

An
Coimisiún
Pleanála

Inspector's Report PL-501707-KK-26

Development	Construction of dwelling, sewage treatment system and associated site works.
Location	Clonassy , Mullinavat , Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	2560729
Applicant(s)	Brian Phelan & Andrea Nugent
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Bill and Anne Marie Haberlin
Observer(s)	None
Date of Site Inspection	15 th September 2026
Inspector	Kathy Tuck

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of c. 0.264ha and is located at Clonassy, Mullinavat Co. Kilkenny. The appeal site is located c. 900m to the west of Mullinavat.
- 1.2. The application site is located between 2 no. existing dwelling. The gradient rises from north to south with the application site being at a much higher gradient than the dwelling addressing the L1042.

2.0 Proposed Development

2.1. Original Design

- 2.1.1. Permission was sought for the provision of 2 storey detached dwelling which has a stated area of 256.45sq.m, sewage treatment system and percolation area including all necessary site works.
- 2.1.2. The dwelling had a maximum ridge level of c.9m and is finned with a hipped roof profile.

2.2. Response to Request for Further Information

- 2.2.1. In response to the concerns raised a revised dwelling design was submitted which provided for a dormer bungalow which has a reduced ridge level which is indicated on plan as being 7.672m

2.3. Response to Clarification for Further Information

- 2.3.1. The dwelling was revised further through an amendment of the proposed material finishes omitting the proposed stone clad finishes to the front elevation while retaining the dormer nature of the proposal. The ridge height was reduced further to c.6.8m.

3.0 Planning Authority Decision

3.1. Decision

Following a request for further information and clarification of further information, the Planning Authority issued a decision to grant planning permission on the 22nd June 2026 subject to 13 no. conditions. Conditions of note are as follows:

Condition no. 2 :

Section 48 development contribution €12,280.00.

Condition no. 3 :

a) Prior to commencement and within 8 weeks of the granting of planning permission the applicant shall submit to Kilkenny County Council for approval, a revised domestic wastewater treatment proposal which fully aligns with the EPA's 2021 Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent less than or equal to 10) and includes a revised site layout drawing and all associated site-specific cross-sectional drawings as applicable.

(b) The on-site wastewater treatment system as agreed under point 1(a) above shall be constructed in accordance with the recommendations in the 2021 Environmental Protection Agency's 'Code of Practice' – Domestic Waste Water Treatment Systems (Population Equivalent < 10) Prior to installation, the Planning Authority may, in the interest of public health and to facilitate best practice, agree in writing certain EPA compliant variations to the wastewater treatment system approved under this application. Such agreement shall be placed on file and deemed to officially substitute/vary the original granted system. Certification that the complete wastewater treatment unit and percolation area / polishing filter have been satisfactorily installed to accord with EPA, 2021 shall be submitted to the Planning Authority prior to occupation/use of the building/accommodation. The certificate shall be completed by a suitably qualified and indemnified person and shall include a site specific 'as constructed' layout plan and cross-sectional drawing through the effluent treatment system and associated percolation area. A generic cross-section is not acceptable. Proof of indemnification insurance shall be submitted with the certificate. (c) The

complete on-site wastewater treatment system shall be installed and maintained in accordance with the manufacturer's instructions.

FOOTNOTE: Option 3 of table 10.1 requires a gravity feed to a distribution box and there after all pipes are to be limited to 10m max. Reason: In the interests of public health and to provide for the protection of the environment.

Condition no. 4 :

Section 47 Occupancy requirement for a period of 7 years.

Condition no. 6 -

- a) The only access vehicular or pedestrian to the site from a public road shall be as shown on the Site Layout Plan submitted on the 14th November 2025 and further information received on the 06th March 2026. The entrance gates shall be back not less than 4.5m from the roadside boundary within a splayed recess space, which shall be a minimum of 11m wide along the line of the new roadside boundary. The entire area of the splayed recess shall be suitably structured, to cater for vehicular traffic, surfaced with a suitable bituminous Macadam material. The walls forming the splayed recessed access shall not exceed 1m in height and where of block works shall be neatly capped and plastered where exposed to public view.
- b) The access and driveway shall be perpendicular to the public road for a minimum distance 10m from the nearside road edge. The access and driveway shall have a gradient of not greater than 3% over this distance.
- c) All works associated with the access and sightlines shall be carried out prior to other works on site to ensure a safe access during construction works. The boundary along the road frontage of the site shall be set back as necessary to achieve the required sightlines and the visibility splay shall be kept clear of all obstructions. The verges shall be maintained to safeguard visibility on an ongoing basis.
- d) Any service poles along the existing road frontage boundary shall be set back against the new boundary in consultation with the appropriate statutory body and at the applicants own expense.

- e) No surface water from the site shall be allowed to discharge onto the public road. Surface water run off shall from the site be discharged to adjacent/nearby watercourses or soakaways within the boundary of the site. A slotted drainage channel shall be provided at the entrance to prevent surface run-off from entering the road.
- f) Roads side drainage shall not be negatively impacted by the works. All surface water inlets off the public road shall be maintained and adequately protected.
- g) Where roadside boundaries are set back / removed, the area between the boundary and the public roadway shall be suitably structured with stone so as not to lead to deterioration of the road edge. The area shall be finished with topsoil to a level of 200-300mm above road level and seeded with grass.
- h) Where the set back from the edge of the public roadway is greater than 2m, then a low earth bund approximately 500mm in height and 1m wide shall be formed along the road edge. The bund is required to provide road edge definition in the absence of the original boundary. The bund and area behind it shall be finished with topsoil and seeded with grass.
- i) Where set back, boundaries shall be parallel to the road. If a hedge is to be planted along a roadside boundary, then it shall be a minimum of 1m behind the minimum visibility requirement. Any damaged caused to the public road or road side drainage, the cost of such repairs shall be borne by the applicant to the satisfaction of Kilkenny Co Council.

