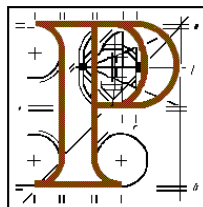


# An Bord Pleanála



## Inspector's Report

**Site Address:** Strand Farm, Curraghbinny, Carrigaline, Co. Cork.

**Proposal:** Retention of alterations and change of use of dwelling to office/ laboratory use, partial demolition of farm shed and construction of new store and permission to replace septic tank with treatment unit.

### Planning Application

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 15/5810

Applicants: Blackrock Estates Ltd.

Type of Application: Permission

Planning Authority Decision: Grant

### Planning Appeal

Appellants: Roger and Alison Flack  
Denis O'Sullivan

Type of Appeal: 3<sup>rd</sup> party -v- grant

Observers: Patrick Oliver Thompson  
Susan Hackett, Violet O'Leary, T. Paul and  
Pauline McCarthy

Date of Site Inspection: 29<sup>th</sup> March 2016

**Inspector:** G. Ryan

## 1.0 SITE

- 1.1 The appeal site which has a stated area of 0.4 hectares is located at the end of a cul de sac to the south of Curraghbinny Wood. Curraghbinny occupies a peninsula circa 8 kilometres to the east of Carrigaline and the area enjoys an attractive coastal and harbour setting overlooking the settlement of Crosshaven and the mouth of the Owenboy Estuary.
- 1.2 The appeal site is accessed via a narrow cul de sac private road serving a number of residential properties. The appeal site is around 160m from the junction with the public road and fronts onto the foreshore enjoying panoramic views to the south to Crosshaven Village. Lands to the west and northwest are open and agricultural whilst lands to the north and east are characterised by residential development of a variety of type, size and age, generally large detached dwellings on large sites.
- 1.3 There are a three existing structures on the appeal site, which I will refer to in this report as the 'east', 'south', and 'north' buildings, which can be summarised as follows
  - East building – the original house, a two storey former dwelling structure which is now in use as an office
  - South building - a predominantly single storey stone faced pitched roofed structure with a flat roofed plastered annexe.
  - North building - a warehouse type structure of recent construction which has a mixed finish of cladding and dash.
- 1.4 The area to the north of the buildings is largely paved and a parking area is located towards the north-eastern corner of the site. The remainder of the site is landscaped.
- 1.5 The company occupying this site is involved in the development and application of marine natural products which are incorporated in foodstuffs and supplements. Activities on site are related to health food development.
- 1.6 The gross floor area of buildings on site is given as 589m<sup>2</sup>.

## **2.0 PROPOSAL**

### **2.1 BROAD OVERVIEW**

2.1.1 The scheme consists of works that can be summarised as follows.

- East building - Retention of change of use of former dwelling to office/laboratory use
- South building - Retention of small extension and 4 velux windows.
- North building - Retention of partial demolition of farm shed and construction of new building/store for ancillary storage use (for the storage of samples and office materials).
- Permission to replace septic tank with treatment unit, with percolation area in an adjoining agricultural field, to the west of the access road.

2.1.2 Of the stated 589m<sup>2</sup> of gross floor area on site, 427m<sup>2</sup> is proposed for retention. This is broken down as follows

- 271m<sup>2</sup> in respect of the east building (original house)
- 22m<sup>2</sup> in respect of the south building, the balance of 184m<sup>2</sup> having been permitted under PL4/5/43426 [see Section 5.0 below]
- 134m<sup>2</sup> in respect of the north building (unauthorised warehouse that replaced the previous structure)

### **2.2 PLANNING REPORT**

2.2.1 A report by McCutcheon Halley Walsh planning consultants accompanies the application. Some points of note from this report can be summarised as follows.

2.2.2 The buildings on site that are subject to the proposed development pre-date 1964, and the commercial office use was established under the 1978 permission [see 5.1.1 below]. Refers to Objective RCI 5-6 regarding long-established commercial uses in greenbelt areas.

2.2.3 The use of Strand Farm for office/administration and some limited R&D and ancillary services is consistent with RCI 5-6.

