



Inspector's Report

PL-500382-CW-25

Development	To install an underground wastewater treatment system together with all other associated site works
Location	Milltown , Garyhill , Co. Carlow
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	2560190
Applicant(s)	Kevin O'Donnell
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Liam Minogue
Observer(s)	None
Date of Site Inspection	30 th of March 2026
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1. The subject site, (0.11 ha), is located at Milltown Garyhill, Co. Carlow. It includes a large two storey dwelling and a detached two storey garage. It would appear the dwelling comprises of two semi-detached units, see photo plates door numbers 1 and 2. However the application documents state it is a single dwelling unit.
- 1.2. The location includes a one off house east of the appeal site, and one off dwellings on the opposite side of the road. There is a plant hire business to the west of the site.
- 1.3. Most notably is a large concrete business (Burren Precast) to the rear of the site (north).

2.0 Proposed Development

- 2.1. To install an underground wastewater treatment system together with all other associated site works
- 2.2. The applicant was requested by further information to redesign the gravel infiltration base from 60m² to 33.75m² to maximize the separation distance from the existing neighbouring dwelling located to the east. The applicant was requested to resubmit the site suitability report dated 05/04/25 indicating this change in the proposed design. The applicant was also requested to submit accurate drawings with the required separation distances provided.
- 2.3. The applicant stated in the response to the further information the dwelling was one unit and a family home, that the numbers were added to the two front doors for practical purposes to assist couriers. The two storey garage is for storage purposes only. The infiltration base remained at 60sq.m.

3.0 Planning Authority Decision

3.1. Decision

Carlow County Council granted the proposed development subject to 7No. conditions.

Condition No. 4 stated the garage was not to be used as a self-contained dwelling unit, or for any business, trade or commercial activity.

Conditions 4, 6, and 7 relate to surface water run-off and the construction period on site.

3.2. **Planning Authority Reports**

There are two planning reports on file. The first recommends further information in line with the recommendations of the Environment Section report. The second recommends a grant of permission also in line with the Environment Section report.

3.2.1. **Planning Reports**

- Following receipt of the further information, the planning authority was satisfied there is one dwellinghouse on the site. The dwelling had been previously served by a sewage treatment system on the adjoining land, the previous owner severed this connection when the applicant's family moved into the house.
- Once the Environment Section was satisfied with the revised proposals and drawings received following a request for further information, a recommendation to grant planning permission was forwarded.

3.2.2. **Other Technical Reports**

- According to the site characterisation form, the proposed development is located in a poor aquifer (PI) category with an Moderate Vulnerability rating of (E). The proposed design is for a 9 p.e. with a packaged treatment plant with a minimum sand polishing filter of 22.5m² on a gravel infiltration bed of 60m². Decreasing the proposed gravel infiltration base from 60m² to 33.75m² will give a greater separation distance to the neighbouring dwelling.
- Water encountered at 2.0m below ground level and mottling at 1.6m below ground level and no rock at 2.1m below ground level.
- Further information recommended as separation distances are not fully indicated, in particular in line with the EPA Guidelines.
- Following receipt of the further information planning permission was recommended to be granted by the Environment Section because there will be a net gain to the Environment by installing the wastewater treatment system

ands and polishing filter. In the EPA COP 2021 section. The only main negative aspect is the sand polishing filter and gravel infiltration base separation distance from the existing dwelling is indicated as 5.4m -EPA COP 2021 min is 10m.

3.3. **Prescribed Bodies**

There was no response received from Uisce Eireann.

3.4. **Third Party Observations**

A third party submission raised concerns that the proposed wastewater system and sand polishing filter did not comply with the required separation distances under the EPA Code of Practice.

4.0 **Planning History**

Hard copies of planning histories in the immediate area were forwarded by the planning authority on appeal. There appears to be no relevant planning histories associated with the subject site.

5.0 **Policy Context**

5.1. **Development Plan**

Carlow Development Plan 2022-2028

Chapter 6 Infrastructure and Environmental Management

6.3 Wastewater Treatment – Single Domestic Dwellings

Carlow County Council is the designated Water Authority for the assessment and approval of individual private domestic on-site wastewater treatment systems. These systems are the main method of sewage disposal in unserviced areas and outside the main towns and villages. The requirements for these systems are set out in the EPA Code of Practice for Domestic Wastewater Treatment Systems (2021). It is essential that these systems are properly installed, regularly monitored and maintained so as to protect health and the environment. The Council will continue to carry out inspections under the National Inspection Plan for Domestic Wastewater

Treatment Systems to protect human health and water quality from the risks posed by these systems.

