



An
Coimisiún
Pleanála

Inspector's Report

PL-500806-KK-26

Development	New two- bedroom house and all associated site works
Location	Jerpoint West , Thomastown , Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	2560747
Applicant(s)	Michael and Sheila O'Byrne
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party Normal Planning Appeal
Appellant(s)	Michael and Sheila O'Byrne
Observer(s)	Robert & Mary Anderson
Date of Site Inspection	3 rd of June 2026
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1. The subject site is 0.26Ha located along Station Road, Thomastown, Co. Kilkenny, in the townland of Jerpoint West. It is 1.5km west of Thomastown on a local secondary road.
- 1.2. The site has frontage onto two local county secondary roads which define the site's northeastern and southeastern boundaries. The northeastern boundary (LS8203) is Station Road which has a high density of one-off houses on both sides. The other road (L82031-4) is a cul de sac road is narrower in width and of less significance in relation to traffic, but also has a sig concentration of one-off houses.
- 1.3. The appeal site falls in a gradual slope from north to south. There is mature hedgerow boundary surrounding all site boundaries and a gateway into the site at the southeastern corner of the site fronting onto the minor road.

2.0 Proposed Development

- 2.1. The proposed development is for a two bedroomed dwelling (126sqm.) single storey dwelling. It has a ridge height of 5metres. It is proposed to connect to public sewer and public water supplies.
- 2.2. A cover letter with the planning application states the applicants current dwelling is too large and wish to downsize but remain in the community.

3.0 Planning Authority Decision

3.1. Decision

Kilkenny County Council decided to refuse planning permission for the proposed development for two reasons:

1. The site of the proposed development is located within an 'Area Under Urban Influence' in the Kilkenny City and County Development Plan 2021-2027. It is the Council's objective for areas of urban influence to facilitate the rural generated housing requirements of the local rural community while on the other hand directing urban (non-rural) generated housing to areas zoned for new housing development in the city, towns and villages. Having regard to the

documentation submitted with the planning application, the applicant has already received planning permission under reference P05/988 to construct a dormer type dwelling, garage and all associated site works on lands at Jerpoint west, Thomastown, County Kilkenny in the rural area close to proposed site and their rural housing need is already established. The Planning Authority is not satisfied that the applicant qualifies for a second house in the rural area, or that other positive options and housing need of the applicant could not be met in the existing family home, another rural/urban settlement or other rural areas having regard to Figure 7.1 Rural Housing Strategy of the plan. It is considered, therefore, that the applicant does not comply with criteria as set out in the National Planning Framework (NPF) for a second rural house at this location or as set out in Section 7.8.3 Rural Housing Policy and section 7.8.4 Categories of Rural Compliance and Qualifying criteria of the Kilkenny City and County Development Plan 2021-2027 which is intended for applicants who are building their first home and who have never owned a rural house. The proposed development is therefore contrary to proper planning and sustainable development of the area.

2. The proposed development, which would be located in an unzoned, rural area outside the development boundary of Thomastown, would constitute and exacerbate the excessive amount of houses and ribbon development in a rural area that is under strong development pressure and has reached saturation point in terms of rural one-off housing. It is the policy of the Planning Authority, as set out in the Kilkenny City and County Development Plan 2021-2027, to channel housing into suitably zoned land in areas where the appropriate social, community and physical infrastructure either exists or is planned. It is considered that the proposed development taken in conjunction with existing developments in the vicinity would exacerbate the haphazard and unplanned form of development in this rural area, would intensify urban sprawl on the local road injuring the visual amenity and rural character of the area, would lead to demands for the uneconomic provision of certain public services outside of the Thomastown zoned area and, would represent an undesirable precedent for further such development in the area, and would be contrary to the policies set out in the said Development Plan and the Thomastown Local