- 2.2.4 The premises was previously used by a yacht design company called Ron Holland Design (10-14 employees) prior to being bought by Blackrock Estates in 1991.
- 2.2.5 The current operations at the site primarily comprise administration and marketing activities of the Marigot Group (Celtic Sea Minerals). The applicants' main business involves the extraction and processing of seaweed and other natural marine based raw materials for use in human and animal food and health products. Extraction, manufacturing, and processing is carried out in Castletownbere [Co. Cork], from where the product is shipped.
- 2.2.6 There is a small laboratory within the subject site where a small amount of R&D takes place. However, there is no storage of hazardous chemicals or pharmaceutical products, and all lab waste is disposed of off-site. Of the 9 employees on site, 7 are involved in administration, and 2 in R&D. Office hours are 0830 to 1730, Monday to Friday. Aside from staff, there is one postal van delivery per day, 3 courier vans per week and one stationary delivery every 6 weeks. Visitors to the site are infrequent.
- 2.2.7 The attractive setting of the site compliments the natural and health related focus of the company's business and has been an important part of the company's profile and client/business development.
- 2.2.8 Surface water run-off from roofs and hard standing is mainly diverted into 2 drains that discharge into the adjoining estuary. There is an existing septic tank on site.
- 2.2.9 A photograph of the previous farm shed (northern building) from 2007 is included.
- 2.2.10 Overhanging vegetation has been cleared from the nearby junction.
- 2.2.11 The finished floor levels of the buildings are between 2.7 and 3.0 [sic], and are at or above the 0.1% flood level indicated in the the Lee Ceeframs [sic].
- 2.2.12 Refers to pre-planning consultations with the planning authority.

### **2.3 WASTEWATER TREATMENT**

- 2.3.1 A 'Treatment System Survey' from BJS Consultants accompanied the application. It proposes a Biocycle classic 16,000 series treatment system.

- 2.3.2 A letter of consent [name not given, signature illegible] from a 'land owner' consents to use of his/her land as a percolation area.

## **2.4 APPROPRIATE ASSESSMENT SCREENING REPORT**

- 2.4.1 This document, prepared by McCutcheon Halley Walsh planning consultants consists of a 'Stage 1' screening under the habitats directive. It states that the site is around 220m from the Cork Harbour Special Protection Area, is 8km downstream from the Great Island Channel Special Area of Conservation. The report shows both the existing and proposed foul and surface water drainage arrangements. It states that

*“all general/lab waste generated at the site is appropriately managed prior to removal off site by licenced contractors and there is no disposal of waste to the Owenboy estuary”*

- 2.4.2 The report concludes that it is unlikely that the Strand Farm development will significantly impact on the Natura sites under consideration.

## **2.5 UNSOLICITED FURTHER INFORMATION**

- 2.5.1 Following the submission of the application to the planning authority, the applicant submitted a document titled 'Euro Bio Treatment System Site Specific Proposal' and associated drawings. This document states that the system was designed based on a hydraulic and organic loading equivalent to 15 persons, and recommends the 'Euro-Bio 8' system which is capable of treating normal domestic effluent for a maximum of 8 residents.

- 2.5.2 The report is accompanied by a site characterisation form.

## **2.6 FURTHER INFORMATION REQUEST AND RESPONSE**

- 2.6.1 Prior to issuing a decision, the planning authority sought further information on one point, which can be summarised as follows, along with the response from the applicant.

<b>Planning authority request</b>	<b>Applicant's response</b>
1. Requests details relating to sightlines at the junction of the access road and the main public road to the north of the site.	Revised drawings submitted. Trees to be relocated with the consent of the landowners (letter of consent provided).

Table 1

## **3.0 SUMMARY OF REPORTS TO THE PLANNING AUTHORITY**

### **3.1 REPRESENTATIONS**

3<sup>rd</sup> party submissions were submitted on behalf of the current appellants and the observer Patrick Oliver Thompson. The grounds of these objections are largely reflected in the appeal and observation grounds summarised at 7.0 below.

### **3.2 DEPARTMENTAL REPORTS AND EXTERNAL CONSULTTEES**

#### **3.2.1 An Taisce**

3.2.2 An evaluation is required that demonstrates that all issues have been resolved which had previously determined the site unsuitable.

#### **3.2.3 Irish Water**

3.2.4 No objections subject to conditions.

#### **3.2.5 Area Engineer's first report**

3.2.6 Sightlines at the junction with the private laneway onto the public road are restricted. Works are required either side. Requests for further information in this regard.