Reason: In the interests of road safety.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st report of the Planning Officer sets out details of the site location and parameters, planning history, details of internal reports received, details of submissions received, sets out all relevant planning policy and provides for an AA and EIA Screening determination.

The assessment accepts that the applicant has demonstrated adequate rural housing need to reside at the application site, accepts the provision of the onsite wastewater

treatment system and water connection, and considered the access to the site as acceptable.

However, concern was raised over the design of the proposed dwelling and as such the following further information was requested:

Item 1 –

The applicant is requested to re-design the proposed dwelling-house in accordance with the County Kilkenny Rural Design Guide and the surrounding pattern of development, reducing its scale to no more than a storey and half/dormer.

Item 2 -

Submit a detailed site-specific Planting and Landscaping Scheme to comprise of a selection of native species hedgerow and trees to the site boundaries including those recessed for the provision of sightlines. The northern area of the site shall the provision of an adequate quantum of planting of native species trees towards the site boundary with the observer's property due north.

A response from the applicant was received on the 6th March 2026 which included for Revised house plans enclosed including a reduction in overall height and Landscape plan as requested.

The Planning Officer considered that the design amendments did not go far enough to overcome the concerns raised and as such the following request for clarification of additional information was issued:

Applicant is requested to significantly review the house design to further alleviate residential amenity impacts by way of the following:

- a) Provide a substantial reduction in both the proposed eaves and overall ridge heights to provide a significantly reduced scale one and a half storey dwellinghouse. (This option may require a very significant redesign which

may include the removal of the front facing gable and a resultant amended northern flank elevation and rear elevation)

- b) Significantly re-design the proposed dwellinghouse to form a dormer dwellinghouse of a similar scale to the first applicant's family home-place immediately due south (use of pebble dash finish to walls and white UPVC windows and doors to fenestration would not be supported)

A response was received from the applicant on the 26th May 2026 which included a further redesign of the dwelling proposed. The Planning Officer in their 3rd report considered the re-design to be acceptable and a recommendation to grant permission was made which was in line with the decision issued.

3.2.2. Other Technical Reports

Senior Executive Engineer – report dated 9th January 20226 noted no objection subject to condition.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

The Planning Authority received 1 no. submission in relation to the proposed development. The same observer lodged their concerns in relation to the further information and clarification of further information received. Details of all concerns raised was included within the relevant reports of the Planning Officer. They can be summarised as follows:

- Proposal is overly visually obtrusive.
- Overlooking/Overbearing.
- loss of light.
- percolation issues.
- devalue our property.

- permission was previously refused.
- Non compliance with Kilkenny Rural Housing Design Guidance.

4.0 Planning History

Lands to the South – Family Home

PA Ref 00810 Permission REFUSED to construct a dormer type dwelling house, septic tank and associated site works, and together with the upgrading of existing Cul-de-Sac Lane, with tar and stone chipping for the following reasons:

1. Endanger Public Safety by reason of a traffic hazard.
2. Visually intrusive.

PA Ref 001434 Permission sought for a dormer type dwelling house, septic tank and associated site works and together with the upgrading of existing cul-desac lane with tar and stone chippings. This application was deemed to be withdrawn. I note that this application included some of the appeal site.

PA Ref 001910 Permission GRANTED to construct a dormer type dwelling house, septic tank and associated site works together with the upgrading of existing cul-de-sac lane with tar and chipping.

Lands to the North

PA Ref 94916 Permission GRANTED for a bungalow and septic tank.

PA Ref 00506 Permission GRANTED for a detached garage.

5.0 Policy Context

5.1. National Policy

National Planning Framework – First Revision April 2025

The National Planning Framework First Revision (NPF) recognises the continuing housing need for people to live and work in the countryside. Careful planning is required to manage demand in our most accessible countryside around cities and towns, focusing on the elements required to support the sustainable growth of rural economies and rural communities.

National Policy Objective 24 (NPO 24)- ‘ Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid overdevelopment, while sustaining vibrant rural communities.

National Policy Objective 28 (NPO 28) -Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere: -In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements; -In rural areas elsewhere, 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.

Sustainable Rural Housing Guidelines 2005

Planning authorities must tailor policies which respond to the differing housing requirements of both urban and rural communities and the varying characteristics of rural areas. The Guidelines also differentiate between rural and urban-generated housing. Section 3.2.3 refers to rural generated housing with reference to persons who are an intrinsic part of the rural community and to members of an established rural community.

Draft Sustainable Rural and Gaeltacht Housing- National Planning Statement

Government on the 30th of June 2026 agreed a proposed policy direction for rural housing, meaning that the Draft Sustainable Rural and Gaeltacht National Planning Statement, prepared by the Department of Housing, Local Government and Heritage, will move to environmental assessment under relevant EU Directives and associated public consultation, prior to its final approval.

5.2. Kilkenny City and County Development Plan 2021-2027

The Kilkenny City and County Development Plan which came into effect on the 15th October 2021, is the operational Development Plan for the area. Relevant sections are as follows:

Volume 1:

County Chapter 7 Rural Development

➤ Section 7.8 Rural Settlement Strategy -

The appeal site is located within an Area under Urban Influence as per Figure 7.1 Rural Housing Strategy.

➤ Section 7.8.3 Rural Housing Policies

➤ Section 7.8.4 Categories of Rural Compliance and Qualifying Criteria

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 permanently in the rural area close to their place of work, provided that they have never owned a house in a rural area.

2. Persons with a demonstrable social need to live [in] 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.

An occupancy condition will apply where permission is granted for housing in an Area under Urban Influence restricting the use of the dwelling to the applicant or members his/her immediate family. The requisite period is seven years from first occupancy.

- Section 7.8.6 Rural Housing Design Guidance County Kilkenny:
 - Rural Design Guide provides design guidance in relation to housing in the countryside.