Area Plan 2019. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- There has been a history of applications on the side road adjacent to the road in question (LT82031) with various outcomes. Most recent would be a refusal by Kilkenny Co. Co. on planning Ref 24/24, 23/60113, 14/138, 21/90 and 22/641. Planning Reference 21/90 was granted by ABP. Under grant 21/90 a number of improvements were asked for by KCC at the junction of LT82031 and LS 8203. The Area Office is yet to receive any drawings / documents advising when and if these works are commencing. A referral report was issued under ref 21/90. The drawings the applicant has submitted do not show the extent of hedgerow to be removed. Clarification is sought regarding who is to remove the hedgerow on the west side of the junction on the minor road in order to improve visibility and road safety as per planning 21/90. The applicant must also submit sightline drawings clearly showing forward stopping distances for vehicles turning right in to the property.
- Michael and Sheila O'Byrne are an elderly couple in their eighties, and their current house does not meet their current living requirements as it is too large to both keep in the fashion that they would wish to maintain into the future. They wish to downsize but remain in the community in which they have lived for the past 20 odd years.
- Since planning application 25/9 was refused by the Board in July, Sheila O'Byrne has undergone a medical procedure. Negotiating the stairs in the house is causing her difficulty and managing the day-to-day essential household chores in such a large house on two levels is no longer possible. National Sustainable Rural Guidelines, at paragraph 4.3 is cited by the applicants regarding an exceptional health circumstance to enable permission be granted for the dwelling.

- The applicants are proposing to direct the auctioneer to place their existing 5bed property on the market for the fixed price of the valuation .If within 3 months of going on the market, someone or a family with a local housing need, as defined in the Development Plan, i.e someone from a local rural area (within 10km of the site) who has never owned or built a rural house in the local area, offers the fixed price, the auctioneer will be instructed to accept that offer and no other offer.
- The Housing Strategy policies, which form part of the Development Plan, which seek to promote the opportunities for older people to avail of the option of downsizing if desired, in accordance with the Government policy “Housing Options for our Ageing Population” in relation to the applicant need to downsize.
- Having regard to details submitted with the planning application, medical information and provision of National policy and current development plan, the applicant it is considered does not meet the criteria in the Development Plan and does not comply with rural housing policy as per the County Development Plan.
- This area has come under severe housing pressure in recent years and excessive ribboning. The proposed site may be considered infill, the proposed development is located in an unzoned, rural area outside the development boundary of Thomastown, and would if permitted constitute an excessive amount of houses and ribbon development in a rural area that is under strong development pressure and has reached saturation point in terms of one off housing.
- The Planning Authority is not satisfied that the applicant qualifies for a second house in the rural area, or that other positive options and housing need of the applicant could not be met in applicants existing house close to proposed site or another settlement, property or other rural areas having regard to Figure 7.1 Rural Housing Strategy of the county development plan

3.2.2. Other Technical Reports

Area Engineer: Further Information required regarding the sightlines.

3.3. Prescribed Bodies

3.3.1 Uisce Éireann

The applicant shall engage with Uisce Éireann by submitting a pre-Connection Enquiry (PCE) to assess feasibility of connection to the public water / wastewater infrastructure. The outcome of the PCE shall be submitted to the Planning Authority as a response to Further Information Request.

3.4. Third Party Observations

There were two objections received:

- Under planning reference 05/988, the applicants were granted planning permission for a dormer bungalow next to their family home. The first floor of the family home has been converted to a self-contained unit and is available for short term holiday letting. Their housing needs are more for financial gain, than downsizing.
- The applicants do not have a rural housing need.
- Applicant was responsible for destruction of a 200 year old historical lime kiln located on his land.
- Station Road is a busy road, lacking a footpath and its site is adjacent to a Montessori school. Additional traffic generation could pose a serious traffic hazard for road users.
- Overlooking of adjoining property.
- Outside the settlement boundary of Thomastown
- Undesirable precedent
- Injure the visual amenity and rural character of the area

4.0 Planning History

4.1. Planning Reference: 25/9 – ABP 322309 (subject site)

Permission to construct one new two-bedroom house and all associated site works on lands Jerpoint West, Thomastown, Co. Kilkenny. Applicants Michael and Sheila O'Byrne. Permission Refused by KCC on two grounds – 1. non-compliance with

rural housing policy and 2. excessive density of houses in the area. ABP reference 322309 on first party appeal refused planning on similar grounds.

4.2. **Planning Reference P23/203 (South)**

Permission refused to construct a 1 new two-bedroom house with integrated garage and all associated site works, Jerpoint West, Thomastown, Co. Kilkenny.

Permission refused for four no reasons relating to traffic hazard, excessive density, rural housing policy and proper planning. Applicants Michael and Sheila O'Byrne.

4.3. **Planning Reference P19/896 (West)**

Permission granted for a change of use from garage / store / office / studio / workshop to Montessori school. Including permission to retain further alterations and further extension. Including all associated site works. Applicant Mags Davis.