3.2.7 In accordance with the county development plan, 29 car parking spaces would be required for the office section, with one additional space for the warehouse. A total of 10 spaces are available on site. The application states that the number of staff is between 7 and 10. On the day of the site inspection, 10 vehicles were noted. Traffic movements would be low.

3.2.8 The main concern would be that parts of the development could be leased. This could potentially be addressed by condition.

3.2.9 The proposals for effluent disposal represent an improvement on the existing situation.

#### **3.2.10 Area Engineer's second report**

3.2.11 Following the receipt of further information, the Area Engineer stated that he has no objections subject to conditions.

#### **3.2.12 Environment report**

3.2.13 No objections subject to conditions.

### **3.3 PLANNING OFFICERS FIRST REPORT**

- 3.3.1 The report contains a number of photographs of the site.
- 3.3.2 'Screens out' for AA under the Habitats Directive.
- 3.3.3 The report summarises the 3 buildings on site as follows
- The office Structure [South building] was permitted under the '78 permission, pre-dating the area forming part of the Metropolitan Greenbelt. The application seeks retention for alterations and extensions to same.
  - The original house [East building] has been actively used – without planning permission – as an offices for in excess of 7 years. The planning authority is therefore statute barred from taking enforcement action. The current application seeks to regularise the situation.
  - The warehouse building [North building] is a replacement structure. The current application seeks to retain this.
- 3.3.4 There is a long accepted permitted office use at this location. There is provision for consideration of such uses under Objective RCI 5-6 of the county development plan. As such, the proposal is acceptable in principle.
- 3.3.5 It is the planning officer's understanding is that the 3 buildings are in use by a single business and are not sub-let. It would also appear that the office structure [south building] is not fully actively used at present, and it is proposed to relocate some of the office space to here from the dwelling structure [east building]. In the event of a grant of permission, a condition of permission could restrict the use of all buildings on site to a single operator, and preclude sale or subletting.
- 3.3.6 Notes and replicates the recommendations of the Area Engineer and the Environment Officer. Recommends further information in relation to sight lines at the junction with the main road.

### **3.4 SENIOR EXECUTIVE PLANNER'S REPORT**

- 3.4.1 This report notes and reiterates much of the content of the planning officer's report.

- 3.4.2 Unlike previous recent applications, the proposed development represents a comprehensive approach to deal with all the activity on site. It is the author's opinion that there is no objection per se to the retention of the works as set out subject to consideration of site specific issues.
- 3.4.3 Recommends further information as per the planning officer's report on the issue of sightlines.

### **3.5 PLANNING OFFICERS SECOND REPORT**

- 3.5.1 Following the receipt of further information, the planning officer issued a second report. It notes the second report of the Area Engineer. The planning officer considers that the response submitted adequately addressed the further information request, and that the proposed development would be acceptable subject to 14 conditions.
- 3.5.2 On the issue of development contributions, the planning officer provides a set of calculations.

### **3.6 SENIOR EXECUTIVE PLANNER'S SECOND REPORT**

- 3.6.1 This report notes the planning officer's report and the area engineer's report, and concurs with their recommendations.
- 3.6.2 Recommends a grant of permission subject to 15 conditions.

## **4.0 PLANNING AUTHORITY DECISION**

The planning authority decided to grant permission subject to 15 conditions, many of which could be considered 'standard' conditions. Others of note can be summarised as follows.

- 3 All structures to be used solely as permitted as a single business entity with no change of use or subdivision, notwithstanding exempted development provision.
- 4 'De-exempts' any further structures.
- 5 Stipulates site distances at public road.
- 6 Relates to car parking. No parking on private lane or public road.
- 9 Further details required in relation to the wastewater treatment system.



13 Sets noise limits.

## 5.0 HISTORY

### 5.1.1 On the subject site to previous applicants<sup>1</sup>

PL4/5/43426 (PA Ref.78/1600) Permission **granted** by the board for retention of outhouses as offices (April 1979)

PA Ref. 84/1109 Permission **granted** for an extension to the Strand Farmhouse.

PA Ref. 04/8043 Permission **refused** to Leslie Auchincloss for change of use of existing dwelling house to offices and change of use of existing offices to dwelling house. The refusal reason cited unauthorised development.

PA Ref. 05/508 Permission **refused** to Leslie Auchincloss for change of use of offices to dwelling house including refurbishment works of new front porch entrance, pitched slate roof with rooflights and first floor living space, alterations to window opens and replacement with new windows and doors, retention for existing dwelling to offices including all ancillary site works. The refusal reason cited flood risk.