Chapter 10 Infrastructure and Environment

- Section 10.1.8.5 Water Quality Development Management Requirements

Chapter 12 Movement and Mobility

- Section 12.11.10 Regional and Local Road Objectives
- Section 12.11.10.1 Roads Development Management Requirements

Chapter 13 Requirements for Development

- Section 13.22 Rural Housing
- Section 13.22.1 Access and Sight lines
- Section 13.22.2: Wastewater Treatments Systems

5.3. Natural Heritage Designations

The appeal site is not situated within or adjacent to any Natura 2000 sites. The Site is situated c. 6.6km to the south of the Hugginstown Fen SAC (site code 000404) and Hugginstown Fen pNHA (site code 000404). In addition, the appeal site is situated c.10km to the west of the Lower River Suir SAC (site code 002137) and the pNHA Fiddown Island (site Code 000402).

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

The Commission received 1 no. third party appeal against the decision of the Planning Authority on the 13th July 2026. The grounds of the appeal can be summarised as follows:

1. AA Screening:

- None accompanied application documentation.
- No Planning Authority Screening on file.

2. Planning History:

- Permission refused under PA Ref 00/810 – not noted by Planning Authority.
- No consideration given to PA Ref 00/810.
- Permission granted under PA Ref 00/1910 overcame previous concerns.
 - Condition no. 5 required roadside boundaries to be removed.
 - Condition no. 7 required development to be carried out with documents lodged.

3. Planning Authority Assessment

- Access via a private laneway over which the appellant has a right of way.
 - No consent given.
 - Not in red line boundary where ditch is proposed to be removed to obtain sightlines.
- No consideration of Planning Authority Ref 00/810.
- No evidence of AA Screening.
- Recommendation of Planning Officer different from decision issued:
 - Planning Officer stated single storey to 1.5 dormer.
 - Amended by Senior Planner.
- Height at clarification of further information stage reduced only by c.435mm.
- Continuous reference to PA Ref 00/1434 which post dates the refusal and was withdrawn- even with observation referencing 00/810.

4. Grounds of Appeal

i. Overbearing Impact

- Notwithstanding amendments - Planning Officer noted concern of overbearing in respect of design submitted at RFI stage.
- Height was further reduced by c.455mm.
- Immaterial reduction in height could not overcome Planning Officers concerns.

- Proposed landscaping inside applicants boundary wall will be overbearing in time:
 - Incongruous with rural landscape.
 - Tree type proposed when mature will be 8-25m high.
 - Will significantly overshadow adjoining property.
- Planning Authority failed to undertake required planning search
 - Decision of PA ref 00/810 would have had a bearing impact on proposal.
 - Likely to have been refused considering previous decision.
 - Dwelling proposed under PA Ref 00/810 was 7.5m high and set 35m from adjacent property.
 - Current proposal is 7.3m high and 18.5m from boundary.

ii. Location of Dwelling

- Implied understanding that no house would be permitted between existing house and brow of hill.
- Landholding spreads southwards along lane
 - Could have selected more appropriate site.
 - Would not have been visible/no adverse impact on the area.
 - No loss of productive agricultural land use.
- No objection to a house in alternative location.

iii. Permission PA Ref 00/1434

- Dwelling granted subject to conditions that roadside boundary to east being removed and replaced behind the line of visibility – Condition no. 5.
- Commission needs to ensure any future house on private laneway is only permitted on a site that is safe:
 - Only possible if application is refused.
 - Deemed premature pending sightlines under condition no. 5 are implemented.

iv. Conflict

- There is a conflict between condition 9 and applicants' proposal for front boundary.
- Not possible to retain existing front boundary without causing a traffic hazard.
- Removing front wall will expose proposal on elevated site.
- Length of front boundary to be removed is 50m and 25m of hedge.
- Reference made to Section 9.2.2. and section 9.2.5.1 of County Plan.
- No information provided on what trees/hedges will be lost to allow assessment of impact on wildlife/ecology
 - Condition no. 9 indicates Planning Authority didn't understand the impact on ecology.
 - If relocated south – no tree loss required.

v. Proposed Sightline works not in red-line boundary

- Cannot be guaranteed works will be carried out/enforced.
- Planning Authority unlikely to be successful enforcing sightline improvement works against landowner.
- Works include cutting back existing hedgerow
 - Do not involve removing to the line of visibility.
 - Letter of consent only refers "recessing back the existing hedgerow".
- Removal of part of hedge and wall removal is what is actually required.
- Photos demonstrate that a section of hedge beyond proposed cut back is required to be removed
- Draft rural guidelines 2026 (Section 7.1.2) – "Where works to improve sightlines proposed – works need to be detailed on submitted drawings and in site boundary".

- Therefore, should be refused on inadequate proposal to ensure road safety.

vi. Conditions of PA Ref 00/1434

- Required native hedgerow be planted along boundary – was outside the red line boundary.
- No confidence works conditioned outside red line boundary will be enforced.

vii. Percolation Area

- Concern over uphill percolation.
- Minimum separation considered by Planning Authority is 40m actual distance provided is 41m.
- Ground water flow is towards neighbouring property.
- Reference to Section 6.3 of the EPA code of practice.
- Application not referred to Environment Section of Planning Authority.
- Groundwater response of R2¹ generally requires a greater separation distance
 - Recommended of 60m has not been achieved in this instance.
- Condition no. 3 requires a revised Wastewater Treatment Plant
 - Appellant precluded from commenting.
- No expert assessment of Wastewater Treatment Plant.
- Precautionary approach should be to refuse permission as not demonstrated proposal will not be at risk to public health.

viii. Land Ownership

- Appellant owns half the private land
- Applicant has no legal right to access laneway
 - Accept Commission may not question entitlements.
 - Want to bring it to attention.

7.2. Applicant Response

None received.

7.3. Planning Authority Response

A response from the Planning Authority was received by the Commission on the 12th August 2026 and can be summarised as follows:

Appropriate Assessment

- Stage 1 Appropriate Assessment Screening was undertaken.
- Noteworthy: The L7423 public road and associated surface water drainage and other dwelling/houses are located in between the application site and the Pollanassa River which eventually flows in the River Suir (Lower River Suir SAC), hence there is an absence of a direct pathway to the Pollanassa River which is hydrogeological connected to the River Suir.