4.4. **Planning Reference P06/888**

Permission granted to retain an existing single storey building consisting of a garage, store, office and studio/workshop and all associated siteworks on lands. Applicant Michael and Sheila O'Byrne

4.5. **Planning Reference P05/988**

Permission to construct a dormer type dwelling, garage and all associated site works on lands. Applicant Michael and Sheila O'Byrne

5.0 **Policy Context**

5.1. **Development Plan**

The statutory development plan is the ***Kilkenny City and County Development Plan 2021-2027***.

Chapter 7 Rural Development

Section 7.8 of the Development Plan sets out the Rural Settlement Strategy which outlines that the National Planning Framework NPF provides a comprehensive set of objectives to strengthen the rural fabric and support the communities living there; to plan for future growth and development, while addressing decline, and focusing on the potential for the renewal and development of smaller towns and villages.

Figure 7.1 identifies the site as within an area under urban influence.

Section 7.8.4 refers to Categories of Rural Compliance and Qualifying Criteria: In line with the NPF, National Policy Objective 19 requires a clear distinction to be made between areas under urban influence and elsewhere in providing for the development of rural housing.

Specific to areas under urban influence which are areas classified as under Urban Influence are located close to the immediate environs or commuting catchment of cities and towns or to major transport corridors with ready access to urban areas. They are characterised by high levels of commuting patterns to urban areas with high population growth in the County and ready access to a good road network with ready access to the larger urban areas.

Qualifying Criteria for Rural Housing: Areas Under Urban Influence are outlined and in areas under urban influence the Council will permit (subject to other planning criteria) single houses for persons where the following stipulations are met:

1. Persons with a demonstrable economic need to live in the particular local rural area, being people who are for example:
 - a. employed full-time in rural-based activity such as farming, horticulture, forestry, bloodstock or other rural-based activity in the area in which they wish to build or whose employment is intrinsically linked to the rural area in which they wish to build, such as teachers in rural schools or other persons who by the nature of their work have a functional need to reside provided that they have never owned a house in a rural area.
2. Persons with a demonstrable social need to live a particular local rural area,
 - a. Persons born within the local rural area, or who have lived a substantial period of their lives in the local rural area (minimum 5 years), who have never owned a rural house and who wish to build their first home close to the original family home.
Persons born in the area without having lived for the minimum of 5 years must be able to demonstrate strong family and social connections to the area to demonstrate a demonstrable social need.
 - b. Returning emigrants who do not own a house in the local area and wishes to build their first permanent home for their own use in a local rural area in which they lived

for a substantial period of their lives (5 years), then moved away or abroad and who now wish to return to reside near other family members.

All applicants for one-off rural housing will need to demonstrate compliance with the qualifying criteria of one of the above categories unless otherwise specified as being located within an area where the Rural Housing Policy does not apply.

5.2. Relevant National or Regional Policy / Ministerial Guidelines

5.2.1 *National/Regional/Local Planning Policy National Planning Framework – Project Ireland 2040*

The National Planning Framework – Project Ireland 2040 (NPF) is a strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e., the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

5.2.2 Sustainable Rural Housing Development Guidelines 2005

The guidelines make clear distinction between urban and rural generated housing and to differentiate between development needed in rural areas to sustain rural communities and development tending to take place principally in urban areas. The

guidance defines rural area types and the subject site is within an area defined as an Area Under Strong Urban Influence. The guidelines in terms of housing need distinguish between urban generated housing need and rural generated housing need.

Section refers to 3.2.3 Rural Generated Housing Persons who are an intrinsic part of the rural community and that such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community which would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes or wish to care for elderly family members. Having defined rural generated housing needs, the development plan should make very clear that subject to satisfying normal planning considerations relating to siting and design, such as those outlined in section 4 of the guidelines, the planning authority will look favourably upon an applicant's proposal for an individual house in a rural area where that applicant comes within the development plan definition of need. Rural housing policies will normally be linked to other sections of the plan dealing with landscape character; protection of key natural assets such as surface and ground water resources and that the consideration of individual sites will be subject to normal siting and design considerations.

National Sustainable Rural Guidelines, (DOE, April 2005)

Paragraph 4.3 state, "In particular, planning authorities should recognise that exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – may require a person to live in a particular environment or close to family support. In such cases, and in the absence of any strong environmental, access or traffic reasons for refusal, a planning authority should consider granting permission, subject (where appropriate) to conditions regarding occupancy".