WW POLICY 1: Require that private wastewater treatment systems for individual houses where permitted, comply with the recommendations contained within the EPA Code of Practice for Domestic Waste Water Treatment Systems (2021) Serving Single Houses (population equivalent less than or equal to 10) or any updated version during the period of this Plan, the Water Framework Directive, the National River Basin Management Plan 2018-2021 (as maybe updated) and the Habitats Directive.

5.2. **Relevant National or Regional Policy / Ministerial Guidelines**

Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

5.3. **Natural Heritage Designations**

The River Burren watercourse, exists c.200m to the east of the application site. River Burren is hydrologically connected to the River Barrow and River Nore SAC

5.4 **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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

7.1.1 The EPA Code of Practice 2021 separation distances have not been met. The site shows a separation distance between the infiltration bed and existing dwelling to be 5.4metres. The EPA Code of Practice requires a minimum separation distance of

10m. The application documentation has not given justification for a reduction in the separation distance. The Planner's Report also acknowledges the shortfall.

- 7.1.2 The application states a soakpit as a means of surface water disposal but it does not indicate the location of same. It means the minimum separation distances of 5m from building foundations (BRE 365) and 5m from treatment system (EPA Code of Practice). Table 6.2 of the Code of Practice states that the soakaway should be located downgradient of the treatment area. This would place the soakpit outside of the application area and landholding.
- 7.1.3 This appeal reflects the previous owners of the subject site, and owners of the adjoining property. It is known from knowledge of the property and history of the applications, the property consists of two separate dwellings, a two bedroomed apartment and a five bedroomed dwelling. The application drawings do not incorporate sufficient details to demonstrate two dwellings will be incorporated into one.
- 7.1.4 In relation to the omitted information in relation to separation distances , the written response to the further information is not evident on file. The planning report states there is one dwelling on the site, and the two doors for couriers, and that residential unit No. 1 will have the sewage treatment system, etc. These issues stated in the planning report are not evident on the file or submitted by the applicant.
- 7.1.5 The previous landowners were not in a position to maintain the wayleave of a sewage treatment connection on their remaining property, which would have implications for the future sale, lease or inheritance of their current property. This would have been clear at the purchase of the appeal property.

6.2. Applicant Response in the case of a 3rd Party Appeal

- 7.2.1 The applicant is living in the appeal property with his family that includes a young child, and the appeal needs to be expediated for health and safety reasons. The third party appellants were the previous owners of the subject property. The applicant purchased it from the banks as it was repossessed. There has been anger of this and the appeal is to prolong the existing unsanitary and unsuitable living conditions.

- 7.2.2 Section 1.3 of the EPA code of practice 2021, variances for Existing systems, sensitive areas and new technologies. The site assessors report in compliance with the above is based on best practice solution for the space available on site. There is an existing dwelling on the site and a functional sewage treatment system must be provided. The 10m separation distance from the neighbouring dwelling must be maintained but the 10m separation distance from the applicant's own dwelling cannot be achieved. The reduced separation distance from the wastewater treatment system was based on a best practice solution given the available space on site. The rules of the Code inclusive of separation distances can be adapted circumstantially and with approval of the Council.
- 7.2.3 The proposed configuration has been optimised given the space available to protect existing vegetation. The engineering report confirms the system can be accommodated without compromising tree health, system performance or environmental protection.
- 7.2.4 A family home cannot lawfully be left without a means of hygienic foul-water disposal. The building standards require drainage system for hygienic disposal of foul wastewater. Part H of the Building regulations requires adequate foul-water disposal for every building. If there is no other system there must be an alternative compliant system. Planning law and the EPA Code of Practice mean you cannot leave the property without an approved means of treatment if a planning decision or building works are involved. In addition, untreated or improperly disposed domestic wastewater is illegal.
- 7.2.5 The proposed development comprises a significant environmental improvement over the existing situation, where no compliant wastewater treatment system is currently in place. The proposed provision of sanitary facilities is a basic human right, and the proposed development supports Ireland's obligations under human rights principles recognised in European law. The applicant and his family have been living at the property without functional sewage.
- 7.2.6 The title deeds list property as 1 Folio. There is no planning history of a change of use from 1 dwelling to 2 No. dwellings. The property has only 1 ESB MPRN number assigned. The property is currently used as a family home.