Planning History

- Assertion that refused planning application 00/810 should have been included in the Planning History Section in the Planner's Report is correct – this was an oversight on the Area Planner's behalf.
- decision taken to refuse planning application 00/810 should have no direct bearing on the current application - made some c.26 years ago under a long since expired iteration of the county development plan.
- Reasons for refusal of 00/810 –
 - Amenity impacts- the proposed house type design was different and perceptibly taller to the northern flank, and there was no site-specific planting or landscaping scheme submitted hence the site was barer.
 - Footprint of the dwellinghouse being sited further away from the neighbouring property due north than the application subject of this appeal.
 - traffic impacts - this was re-assessed in subsequent planning application 00/1910 for a similar style dwellinghouse further due south granted on the 08/02/2021.

- non-execution of condition no.5 of planning permission 00/1910 is addressed further in the appeal response.

Request for Further Information/Clarification of Further Information

- Following consideration it was decided to request for redesign including reduction in height to no more than a storey and half/dormer rather than explicitly state single storey given minimal eaves and adjacent ridge height differences between a storey and half/dormer and a single storey and little discernible difference.

Ground 1: Residential Amenity to neighbouring property including garden area

- Overbearance/Overlooking/Loss of Privacy/Loss of Light
 - consider that the revised dormer dwellinghouse design (in particular with reductions to the northern flank/element) is of an appropriate scale and height for the subject site including the elevated site position and surrounding topography.
 - a significant decline in ground levels due north, surrounding pattern of development comprising of applicant's parents dwellinghouse and family homeplace also dormer design to south and neighbouring objector's single storey dwellinghouse to north.
 - Overbearance - hipped roof arrangement is considerably lower, far less dominant and intrusive than the original or initially amended design.
 - there will be no significant overbearance resultant of the final design - modest eaves height coupled with the c.18.5m setback from the mutual boundary (not 11.9m as stated in Appeal Statement).
 - Overshadowing - due to the separation distance of c.55m any shadows cast by the amended design will not adversely affect the rear elevation and prime/immediate rear garden area of the objector's property.
 - proposed planting - planting of trees on or towards a mutual boundary does not necessarily require planning permission in its' own right.
- Acknowledged that the combination of the final design and proposed planting would block some visible sky from the rear of the neighbouring objector's dwellinghouse, The Planning Authority consider that any such blockage would not be overly

significant given the 18.5m setback of the dwellinghouse and also the presence of the c.2m high boundary evergreen hedge to the objector's side of the mutual boundary.

- neighbouring objector's garden is fairly densely planted in three tiers/terraces with a c.2m high evergreen hedge to the southern rear mutual boundary, hence the Planning Authority do not consider planting proposed in an effort to further screen/mitigate to adversely overbear/create an unacceptable sense of enclosure to the neighbouring objector's property/garden.
- overlooking and loss of privacy - There are no windows to first floor level of the proposed northern flank elevation, hence no direct overlooking impacts. First floor dormer window openings to the rear west elevation will not adversely overlook or cause a loss of privacy to the neighbouring property due north.
- Height only reduced by 0.435m – Drawing indicates a reduction of c.2.3m

In relation to the view from the neighbours view.

The outline in blue is the outline of the proposed dwelling submitted at application stage.

The outline in red is the outline of the proposed dwelling submitted at the first Further Information stage.

The drawing reflects what we are now proposing, denoting a drastic reduction in bulk of the dwelling house..

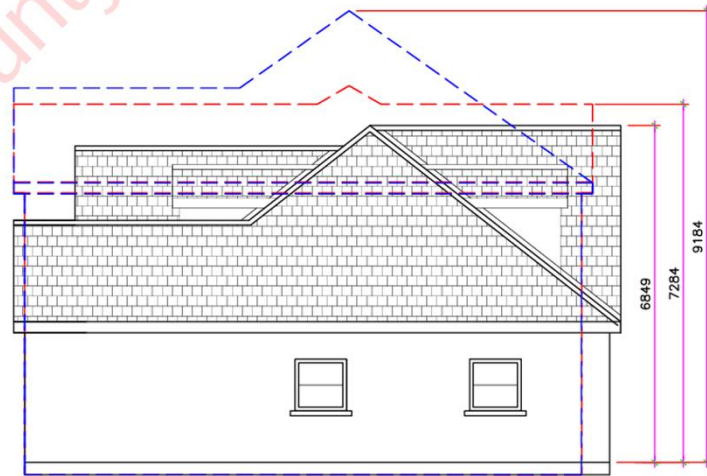


Figure 1: Extract from Planning Authorities response.

Ground 2: Potential of Alternative Site

- Not relevant to the determination of the planning application and response to the appeal.
- Noted that from a short study of the surrounding area, the site due north to the opposite side of X91 K6R2 is located to a convex bed in the laneway (which may also involve the removal of mature trees).
- Does not appear to be a significant amount of other options for the applicant as very little of the applicant's family lands appear to benefit from own road frontage or ease of access to public road.

Ground 3: Sightlines at junction of cul-de-sac and host local road L7423

- The Area Engineer was consulted, has assessed, and, recommended application of a condition to the notification to grant planning permission part of which states that 'Visibility improvement works at the junction of the private lane, cul-de sac, and the L7423 shall be carried out in accordance with Site Layout Plan B, received on 14/11/2025' (involving recession of hedgerow).

- In event of grant of planning permission, the council will endeavour to ensure that this takes place.