5.3. Natural Heritage Designations

The site is not located within or adjoining a European site.

The nearest Natura 2000 site is the River Nore/Barrow SAC (Site Code 002162) and River Nore SPA (site Code 004233), which is 600m south west of the subject site. Thomastown Quarry SAC is 5km from the subject site but it is located within a different hydrological catchment to the subject site.

6.0 EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment and in this regard, I refer to Form 2 in Appendix 1 of this report. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. 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

7.1.1 The grounds of the appeal state there are inaccuracies in the Planner's Report associated with the planning application file.

- (a) The report states the applicants have resided in the local area for 20 odd years. However, they have resided in the area for 55 years.
- (b) The applicants have never applied for permission for stables, and their house is connected to the public water mains, which is along Station Road, including footpaths and public lighting.
- (c) The hedgerow along the roadside boundary of Station Road was removed under a requirement of planning reference 21/90. The applicant's consented to these works being carried out. The proposed works were agreed on appeal with An Bord Pleanála. The current proposal details the hedgerow setback that was shown on permitted plans with 21/90 subject to agreement by the area engineer.

(d) The applicants built their current house under planning permission reference 05/988, They had intended that their son would acquire their old house. That was dependent on their son being relocated, which did not happen. The appellant's son is now living in Wexford. They no longer intend relocating to Thomastown, hence the taking over of their family home did not feature in the current proposal.

7.1.2 The medical needs of an applicant can be taken into consideration under national planning policy. This was not reflected in the assessment of the application. Paragraph 4.3 of the National Sustainable Rural Guidelines, whereby exceptional health circumstances can be taken into consideration.

7.1.3 The applicants are in their 80s and living in a five-bedroom two storey dwelling which is uneconomical to adapt to meet their housing needs. They require a small two bedroom unit single storey and have provided medical evidence their current home does not suit them. There are no houses for sale or been constructed locally to meet their needs. The Thomastown LAP 2019-2028 seeks to move towards Age-Friendly status for the town, yet it has no plans to provide suitable housing for older people and positively discourages it by insisting on higher densities in new estates.

7.1.4 In the reason for refusal the planning authority's positive options for the applicant to have their housing needs met are given as:

- Adapt their existing home
- Move to another rural settlement
- Develop in areas of population decline.

It is submitted that these are no positive options and there are no other options other than the current proposal. The alternatives put forward by the planning authority are unrealistic/ unreasonable. There should have been significant weight put onto their medical needs, and it is demonstrated the housing need for the proposal is justified.

7.1.5 The reason for refusal states the planning authority is not satisfied the applicant qualifies for a second house in the rural area. This wording infer that the planning authority can be satisfied that an applicant can qualify for a second house in a rural area under development plan rural housing policy and has been done in the past. Planning application 16/366 was for a house outside of Thomastown to a person who demonstrated local connections, had sold his house to downsize. The principle was

also granted planning permission for downsizing in Rosbercon Co. Kilkenny under reference 2360412.

- 7.1.6 Their 5 bedroomed property will be sold to someone locally, which reduces urban generated housing. The applicants are willing to enter into a Section 47 Agreement.
- 7.1.7 In relation to the second reason for refusal, the Board did not consider an additional dwelling would exacerbate the excessive amount of housing in the area when considering the son's proposal under reference An Bord Pleanala Ref: 319663. The rural housing need was demonstrated. The Inspector's report referred to the development being infill. Therefore the issue of ribbon development does not arise.
- 7.1.8 There is public water, wastewater, and public lighting along Station Road to the site, and footpaths for most part of it's length. There are urban housing developments beside the site, and a 7No. house development granted by An Bord Pleanala under 206244, within 40metres of the appeal site. There are 95No. houses along Station Road outside of the town boundary.
- 7.1.9 Thomastown railway station is 800metres form the site which is the Dublin-Waterford line, with 8No. trains per day. This was justification for granting the 7No. dwellings across form the subject site.
- 7.1.10 The planning authority are inconsistent stating Station Road is at saturation point in terms of further development, and yet it granted planning permission for another dwelling in June 2025 under planning reference 2460645.