- 7.2.6 There was no deficiency in the planning documentation, the planning authority chose what was to be on public display, the applicant had submitted the cited information. The issues referred to in the third party appeal are planning administrative issues and do not give rise to any legal, planning or procedural obligations on the part of the applicant.
- 7.2.7 It was never anticipated, expected or desired the previous owners would maintain the foul sewer connection, hence this is the sole reasoning of this application. The site specific design reflects the constrained nature of the existing site and has been informed by appropriate site characterisation, percolation testing and hydrological assessment. Where standard separation distances are constrained, a risk based, best practice design approach with technical justification has been applied to ensure protection of the groundwater, surface waters and neighbouring properties. The Council has accepted the proposal meets with the EPA Code of Practice and represents an acceptable and environmentally protective solution.

6.3. Planning Authority Response

The planning authority made no further comment on the issues raised on appeal. It did submit a hard copy of planning registration number 04/92, which is not the subject site. There was also another planning application relating to the site to the north of the dwelling planning reference 08/674.

7.0 Assessment

- 7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.
- 7.2. The proposed development is to provide a new wastewater treatment system to serve an existing dwelling on site. The proposal is a tertiary treatment system with a 60sq.m. infiltration bed including a 22.5sq.m sand filter. I have examined the planning history associated with the appeal site, and I can find no relevant planning history files associated with the property. The absence of planning history is a concern for me. The dwelling on the subject site is a significant house and the planning application documentation indicates a 7No. bedroomed house. I noted

during my site inspection, there are two front doors to the dwelling and one is numbered '1' and the other is numbered '2'. In addition, the detached garage is two storey, with windows on the front elevation, see Photo Plate 1, and the Photo plates of the front doors.

- The applicant has stated, the structure is a single dwelling unit.
- It is stated the property was formerly owned by the third-party appellant. Allegedly, the sewage treatment system associated with the property on the appeal site, is located on the third-party appellant's property and this connection was severed when the property was put on the market. According to the planning application, the applicant purchased the dwelling/ property with no onsite sewage treatment works.

8.3 Unfortunately these issues can occur, when a dwellinghouse and an onsite sewage treatment system are sold separately. However, it is normal legal practice that the sewage treatment system on third party lands would form part of a legal wayleave agreement upon the sale/ purchase of the house. The drawings submitted with the planning application completely avoid this issue. In fact, the submitted drawings do not indicate the existing sewage treatment systems on neighbouring sites which is required, and in general are not in compliance Article 23 (1) (a) of the *Planning and Development Regulations 2001 as amended*, or the former treatment system associated with the dwelling.

(a) site or layout plans shall be drawn to a scale of not less than 1:500 (which shall be indicated thereon), the site boundary shall be clearly delineated in red, and buildings, roads, boundaries, septic tanks and percolation areas, bored wells, significant tree stands and other features on, adjoining or in the vicinity of the land or structure to which the application relates shall be shown, land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land which is the subject of the application shall be outlined in blue and wayleaves shall be shown in yellow.

8.4 The original proposal submitted with the planning application was not accepted by the Environment Section of the planning authority. The Report stated the appeal site is limited in space and size. The proposed 60sq.m. gravel infiltration system was to be reduced to 33.75sq.m. to allow for maximize the separation distance from the

existing neighbouring dwelling located to the east. A new Site Suitability report was required to reflect this revision. I note mottling was found at 1.4m and the water table at 2m in the trial holes. The underlying aquifer is poor. The revised proposals received on the 14th of October indicate a 60sq.m. infiltration bed with a 22.5sq.m sand filter, and a tertiary treatment system. The proposed system is positioned only 3m from the garage and 5.4metre from the dwelling on the site. The design is based on a population equivalent of 9No. persons. It does not meet with the minimum separation distances outlined in Table 6.3 Environmental Protection Agency | Code of Practice : Domestic Wastewater Treatment Systems (Population Equivalent \leq 10). Therefore, it fails to pass the appropriate tests and minimum standards of the Code of Practice and it is concluded the appeal site is unsuitable for discharge to the ground.