Ground 4: Conflict between roadside boundary to be retained and maintained and removal for sightlines

- disagree that there is a conflict of Condition No.9 requiring the roadside boundary to be retained, maintained and proposals to remove and recess/replant to achieved requisite vision/sightlines to cul-de-sac.
- While hedgerow and a number of trees will require removal to the front boundary, replacement planting is taking place to same front boundary in addition to proposed planting and landscaping throughout the site in addition retention of existing hedgerow to other site/field boundaries.
- Proposed retention of hedgerow and planting to other site boundaries, replacement planting to front boundary, planting and landscaping throughout the site will be in broad compliance with Section 9.25.1 of the Kilkenny County Development Plan.
- Given the scale of proposed removal of hedgerow and trees to front boundary, it was not considered necessary to request an Ecological Statement or Ecological Impact Assessment in this instance.

Ground 5: Red Line Boundary

- Works to junction of cul-de-sac with L7423 – no way incorporating these works within the red line boundary given sheer distance (c.115m) to the developable area of application site.
- Assertion made that the works only refer to recessing back the existing hedgerow – the recession of such hedgerow is considered a more balanced approach as opposed to removal.

Ground 6: Observers Confidence

- Concern over the hedgerow not in applicants site boundary – planning authority will deal with this if the Commission grant permission.

Ground 7: Proximity of percolation and relative to downgradient borewell.

- Reference to Table 6.3 of EPA Code of Practice – minimum separation distances between secondary treatment systems and private wells where surface values are between 30 and 120, 56 in this instance, and subsoil is a depth of 1.2m and 3m, 2.3m in this instance as being 40m separation distance.
- Acknowledge steep delice at the mutual boundary – remainder of the site is relatively shallow sloping (stated slope of c.1:16) less than indicated in COF.
- Following a further assessment of EPA Code of Practice – there is no such separation requirement of 60m as stated by the Appellant.
- Environment Section of the Local Authority did review the application (verbally) – recommended condition 3 be included in order to safe guard the design of the WWTP and percolation area and operation due to the observation of the neighbouring property.
- No requirement to liaise with any 3rd Parties for final design as any potential adjustment would be minor in nature.

Ground 8: Right of Way

- Applicants dwelling is located just off the laneway to the west and family lands are located on both sides of the lane – hence applicant is in a position to benefit from access and may also benefit from right of way.

7.4. Observations

None.

8.0 Assessment

8.1. Introduction

- 8.1.1. Having examined the application details and all other documentation on file, including the appeal and observation and having inspected the site, I consider that the main issues for consideration are;

- Impact on Amenities, Site Layout and Design
- Traffic Concern

- Public Health
- Issues Arising.

8.2. Impact on Amenities, Site layout and Design

- 8.2.1. From assessment of the plans and particulars available to me on file, I note that the proposed dwelling underwent 2 no. design reiterations on foot of a request from the Planning Officer noting concerns over compliance with the County Kilkenny Rural Design Guide.
- 8.2.2. The appellant acknowledges that amendments had been made to the overall design to overcome the concerns raised with regard to overbearance. However, it is argued that the overall reduction in height was only c.455mm which is minor in nature. It is stated by the appellant that they do not have an objection to a dwelling being provided at an alternative location on the family landholding that would overcome the impact the proposal would have upon their amenities.
- 8.2.3. I note that the overall design ethos of the dwelling was significantly amended. The original design submitted proposed for a two-storey detached dwelling, which had a height of c.9.1m, and would be more akin to an urban/sub-urban context as opposed to the rural context of the site. The amended scheme submitted at RFI stage was amended to introduce a stone clad finish with an open gable frontage and single-story projection from the side elevation and provided a ridge level of c.7.6m. The final design, submitted in response to the clarification of further information, provided for a dormer bungalow with the design ethos being more akin to the rural character of the area and the established character of the area. The ridge level of the permitted scheme was indicated on plan as being c.6.84m.
- 8.2.4. As such, the height of the dwelling was reduced by c.2.26m from the original plans submitted. The dwelling is set c.18m from the northern boundary of the site which is shared with the appellants property. There are only 2 no. window opes situated on northern elevation of the proposed dwelling which serve an en-suite and wardrobe area. As such, issues of overlooking and overbearance are no anticipated.
- 8.2.5. Overall, having regard to the final design of the proposed dwelling together with the separation distance being provided, I am of the opinion that the proposed dwelling will

not negatively impact upon the current level of amenities, in terms of both residential and visual, of the appellant to this appeal.

- 8.2.6. With regard to site selection, I accept the comments of the Planning Authority as per their response to the 3rd party appeal, I do not consider this a relevant consideration for the assessment of this application. The site selected forms part of the family landholding and legal interest has been demonstrated.
- 8.2.7. Concern has also been raised over the proposed landscaping. It is contended that the planting of trees will be inside the applicant's boundary and will give rise to overshadowing of the neighbouring property overtime as they mature. It is further stated that the tree type is incongruous with rural landscape.
- 8.2.8. Again, on this issue the Planning Authority are correct in their assertion that the planting of trees on private property can be undertaken without the requirement of planning consent. Therefore, the applicant can as their own bequest plant trees on their own property.

8.3. Traffic Concerns

- 8.3.1. The appellant makes reference to permission which was previously granted under PA Ref 00/1434. I would like to clarify to the Commission that no permission was granted under PA Ref 00/1434. Permission sought under PA Ref 00/1434 was deemed to be withdrawn on the 12th December 2000 as per the Kilkenny County Council Planning Portal [ePlan - Online Planning Details](#).
- 8.3.2. Permission for the dwelling situated to the south of the appeal site was ultimately granted planning permission under PA Ref 00/1910 details of which I have set out under section 4.0 of my report above. The appellant has included a copy of the grant of permission issued under PA Ref 00/1910 as part of their 3rd party appeal and as such I presume that the reference to PA Ref 00/1434 is a typographical error.
- 8.3.3. The appellant makes reference to Condition no. 5 of the grant of permission issued under PA Ref 00/1910 which required the removal of the roadside boundary fence at the public roadway prior to the commencement of development. It is contended that these works were never undertaken and as such to grant permission for the dwelling subject to this application would be premature until the required sightline works are undertaken. It is further asserted that works required to obtain the required

sightlines at the junction of the private laneway and the L7423 are not within the red line boundary of the application.

