2

EIA Preliminary Examination

Case Reference	ACP-500248-25
Proposed Development Summary	New private dwelling with garage site entrance and all associated site works.
Development Address	Browneshill Avenue, Kernanstown, Carlow
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<p>Characteristics of proposed development</p> <p>(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).</p>	<p>Permission is sought for the provision of a new single storey dwelling, a garage and site entrance on a site situated at Browneshill Avenue, Kernanstown, Carlow. The site is situated within the designated Demesne Landscape.</p> <p>Water connection and wastewater services will be provided from existing mains within the vicinity of the subject site.</p> <p>The development would not result in the production of significant waste, emissions, or pollutants.</p>
<p>Location of development</p> <p>(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).</p>	<p>The proposed site is located within designated Demesne Landscape. There are no significant sensitivities in the immediate area. The subject site is not located within a designated site. The nearest designated site is the River Barrow and River Nore SAC (Site Code 002162) situated c.3.7km to the west and the Slaney River Valley SAC (Site Code 000781) situated c.7.6km to the east.</p> <p>There is no direction connection from the subject site to any Natura 2000 sites.</p> <p>The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other rural developments.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>
Types and characteristics of potential impacts	There would be no significant cumulative considerations.

(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____

Appendix 3

Screening for Appropriate Assessment

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 a new dwelling, garage, vehicular entrance and all associated site works at Browneshill Avenue, Kernanstown, Carlow.

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. It was concluded that 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 or Special Protection Area (SPA).

The boundary of the nearest European Site is within 15 km or 2 no. of European sites are located within a potential zone of influence of the proposed development.

These are:

- The River Barrow and River Nore SAC (Site Code 002162)
- The Slaney River Valley SAC (Site Code 000781)

There are no direct natural hydrological connections from the subject site to any Natura 2000 Sites.

The applicant is proposing to connect to existing municipal services in terms of water supply and wastewater/drainage.

Screening Determination

Finding of no likely significant effects

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 River Barrow and River Nore SAC (Site Code 002162) and the Slaney River Valley SAC (Site Code 000781) or any other European site, in view of the Conservation Objectives of those sites and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Distance from and weak indirect connections to the European sites.
- Taking into account screening determination by Planning Authority.

No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