7.2. Planning Authority Response

The planning authority responded on two points:

7.2.1 Excessive Density of Rural One-Off Houses

- Jerpoint West is experiencing serious development pressure for one off housing, and it is under signifigant urban influence due to its proximity to Thomastown. There are two maps showing the subject site and the applicants current residence. The appeal states there is a footpath for most of Station Road, there is not. Taken in conjunction with the existing level of housing in the

area, the proposed development would result in an unacceptable density of development and would further erode its rural character.

7.2.2 Rural Housing Policy – Exceptional Health Circumstances

- The applicant confirms they own a house in Jerpoint West, which was permitted under reference 05/988. Under the assessment of P05/988, the planning report stated the applicants were now retired, and their current place of residence was too large for their needs. Their son was suppose to reside in the original family home. This seems not to have happened.
- The planning authority examined the letter from the applicant's GP and have reservation whether the case is exceptional healthy circumstances to justify another dwelling house particularly in a rural area, where the applicant currently live with no mention of family support.
- The applicants do not meet with the criteria of the development plan under 7.8. 4 because they already have a house in a rural area and complied with the local needs policy previously. Their housing need was established under reference 05/988, as raised by the third-party objectors.
- The area is under serious development pressure, and the two reasons for refusal should be upheld.

7.3. **Observations**

Robert and Mary Anderson who live in Jerpoint West agree with the planning authority's refusal.

7.3.1 The field and the adjoining field owned by the applicants has been the subject of numerous planning applications since 2023, namely 23/203 24/24, ABP-319663-24, 25/9. ABP- 322309, 25/607747, ABP 500806-25). Each time Kilkenny Co. Co. and the appeals board have stated the area has reached saturation in terms of rural one off housing.

7.3.2 Under planning reference 05/988 the applicants applied for an were granted planning permission to build a new house adjacent to their previous home. In their application in 2005 they stated they were a retired couple in their sixties and their current

dwelling was too large for their needs, and they needed to downsize. They constructed a 5No. bedroom 250sq.m. dwelling, bigger than their original dwelling. Since then the entire first floor of the dwelling has been converted into a self-contained apartment and is rented out as a holiday home (jerpoinpartment.com).

7.3.3 The applicants state they need a smaller house and yet in 2023 under reference 23/203, they were refused permission for a bungalow (175sq.m.) on a second adjacent site. The house had a bigger floor space than the ground floor of their current home. The planning authority was satisfied the applicants housing needs were already met and that they did not qualify for another house.

7.3.4 The applicants have indicated they will sell their home at a fixed market price to someone meeting the rural housing criteria. This area is upmarket being close to the town and Mount Juliet. The price of the dwelling could be 650000 and is beyond the financial reach of most buyers. There are serious concerns regarding the applicant's intentions. It would appear there may be no plan to sell their home, and the primary purposes is to increase the market value of their land.

7.3.5 The site is at the junction of two roads and beside a Montessori school. Station Road is busy. The footpath is 1km from the site. The Montessori school has a lot of traffic. There is an incline on the road that impedes visibility. The proposed development would increase traffic and led to a traffic hazard.

7.3.6 The applicant, Mr. Michael OByrne was responsible for destroying a 150 year old lime Kiln at the corner of his land (local paper extract attached). The deliberate destruction of the local landmark was finite and irreplaceable as part of our heritage.

7.3.7 In November 2025 a planning application was lodged (25/60747) on behalf of the applicants stating they had lived in the community for the past twenty odd years. The applicant's agent stated it.

8.0 **Assessment**

8.1. I intend examining the appeal under the following headings:

- Background/ Planning History
- Compliance with Planning Policy and Guidelines

- Linear Development

8.2 Background and Planning History

8.2.1 The planning history associated with the applicants and their landholding on Station Road, Thomastown is documented under Section 4 of this report. The applicants, one of which is a retired garda, were granted planning permission for their home, which is less than a 100m from the subject site, on Station Road, Thomastown, Co. Kilkenny under planning reference P05/988.

8.2.2 The applicants still reside in this house. I note from the planning file and google maps there is a holiday apartment on the first floor of the applicant's existing house which would appear to be let out as holiday accommodation. I can find no planning reference for this alleged use.

8.2.3 The applicants also owned the property immediately west of proposed site granted planning permission under P06/888. The planning application had stated the dwelling was intended to be lived in by applicant's son, where planning report under P05/988 noted the applicant's are now retired and that their current place of residence is too large for their needs. This property was subsequently sold and is currently being used as a commercial Montessori granted planning permission under planning reference P19/896.