- 8.3.4. In the first instance I note that conditions pertaining to previous permissions that may have been granted within the vicinity of the appeal site do not have any holding on the permission being sought in this instance.
- 8.3.5. As per speed limit maps, issued by Kilkenny County Council as part of the Road Traffic Speed Limit Bye-Laws 2023 [speed-limit-maps-final-2023-51.pdf](#), the L1042 to the north of the appeal site, which the private lane-way forms a junction, has a posted speed limit of 80km/hr.
- 8.3.6. I refer the Commission to Section 12.11.10.1 Roads Development Management Requirements of the Kilkenny City and County Development Plan which states inter alia that required standards [for sight distances and stopping sight distances] in respect of single houses in the countryside should not be achieved by the extensive removal of hedgerows, ditches, embankments, trees or old walls. Also, Section 13.22.1 Access and Sight Lines states that excessive hedgerow removal will be resisted where setback is considered significant or roadside definition is compromised. I do note that the County Plan does not prescribe specific sightlines to be provided.
- 8.3.7. The applicant submitted a drawing, site layout plan dwg no. 25034, which indicated that sightlines of 90m are available in both directions from a 2.4m set back subject to what I consider to be minor part of the existing boundary being cut back. The applicant also indicated on plan and submitted a letter of consent to undertake these works.
- 8.3.8. The report on file from the Senior Executive Engineer notes no objection to the proposed development subject to condition. Point (a) of the recommended condition states that the only access (vehicular or pedestrian) to the site from a public road shall be as shown on the Site Layout Plan received on the 14/11/2025.
- 8.3.9. I therefore am of the opinion that the applicant has demonstrated clearly that the sightlines required to be provided can be and that while the works required to provide such are not within the redline boundary of the site they have obtained the required consent of the landowner to undertake these works.
- 8.3.10. With regard to the reference made by the Appellant to the Draft rural guidelines 2026 (Section 7.1.2 - Vehicular Access and Traffic Safety), where it states '*Where the*

application proposes to undertake works to improve sightlines, the proposed works should be detailed on the submitted drawings and included within the site boundary and form part of the application'. Section 7.1.2 further states 'removal or alteration of substantial sections of existing roadside boundaries, such as trees, hedgerows, open watercourses or other ecological features that contribute to biodiversity and rural character should be avoided where possible.'

- 8.3.11. I note in the 1st instance that these guidelines have not yet been adopted. I consider that the applicant has sufficiently demonstrated all works that would be required to obtain sightlines and provided the required evidence of consent to do so. In addition, as previously stated I am of the opinion that the section of hedging to be removed could not be considered to be substantial.
- 8.3.12. A further concern has been raised over Condition no. 9 of the grant of permission issued by the Local Authority which pertains to the roadside boundary formed between the appeal site and the private laneway.
- 8.3.13. Condition no. 9 of the grant of permission requires that *"existing shrub and tree vegetation on the site shall be retained, particularly along the entire roadside boundary and to the front of the dwelling, except those strictly required to be removed to carry out the development and achieve sightlines"*
- 8.3.14. The appellant contends that this condition is a conflict to the applicant's proposal for the front boundary of the site and that to retain the boundary would cause a traffic hazard on the laneway. It is stated that the removal of 50m of hedging would also not accord to Section 9.2.2 of the County Plan which relates to Biodiversity Outside of Habitats Designated for Nature Conservation as there was no information provided on what trees/hedges will be lost to allow assessment of impact on wildlife/ecology .
- 8.3.15. The applicant submitted a site-specific landscape plan to the Planning Authority in response to the request for further information. The landscape plan indicated the removal of 7 no. trees along the eastern boundary which is formed with the laneway. The plan also indicated the proposal to replace the trees lost with 4 no. Quercus Petraea, 1 no. Ginkgo Biloba and 6 no. Quercus Robur Fastigiata in addition to the provision of a new hedge and timber post and rail.
- 8.3.16. I note that Section 9.2.5 of the Kilkenny County Development Plan states under development management requirements that *".....where the loss of the existing*

boundary is unavoidable as part of development, to ensure that a new hedgerow is planted using native species, and species of local provenance to replace the existing hedgerow...” (pg 133).

8.3.17. I therefore consider that the landscape plan submitted is not at odds with Condition no. 9 and would accord with the requirements of the relevant sections of the Kilkenny County Development Plan 2021-2027. With regard to the requirement for assessment of impact on wildlife/ecology as stated by the Appellant, I accept the response of the Planning Authority and that given the limited scale of hedgerow indicated to be removed together with the proposal to replant similar, I do not consider an Ecological Impact Assessment (EclA) would be required.

8.4. Public Health

8.4.1. The appellant has raised concern over the proposed wastewater treatment plant and associated percolation area. It is contended that the location of the percolation area uphill will allow Ground water flow is towards neighbouring property. It is further argued that the separation distances provided are not in accordance with the EPA Code of Practice.

8.4.2. The proposal is seeking to provide for a secondary wastewater treatment system and soil polishing filter which is situated to the rear (southwest) corner of the application site with the percolation are situated below on the western boundary. The application was accompanied by a Site Characterisation Form which indicates that the proposal has been designed with a PE of 6 which accords with the associated floor plan submitted. It is also indicated that water supply will be provided via a private well/borehole.

8.4.3. The report further identifies that the subject site is located in an area with a ‘Locally Important Aquifer’ (LI) where the bedrock vulnerability is ‘Extreme’. A ground protection response of ‘R2¹’ is noted. Accordingly, I note that the suitability of the site for a treatment system is therefore, in line with EPA Code of Practice, subject to normal good practice.

8.4.4. The trial hole depth referenced in the Site Characterisation Report was indicated as being 2.30m. The assessment does not provide the depth of the ground surface to the water table. The assessment notes that no rock was encountered in the trial holes.