PL04.223964 (PA Ref.07/4617) Permission granted by the PA but **refused** on appeal by the board for demolition of house and outbuilding and construction of house over basement. The refusal reasons cited unauthorised development, scale and visual impact, effluent treatment, and rural housing policy.

### 5.1.2 On the subject site to the current applicant

PA Ref. 13/5602 Application for permission for retention of change of use of original dwelling to offices.

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<sup>1</sup> It is my understanding that the previous applicant, Leslie Auchincloss, has a central involvement with the current operations on site by Blackrock Holdings. This is substantiated by the report submitted with the application states that the premises was bought by Blackrock Holdings in 1991.

Application was **deemed withdrawn** following failure to respond to the request for additional information.

PA Ref. 13/5604

Application for permission for retention of demolition of shed / store and retention of construction of building for the storage of Osean 74 seaweed capsules for use by Blackrock Estates. Application **deemed withdrawn** following failure to respond to request for additional information.

PL04.243412 (PA Ref.13/5601) Permission **refused** by the PA and refused on appeal to the board to the current applicant on the subject site for development consisting of retention of extension to north elevation, retention of alteration to elevations and retention of velux window to roof, at existing offices for use by Blackrock Estates Limited at Strand Farm, Curraghbinny, Carrigaline, County Cork. The refusal reason was as follows.

*On the basis of the submissions made in connection with the planning application and the appeal and having regard to the planning history of the site, the Board is not satisfied that significant works carried out on the site are authorised by a grant of planning permission. Accordingly, the Board is precluded from considering a grant of a permission as the proposal would facilitate the consolidation and intensification of development which has not been authorised by a permission.*

PA Ref. 14/6028

Retention sought for partial demolition of farm shed/store and retention of construction of a building for the storage of samples and office materials. This application was **withdrawn**.

### 5.1.3 Enforcement cases at the subject site

PA Ref. EF07/318	<b>Case closed</b> in relation to alleged unauthorised continued use of dwelling as offices and unauthorised ancillary site works following refusal of PA Ref. 05/0508.
PA Ref. EF12/247	<b>Current case</b> [at time of planning officer's report] relating to unauthorised demolition of agricultural shed, unauthorised construction of warehouse, and unauthorised use of this building. Ref. E/14/34 relates to an associated enforcement notice served on the applicant on 1 <sup>st</sup> October 2014 requiring them to cease the use of the warehouse building, remove all items, demolish the building, and reinstate the site to its prior condition prior to the unauthorised development.

### 5.1.4 Pre-planning meetings

The planning authority submitted to the board notes from a meeting between the applicant and the planning authority relating to the proposed development, although there is no reference number. The note outlines the issues relating to the site and that the applicant is in the process of researching the history of commercial activity on site, and are planning an application to regularise all activity on site.

## 6.0 POLICY

### 6.1 CORK COUNTY COUNCIL DEVELOPMENT PLAN 2014

#### 6.1.1 Strategic and settlement policies

At a strategic level, the site is within the 'County Metropolitan Cork Strategic Planning Area', which includes such towns as Carrigaline, Middleton, Blarney, and Ballincollig.

The site is also located within a 'Prominent and Strategic Metropolitan Greenbelt Area', which covers a somewhat smaller area than the 'metropolitan' area above, and is only applied to areas that are not built-up. Section 4.3.5 of the plan describes this area as follows.

*This rural area under strong urban influence forms part of the Cork Gateway and is within close commuting distance of Cork City and*

*Environs. There is evidence of considerable pressure from the development of (urban generated) housing in the open countryside and pressures on infrastructure such as the local road network and higher levels of environmental and landscape sensitivity.*

Section 4.5.8 is of particular relevance to the subject case:

*While the overall objective for Greenbelt lands is to reserve them generally for use as agriculture, open space and recreation (Objective RCI 53), it is important to recognise that there are a certain number of long-established commercial or institutional uses lying entirely within the Greenbelt. Examples of this would include garden centres, hotels, care institutions, and tourism enterprises such as Fota Island. It is not the intention of this plan to restrict their continued operation or (subject to maintaining the specific function and character of the Greenbelt in the area) to prevent appropriate proposals for expansion / intensification of the existing uses. This of course would only apply to authorised uses and also be subject to normal proper planning considerations as set out in Section 4.6.*

*These principles are reflected in Objective RCI 5-6: 'Long Established Uses' which is to*

*Recognise the requirements of long established commercial or institutional uses located entirely within the Greenbelt which may make proposals for expansion / intensification of existing uses. Such expansion proposals of an appropriate scale would only be considered in special circumstances, having regard to the overall function and open character of the Greenbelt and where development would be in accordance with normal proper planning and sustainable development considerations.*

Greenbelts are also applied to other areas of around the county's towns. Most of the associated policies relate to rural housing.