8.5 The applicant asserts on appeal that 1.3 of the Code of Practice is applicable to this application. It states '*Existing DWWTSs may not meet the performance requirements as set out in this CoP. If existing DWWTSs are being upgraded, variances to the requirements set out within this CoP may be considered by the local authority where the authority is satisfied that the proposed upgrade will protect human health and the environment.*' However in my opinion, this section of the EPA Codes is not relevant, because there is no existing system on the appeal site.

8.6 The Environment Section considered the proposal to be an environmental gain and permitted the proposal. However, according to the Carlow County Development Plan 2022-2028 **Section 16.11.3 Domestic and Commercial Wastewater Treatment** *For domestic dwellings site assessment and the design of wastewater treatment systems and percolation areas shall conform with the Environmental Protection Agency's 'Code of Practice for Domestic Waste Water Treatment (2021).*

The existing dwelling on site has a significant floor area. It would appear on site to include 2No. dwellings. On submitted documents associated with planning history No. 08/674, one element of the dwelling is referred to as a shop, however it does appear to be domestic in use at the present time. The windows at first floor level in the detached garage could imply a domestic use, this was not examined by the planning authority or the internal layout of the dwelling house. My concern is the lack of planning histories associated with the appeal site, in particular given the significant

scale of the building envelop on a restricted site. As stated, the proposed layout, does not comply with the planning regulations, the neighbouring sewage treatment systems are not included in the drawings. There is a concentration of one-off houses in the general vicinity of the site all served by individual sewage treatment systems. Without basic baseline information, it is considered that the proposed development would pose an unacceptable risk to public health and the receiving environment, as it fails to comply with the above-mentioned section 16.11.3 of the development plan.

8.7 On appeal the applicant submitted it is a human right under European Law to have sanitary facilities, and these essential requirements are in accordance with the Building Regulations. In terms of planning appeals, the Commission is obliged and governed by the development plan, the proper planning and sustainable development of the area, and in this case the EPA Code of Practice. The proposed development does not comply with the standards required under the governing development plan. The layout of the proposed treatment system consumes a large proportion of the rear garden area associated with the dwelling house.

8.0 **AA Screening**

8.1 I have considered the proposal for a new on-site sewage treatment system and polishing filter and site works in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The site is located in a rural are Milltown, Garyhill, Co. Carlow, where there is a high concentration of one off housing.

No nature conservation matters 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.

8.2 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 no direct connections to the European sites.
- Taking into account screening determination by LPA.

8.3 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. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Water Framework Directive

9.1. The subject site is situated at Milltown, Garyhill, Co. Carlow. The application is seeking permission for a sewage treatment works. The Burren River is situated c.200m to the east of the site. The site is also situated within the Barrow groundwater catchment. According to the Groundwater data maps, the underlying aquifer is poor quality with the vulnerability is described as moderate. Having 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.

9.2. The reason for this conclusion is as follows:

- Nature of works regard to the scale;
- 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.

10.0 Recommendation

10.1. I recommend the proposed development be refused.

11.0 Reasons

Having regard to Section 16.11.3 'Domestic Extensions' of Chapter 16 Development Management Standards Carlow County Development Plan 2022-2028 requires, the applicant shall demonstrate that the proposed on site wastewater treatment system complies with the standards of the EPA Code of Practice for Domestic Wastewater Treatment Systems (EPA 2021). Having regard to the significant floor area of the existing dwelling, the restricted size of the appeal site, and also having regard to the insufficient information submitted regarding the location of neighbouring sewage treatment systems and the former sewage treatment system that served the property, it is considered that that the proposed development would pose an unacceptable risk to public health and the receiving environment and it fails to comply with the above-mentioned section 16.11.3 of the development plan. The proposed development 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.”

Caryn Coogan
Planning Inspector

03/04/2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL500382-CW-25
Proposed Development Summary	To install an underground waste water treatment system
Development Address	Milltown, Garyhill, Co. 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 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)	
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. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	

<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 checked="" 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.	State the Class and state the relevant threshold
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	State the Class and state the relevant threshold
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: _____