- 8.4.5. The trial holes were dug on the 23rd October 2025 and were examined on the 30th October 2025. I note that the trial holes were soaked three times on the 29th October 2025 at 10.00 and re-soaked on the same day at 17.00. On site inspection I found the ground to be dry and firm underfoot.
- 8.4.6. The assessment notes a T Value of 69.17. Having regard to table 6.4 of the EPA Code of Practice and based on the characterisation assessment, the site would appear to be suitable for a secondary treatment system and soil polishing filter area.
- 8.4.7. The Site Characterisation Report submitted with the application concludes that the site is suitable for treatment of waste water. I am satisfied that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021.
- 8.4.8. With regard to separation distances, table 6.3 of the CoP 2021 sets out the minimum separation distances between secondary treatment systems and private wells and indicates that where surface values are between 30 and 120 and subsoil is a depth of 1.2m and 3m a separation of 40m is required.
- 8.4.9. In this instance, the proposal has a surface value of 56 and a subsoil depth of 2.3m and as such I accept the statement from the Planning authority that the separation required from the proposed WWTP and the neighbouring well should be 40m.
- 8.4.10. From a review of drawing no. 25034 – Proposed site Layout Plan, it is evident that there is a distance of 41.63m between the proposed percolation area and the existing well that serves the appellants property. Overall, having regard to the Site Characterisation Report submitted which clearly demonstrates that the proposed secondary wastewater treatment system and soil polishing filter complies with the requirements of the EPA Code of Practice, 2001, I do not accept the concerns raised by the appellant on this matter.
- 8.4.11. Concern is also raised over the inclusion of Condition no. 3 of the grant of permission issued by the Local Authority which requires within 8 weeks of the granting of planning permission that a revised domestic wastewater treatment proposal be submitted for the written agreement of the Planning Authority. The appellants contend that they would be precluded from any comment on this amended proposal.

8.4.12. The Planning Authority in their response to the appellant stated that the inclusion of the condition was in order to safeguard the design of the WWTP and percolation area and operation due to the observation of the neighbouring property.

8.4.13. Given my assessment of the proposed WWTP as set out above, which clearly indicates that the system as proposed is fully compliant with the EPA's Code of Practice: Domestic Waste Water Treatment Systems (population equivalent of ≤ 10) I do not consider it necessary to include condition no. 3 and that the Commissions modal condition for WWTP will suffice.

8.5. Issues Arising

8.5.1. Appropriate Assessment

The appellant states that no appropriate assessment screening report was submitted by the applicant and that there was no screening determination which was undertaken by the Planning Authority available on file.

In the first instance I note that it is not a statutory requirement for an applicant to submit a screening determination with their application and that the responsibility falls upon the competent/consenting authority to ensure that any development they are permitting either individually or in combination with other plans or projects would not be likely to give rise to significant effects on any Natura 2000 sites.

Secondly, I note from undertaking a review of Kilkenny County Councils Planning Portal [ePlan - Online Planning Details](#) on the 2nd October 2026 that the screening determination undertaken by the Planning Authority is available for review and is also referenced within the Planning Officers Report.

8.5.2. Planning History

The appellant has noted that the Planning Authority failed to include PA REF 00/810 and as such failed to adequately undertake a full planning search of the appeal site. It is further contended that the decision issued under PA REF 00/810 would have had a bearing impact on the current proposal and it would likely to have been refused.

The Planning Authority in response acknowledged that the failure to include PA REF 00/810 was an oversight. However it was further stated that the decision of PA REF

00/810 would have no bearing on the outcome of the current assessment as it was undertaken in a previous development plan period and was made in excess of c.26 years ago.

I have undertaken a review of the decision relating to PA Ref 00/810. I would highlight that all cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development. I do not accept that had the planning authority included it within the planning history section of the report that the outcome of the assessment of the Planning Officer would have differed.

8.5.3. Legal Issues

Appellants to this appeal have raised that access to this appeal site is via a private laneway over which they have a wayleave. It is stated that the applicant has not sought consent to utilise this laneway. It is further acknowledged by the appellant that they are aware that the Commission may not want to comment on this.

I draw the commissions attention to section 5.13 of the Development Management Guidelines for Planning Authorities that advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Furthermore, Section 34(13) of the Planning and Development Act 2000, (as amended), states that a person shall not be entitled solely by reason of a permission to carry out any development.

Therefore, I consider that the disputes between the parties in relation to land ownership or boundaries are ultimately civil / legal issues that would be dealt with more appropriately outside of the planning process and ultimately a matter for the courts.

8.5.4. Planning Authorities Assessment

The appellant raised concern over the assessment of the Planning Authority and notes that there was a difference from the recommendation made in the Planning Officers report with regard to description of the dwelling and that issued in the request for further information.

I note that on review of the Planning Officers report, it is evident that the wording was amended from a single storey house to 'no more than a storey and half/dormer'. This

amendment was made by the Senior Executive Planner on review of the file which is a normal occurrence during the assessment period.

It is further contended that Planning Officer makes consistent reference to PA Ref 00/1434. I note that there is only two references made to this application, once under the Planning History section where it notes that this file was withdrawn, and the second in response to the 1st observation submitted by the appellant to clarify that Kilkenny County Council's own system shows a planning application in 2000(Reg. Ref. 001434 Walter Phelan as per planning history) having been withdrawn and not refused.

9.0 AA Screening

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 Hugginstown Fen SAC (site code 000404) and the Lower River Suir SAC (site code 002137) 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.

9.2. 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 weak indirect connections to the European sites.
- Taking into account screening determination by Planning Authority.

9.3. See Appendix 3 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 located within the townland of Clonassy , Mullinavat , Co. Kilkenny. The proposed development comprises of the construction of a detached dwelling, a new wastewater treatment system and all associated site works. No water deterioration concerns were raised in the planning appeal.

- 10.2. The river Pollanassa flows approximate c.192m to the east of the subject site and it has a monitoring status. The appeal site is situated within the Mullinavat groundwater body which has a good status.
- 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 seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 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

I recommend that the decision of the Planning Authority be upheld and permission be granted.