8.2.4 There have been two very recent planning applications associated with the subject site and the field adjoining the site to the southwest accessed from the adjoining lane. Both of these planning applications were refused, appealed and refused on appeal under references:

- (i) ABP-319663-24 (Vincent and Colette O'Byrne, REFUSED permission for construction of a house and garage and associated site work at Jerpoint West, Thomastown)
- (j) ABP 322309-25 (Michael and Sheila O'Byrne, REFUSED permission for construction of a new two-bedroom house and all associated site works on lands at Jerpoint West, Thomastown).

8.2.5 It is important to refer to case ABP 322309-25 which is the same site and the same applicants as the current appeal. Also important to note on the 21st of July 2025 the Commission refused the proposal for the following reasons:

1. *Having regard to the location of the site, within an Area Under Strong Urban Influence as identified in the Kilkenny City and County Development Plan 2021-2027, in an area located outside of the development area boundary of the town of Thomastown, and having regard to the stated provisions of section 7.8.4 of the said development plan for considering rural housing in such areas where consideration of new housing is restricted to persons demonstrating local need, which is considered to be reasonable, it is considered that the applicants do not come within the scope of the housing need criteria as set out in the development plan for a house at this location. It is also considered that the applicants' proposed development does not comply with, and is contrary to, national guidance criteria as set out in the Sustainable Rural Housing Development Guidelines 2005 and National Planning Framework (NPF) for a rural house at this location, as they currently have a dwelling in the vicinity of the proposed site. The proposed development would be contrary to the stated provisions of section 7.8.4 of the Kilkenny City and County Development Plan 2021-2027 and would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development, in the absence of any identified locally based need for the house, would exacerbate suburban style development in this area and would further contribute to an excessive number of houses and ribbon development in this rural area which is under strong development pressure. The proposed development, taken in conjunction with existing developments in the vicinity, would further contribute to the provision of random development and would exacerbate the haphazard and unplanned form of development in this rural area, would intensify urban sprawl on a deficient local road network thereby injuring the visual amenity and rural character of the area, and would lead to demands for the uneconomic provision of further public services outside of the town of Thomastown zoned area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

8.2.5 In my opinion, there has been very little material change to the planning issues arising under the current proposal to the previous refusal on the subject site in 2025. The proposed development remains substantially the same. Development plan and national planning policy remains the same since July 2025. In the next section I will outline the relevant changes submitted by the applicants under the current proposal.

8.3 Compliance with Planning Policy and Guidelines

8.3.1 As assessed under the previous appeal, ABP 322209-25, the Qualifying Criteria for Rural Housing in Areas Under Urban Influence are outlined in section 7.8.4 of the Kilkenny City and County Development Plan 2021-2027. The planning authority will permit (subject to other planning criteria) single houses for persons where the following stipulations are met: The first criterium is in relation to persons with a demonstrable economic need to live in the particular local rural area, being people

who are for example: a. employed full time in rural-based activity such as farming, horticulture, forestry, bloodstock or other rural-based activity in the area in which they wish to build or whose employment is intrinsically linked to the rural area in which they wish to build, such as teachers in rural schools or other persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work, provided that they have never owned a house in a rural area. The applicant's already own and reside in a dwelling house at Jerpoint West, have fulfilled rural housing policy at that time. The applicants were granted planning permission under planning reference P05/988, for a dwelling, and they were retired and downsizing over twenty years ago, and their son was suppose to reside in their original dwelling, which did not materialise.

8.3.2 The most recent refusal under reference ABP 322309-25, the Board refused the applicants a dwelling on the site, on grounds that their housing need did not come within the scope of the Development Plan, the Sustainable Rural Housing Development Guidelines 2005, and the National Planning Framework ("NPF"), as they currently had a house in the vicinity of the site. Also, in the absence of a housing need, the proposal was considered to result in excessive housing in the area and ribbon development. In the current planning application, the applicants are citing Paragraph 4.3 of the *National Sustainable Rural Guidelines 2025* as exceptional justification to grant planning permission for the rural dwelling. Since the previous proposal was refused by the Board in July 2025, Sheila O'Byrne has undergone a medical procedure. Negotiating the stairs in the house is causing her difficulty and managing the day-to-day essential household chores in such a large house on two levels is no longer possible. There is a confidential letter from her G.P. in support of the applicant's medical condition.