### **6.1.2 Landscape Designations**

The R612 Crosshaven road, on the opposite side of the Owenboy River, is a designated Scenic Route.

### **6.1.3 Car parking**

Table 1a of Appendix D sets out Car Parking Requirements for New Development (Maximum per sq.m)

## **7.0 GROUNDS OF APPEAL**

### **7.1 BACKGROUND TO THE APPEALS**

7.1.1 Two 3<sup>rd</sup> party appeals were submitted, both by Hogan Architecture and Urban Design on behalf of the following appellants. In the interests of clarity, and given the overlap in content, I have summarised the grounds of the appeals jointly.

#### **7.1.2 Roger and Alison Flack**

7.1.3 On the basis of available mapping, the appellants live at a detached property 2 plots to the north, facing the main Curraghbinnny Road.

#### **7.1.4 Denis O’Sullivan**

7.1.5 On the basis of available mapping, the appellant lives at a detached property to the immediate northeast of the subject site, on a plot accessed via the cul-de-sac leading to the subject site.

### **7.2 INTENSIFICATION OF USE**

7.2.1 The previous use of Strand Farm was as a yacht design drafting office by Ron Holland design, which was a clean use with minimal staff and traffic generation. While one building was in use as an office, the remaining 2 were wholly in residential use. Since then, the applicant has expanded the car parking/hardstanding area, demolished and replaced the barrel roofed outbuilding, and changed the use of the original dwelling to offices. The appeal on behalf of Denis O’Sullivan includes photographs of the site taken from c. 1990 to 2013 illustrating development at this site.

7.2.2 The current use as a chemical laboratory, offices, warehouse/storage facility for pharmaceutical products well exceeds the home-based office use permitted to the predecessors.

7.2.3 The applicants have continually ignored planning legislation and appear to have been permitted to enlarge and enhance their facility as they see fit. Refers to an enforcement notice in respect of the warehouse building, which has been continually stayed pending the outcome of planning applications. Due to the planning authority’s delay in taking action on previous unauthorised development, they are statute barred from taking any further action.

- 7.2.4 In 2013, the planning authority had the benefit of assessing 3 concurrent retention applications. The current application appears to join the previous planning applications into one larger application.
- 7.2.5 The applicants are operating their business wholly without planning permission, and cannot therefore benefit from the policies relating to established commercial uses in greenbelt areas under RCI 5-6.
- 7.2.6 There is nothing new in the application that would inform a different decision than the refusals previously issued. The planning authority were wrong in their current decision.

### **7.3 TRAFFIC GENERATION**

- 7.3.1 Staff numbers of 9-15 are stated. There are significant additional commercial vehicles and courier vans (photos to this effect included).
- 7.3.2 The applicants state that visitors are infrequent, yet note that the location is an important part of the company's profile and client/business development. This is a contradiction.
- 7.3.3 This is a well-established recreational area adjacent to woodlands and harbour, with roadways that are rural in nature and in heavy recreational use. The roadways are not capable of taking commercial traffic.
- 7.3.4 Required sightlines at the T junction to the north of the site cannot be achieved as there is no guarantee of consent from the relevant landowners.

### **7.4 ALTERNATIVE LOCATIONS AND FLOODING**

- 7.4.1 There is an industrial estate in nearby Carrigaline which is well suited for accommodating such uses. This area is designated as a green belt and landscape protection area.
- 7.4.2 The proposed extension is below the minimum floor level set out by the planning authority to protect against flooding. Refers to potentially unauthorised addition of rock armour along the shore by the applicant.

### **7.5 WASTEWATER**

- 7.5.1 The applicant states that there is a laboratory testing facility being operated on site. It has not been made clear what emissions

discharge to the ground from this laboratory, and what impact they would have on the groundwater or the adjacent SPA.