12.0 Reasons and Considerations

The proposed development which is seeking permission for the provision of a single storey dwelling, vehicular access and on site wastewater treatment plan complies with the provision of the Kilkenny City and County Development Plan 2021-2027. It is considered that subject to compliance with the conditions set out below, the development would not be out of character with the surrounding area, would not give

rise to undue negative impacts upon the residential amenity of the surrounding area and would therefore be in keeping with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, on the 14th November 2025, the 6th March 2026 and the 26th May 2026 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

3. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of public health

4. The roofs of the proposed dwellinghouse shall be blue/black in colour. All other finishes to the outside of the house shall be as per the drawings submitted, unless otherwise agreed in writing with the Planning Authority prior to commencement of development.

Note: Where practicable, the use of uPVC in doors, windows and rainwater goods including gutters, downpipes, fascia, soffits etc. is discouraged in favour of more sustainable materials such as timber/metal. The use of reconstituted stone is also discouraged in favour of natural stone.

Reason: In the interest of the environment and the retention of rural character and visual amenity.

5. (a) The only access vehicular or pedestrian to the site from a public road shall be as shown on the Site Layout Plan submitted on the 14th November 2025 and further information received on the 06th of March 2026. The entrance gates shall be back not less than 4.5m from the roadside boundary within a splayed recess space, which shall be a minimum of 11m wide along the line of the new roadside boundary. The entire area of the splayed recess shall be suitably structured, to cater for vehicular traffic, surfaced with a suitable bituminous Macadam material. The walls forming the splayed recessed access shall not exceed 1m in height and where of block works shall be neatly capped and plastered where exposed to public view.

(b) The access and driveway shall be perpendicular to the public road for a minimum distance 10m from the nearside road edge. The access and driveway shall have a gradient of not greater than 3% over this distance.

(c) All works associated with the access and sightlines shall be carried out prior to other works on site to ensure a safe access during construction works. The boundary along the road frontage of the site shall be set back as necessary to achieve the required sightlines and the visibility splay shall be kept clear of all obstructions. The verges shall be maintained to safeguard visibility on an ongoing basis.

(d) Where roadside boundaries are set back / removed, the area between the boundary and the public roadway shall be suitably structured with stone so as not to lead to deterioration of the road edge. The area shall be finished with topsoil to a level of 200-300mm above road level and seeded with grass.

(e) Where the set back from the edge of the public roadway is greater than 2m, then a low earth bund approximately 500mm in height and 1m wide shall be formed along the road edge. The bund is required to provide road edge definition in the absence of the original boundary. The bund and area behind it shall be finished with topsoil and seeded with grass.

(f) Where set back, boundaries shall be parallel to the road. If a hedge is to be planted along a roadside boundary, then it shall be a minimum of 1m behind the minimum visibility requirement. Any damaged caused to the public road or road side drainage, the cost of such repairs shall be borne by the applicant to the satisfaction of Kilkenny Co Council.

Reason: In the interests of road safety

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. Landscaping shall be carried out in accordance with the Planting and Landscaping Plan submitted as part of further information on the 06th of March 2026. The existing rear site boundary shall be retained, maintained and renewed. New side boundaries shall be hedged with a mix of deciduous shrubs suitable for hedging and common to the locality (e.g. holly, hawthorn, blackthorn, field maple). The hedging shall be planted continuously (in a double row) and indefinitely maintained

along the boundaries of the site. A minimum of six deciduous trees (not dwarfed) species shall be included to the rear of the roadside boundary hedgerow. Suggested species include field maple, sycamore, silver birch, rowan, white beam, and space permitting, oak, beech or chestnut. The trees shall be maintained indefinitely and replaced if failures occur. The planting shall be carried out in the first planting season following commencement of development. When planted the trees/hedgerows shall be adequately protected from damage by animals or wind and the trees should be allowed to grow to maturity.

Reason: In the interests of visual amenity and to assist in enfolding this dwelling sympathetically in the rural landscape.

8. Existing shrub and tree vegetation on the site shall be retained, particularly along the entire roadside boundary and to the front of the dwelling, except those strictly required to be removed to carry out the development and achieve sightlines.

Reason: In the interests of visual amenity and integrating the development into the landscape

9. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on [date] and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) ” – Environmental Protection Agency, 2021.

(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in

accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution

10. The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Kathy Tuck
Planning Inspector

7th October 2026

Appendix 1

Form 1 EIA Pre-Screening

Case Reference	PL-501707-KK-26
Proposed Development Summary	Construction of dwelling, sewage treatment system and associated site works.
Development Address	Clonassy , Mullinavat , Co. 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?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ 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)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ 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?	
☐ 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.	

<p>No Screening required.</p>	
<p>☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required</p>	
<p>☐ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2)</p>	<p>S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.</p>

Inspector: _____ Date: _____

Appendix 2

Form 2 - EIA Preliminary Examination

Case Reference	PL-501707-KK-26
Proposed Development Summary	Construction of dwelling, sewage treatment system and associated site works.
Development Address	Clonassy , Mullinavat , Co. 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).	<p>Permission is sought for the provision of a dwelling on a site situated at Clonassy , Mullinavat , Co. Kilkenny.</p> <p>It is proposed to provide for a new treatment system and water supply is proposed to be provided via a private well.</p> <p>The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. 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.</p>
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	<p>There are no significant sensitivities in the immediate area.</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>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>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</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>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>

Inspector: _____ **Date:** _____

Appendix 3

AA Screening Determination

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 1 no. dormer dwelling houses together, a garage, wastewater treatment plant and all associated and ancillary site works.

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 1 no. of European sites are located within a potential zone of influence of the proposed development. These are:

- Hugginstown Fen SAC (site code 000404)
- Lower River Suir SAC (site code 002137)

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

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 the Hugginstown Fen SAC (site code 000404) and the Lower River Suir SAC (site code 002137) 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.