8.3.3 The appeal also submits the applicants are in their 80s and living in a two storey five bedroomed dwelling which is uneconomical to adapt to their needs and expensive to maintain. The applicants require a smaller single storey dwelling on medical grounds. There are no new or second-hand houses in the area to meet with their needs. The Housing Strategy of Kilkenny Co. Co. also recognises the need to provide suitable housing for the aging population. It is submitted, the applicants have lived in the area for over 50 years, and it is unrealistic to expect the applicants to move to a different locality or community at this stage in their lives. There are two cases are cited by the

applicant in County Kilkenny, whereby downsizing has been permitted for a rural dwelling under similar circumstances.

8.3.4 I have examined the medical documentation, and I do not consider the applicant warrants justification under the national rural housing guidelines as exceptional health. Having dealt with a number of these cases previously, I would be concerned it would set a highly undesirable precedent in an area already at saturation point with ribbon development, and where the applicants already have a dwelling in the immediate vicinity that could be made adaptable to cater for the applicant's medical needs. In addition, there is no reference to medical support or family carers in the locality. It has not been demonstrated that there are immediate family members living in the locality.

8.3.5 In addition, to the applicant's medical condition, the applicants have submitted a proposal in the event of planning permission being granted for their smaller dwelling, the applicants will direct an auctioneer to place their current property on the market for the fixed price of a professional valuation. If within 3 months of going on the market, someone or a family with a local housing need, as defined in the Development Plan, i.e someone from a local rural area (within 10km of the site) who has never owned or built a rural house in the local area, offers the fixed price, the auctioneer will be instructed to accept that offer and no other offer. According to the applicant this will reduce and potentially remove the question of an urban-generated house being developed. It is suggested this offer could be catered for by a Section 47 agreement in the form of a planning condition. In my opinion, the issue of the sale of the applicant's current home is beyond the remit of this appeal, and this suggestion should be dismissed, as it would result in legal/ civil complications.

8.3.6 On the basis of the criteria outlined under Section 7.8.3 Rural Housing Policy and in particular section 7.8.4 Categories of Rural Compliance and Qualifying Criteria which is aimed at applicant's building their first home in a rural area, the appellants do not satisfy or demonstrate a need to reside in the area. I am therefore not satisfied that the applicants qualify for a second house in the rural area. Their rural housing need is established and perhaps that other positive options and housing need of the applicants could be met locally in the neighbourhood in time, as providing housing accommodation for the aging population is an objective of the development plan. I

consider that the provisions cited in the planning authority's first reason for refusal, as set out in section 7.8.3 and in particular 7.8.4 of the development plan are reasonable and comply with national planning rural housing guidelines.

8.4 Linear Development

- 8.4.1 The second reason for refusal states the proposed development, would be located in an unzoned, rural area outside the development boundary of Thomastown, would constitute and exacerbate the excessive amount of houses and ribbon development in a rural area that is under strong development pressure and has reached saturation point in terms of rural one-off housing. I would fully concur with this statement by the planning authority. Station Road is a rural road leading to Mount Juliet estate and a stud farm from Thomastown. It also supports a number of agricultural landuses, However Station Road predominantly provides access to in-depth and linear housing. The point where the site is located has very few breaks from the linear housing. The site is bounded by two roads both of which consist of a mature leafy hedgerow. There is a dwelling on the western site boundary. The field on the remaining site boundary has been the subject of a recent planning application/ appeal and subsequent refused for a rural dwelling, albeit not on rural housing policy grounds.
- 8.4.2 The proposed development would exacerbate the haphazard and unplanned form of development in this rural area, would intensify urban sprawl on the local road injuring the visual amenity and rural character of the area, and would lead to demands for the uneconomic provision of certain public services outside of the Thomastown zoned area and, would represent an undesirable precedent for further such development in the area.
- 8.4.3 The appellant submits Station Road is unique and is fully serviced, and there is a 7No. House linear development 40metres from the site which the Board granted permission for under appeal reference ABP206244. This case was permitted planning permission basis of its proximity to the train station. The case also cited by the applicant along Station Road as being relevant, Planning Reference 2460645 (Appeal PL10.323102) related to a large landholding and not a 0.26 ha along the road side. There is no comparison between both planning applications apart from the fact they are both located in Jerpoint West. The site is located in a rural area and not a suburban part of the Thmastown LAP 2019.

8.4.4 Station Road has very little of its rural setting remaining due to development pressure and excessive ribbon development on both sides of the road. The remaining developed rural sections along Station Road should be preserved. The subject site is unzoned and outside of the Thomastown Local Area Plan 2019 town boundary.

8.4.5 On balance I consider the planning authority's second reason for refusal is reasonable and it should be upheld by the Commission.

9.0 **AA Screening**

9.1 I have considered the proposal for the construction of a single storey house, connection to existing services and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located on an established residential site and within an established residential area.

9.2 The proposed development comprises in effect a relatively minor development as outlined in section 2 in the Inspectors report. 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 European Site. The reason for this conclusion is as follows; the nature of the development, the distance to designated sites and the absence of pathway to these sites.

9.3 I conclude that 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 and likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 **Water Framework Directive**

10.1 The European Union Water Framework Directive aims to improve water quality and applies to all water bodies. The Directive runs in six-year cycles and is currently in its third cycle 2022 to 2027. Member States are required to achieve 'good' status in all

waters and must ensure that status does not deteriorate. The Directive has been given effect by the Surface Water and Groundwater Regulations.

10.2 The WFD is implemented through River Basin Management Plans (RBMPs) and the subject lands are located within the Nore Catchment. The site of the proposed development is located 500m the River Nore. The current Ecological Status of this river is Moderate and it is At Risk of not meeting its Water Framework Directive objectives. In examining the EPA's Nore Catchment Report, (May 2024).

10.3 I am satisfied that the proposal will not pose a risk to ground or surface waters. I suggest that the Coimisiún attach conditions in addition to standard conditions in regard to the treatment of surface waters, in the event that the Coimisiún is minded to grant permission.

10.4 **Other Issues**

- Uisce Eireann requested further information in terms of a pre connection enquiry relating to public water and public sewerage.
- The Area Engineer requested further information regarding the subject sightlines.
- The overall design and layout of the dwelling is modest in scale and would comply with the Rural Housing design Guidelines

11.0 **Recommendation**

11.1. The planning authority's decision should be upheld by the Commission.

12.0 Reasons and Considerations

1. Having regard to the location of the site within an Area Under Strong Urban Influence as identified in the Kilkenny City and County Development Plan 2021-2027, in an area located outside of the development area boundary of the town of Thomastown, and having regard to the stated provisions of section 7.8.4 of the said development plan for considering rural housing in such areas where consideration of new housing is restricted to persons demonstrating local need, which is considered to be reasonable, it is considered that the applicants do not come within the scope of the housing need criteria as set out in the Development Plan for a house at this location. It is also considered that the applicants' proposed development does not comply with and is contrary to national guidance criteria as set out in the Sustainable Rural Housing Development Guidelines 2005 and National Planning Framework (NPF) for a rural house at this location, as they currently have a dwelling in the vicinity of the proposed site. The proposed development would, therefore, be contrary to the stated provisions of section 7.8.4 of the Kilkenny City and County Development Plan 2021-2027 and would be contrary to the proper planning and sustainable development of the area
2. The proposed development, in the absence of any identified locally based need for the house would exacerbate suburban style development in this area and would further contribute to an excessive number of houses and ribbon development in this rural area which is under strong development pressure. The proposed development therefore, taken in conjunction with existing developments in the vicinity, would further contribute to the provision of random development and would exacerbate the haphazard and unplanned form of development in this rural area, would intensify urban sprawl on a deficient local road network thereby injuring the visual amenity and rural character of the area, and would lead to demands for the uneconomic provision of further public services outside of the town of Thomastown zoned area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the are

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

11th of June 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL 500806-KK-26
Proposed Development Summary	The construction of a dwellinghouse and all associated site works
Development Address	Jerpoint West, Thomastown, County Kilkenny,
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.	State the Class here

<p>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. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</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)?	
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: Form 2 - EIA Preliminary Examination

Case Reference	PL-500806-KK-26
Proposed Development Summary	The construction of a dwellinghouse and all associated site works
Development Address	Jerpoint West, Thomastown, County Kilkenny
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 proposed development has a modest footprint and provides for a dwelling of a modest scale. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (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.	The development is situated in a rural area in which some level of existing public services are available. The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan.

<p>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 modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, 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 significant effects on the environment.</p>	<p>EIA is not required.</p>

<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p>	<p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>
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Inspector: _____ **Date:** _____