- 7.5.2 The letter of consent regarding discharge of wastewater to adjoining lands contains no identifiable name and address of the individual granting consent. The land in question is being actively farmed, leading to concerns that the effluent could be contaminated.

## **8.0 SUMMARY OF RESPONSES**

### **8.1 PLANNING AUTHORITY**

- 8.1.1 The planning authority have not responded to the matters raised in the appeal.

### **8.2 FIRST PARTY RESPONSE TO THIRD PARTY APPEAL**

- 8.2.1 A response submitted on behalf of the applicant counters the grounds of the appeal by way of a report from McCutcheon Halley Walsh Planning consultants. Sections of this report reiterate content found elsewhere on file. In addition, the following points are of note.
- 8.2.2 Under PL04.243412 (PA Ref.13/5601), the board was of the opinion that they were precluded from considering a grant of permission on the basis that it would facilitate the consolidation and intensification of development which was not authorised by a permission. The current comprehensive application seeks to address this issue.
- 8.2.3 Aside from the issue above, the current application sought to address the issue of Appropriate Assessment and wastewater.
- 8.2.4 The applicants assert that they have a unique business which is not a typical of intensive business/office use.

## **9.0 OBSERVERS AND DIRECT SUBMISSIONS TO THE BOARD**

- 9.1.1 Two observations and one direct submission have been received by the board.

### **9.2 PATRICK OLIVER THOMPSON,**

- 9.2.1 The observer gives an address at Crosshaven, which is across the river/estuary from the subject site.

9.2.2 The observer states that he lived at Strand Farm in the past, inheriting it in 1965 from his father. He tried 4 times to obtain planning permission but was refused each time. The applicants have been carrying out unauthorised commercial development on the property for many years, and have in recent years intensified activities. Notes previous refusals and asserts that circumstances have not changed that would warrant a re-evaluation.

### **9.3 SUSAN HACKETT, VIOLET O'LEARY, T. PAUL AND PAULINE MCCARTHY**

9.3.1 The observers give addresses in Curraghbinny, in the wider vicinity of the subject site.

9.3.2 The grounds of the observations are largely reflected in the appeal ground summarised at Section 7.0 above, and in broad terms object to the proposed development.

### **9.4 DEPARTMENT OF AGRICULTURE, FOOD, AND THE MARINE**

9.4.1 The board referred the proposed development to the DoAFM for comment in relation to foreshore issues. Their response says that due to legislative changes in 2010, such matters should be referred to the Department of Environment, Community, and Local Government.

9.4.2 No valid response was received following a subsequent referral to the DoECLG.

## **10.0 ASSESSMENT**

Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Principle of development and policy context
- Traffic and parking
- Wastewater
- Flood risk
- Screening for Appropriate Assessment



## **10.1 PRINCIPLE OF DEVELOPMENT AND POLICY CONTEXT**

### **10.1.1 Issues around retention**

10.1.2 In the first instance, it is worth dealing with the issue of this application being for retention permission as opposed to permission, as this appears to be central to much of the submissions on file. It is clear to me from the site history that the applicant has undertaken a significant amount of works and intensification of use on this site since purchasing it in 1991, and that this has occurred against a backdrop of retention applications, all of which have been refused, and enforcement proceedings, none of which appear to have rolled back any of the development on site.

10.1.3 Nevertheless, it is my opinion that in assessing any retention application, it is necessary to be careful as to confer neither reward nor punishment on the applicant by virtue of the fact that the development is in existence. Rather, it is appropriate to assess the proposal as if an application is being made for permission in the first instance. This is the approach I intend to take in this assessment, albeit that the 'facts on the ground' provide a useful baseline for assessment.

### **10.1.4 Policy context**

10.1.5 The subject site is located within a 'Prominent and Strategic Metropolitan Greenbelt Area' associated with Cork City. Within this area, there is an acknowledged pressure for development, particularly from urban generated housing.

10.1.6 The planning report submitted with the application, the planning officer's report, and the appeals all cite Objective RCI 5-6 (see Section 6.1 above for text of objective) in relation to the expansion of established commercial uses in Greenbelt Areas. The applicants assert that they can avail of this 'dispensation' whereas the appellants assert that this policy cannot be applicable due to the retention aspect of the proposed development.

10.1.7 As per the previous section of this assessment, I propose to set aside issues around retention. As such, I consider that there is scope to consider the proposed development under RCI 5-6 as an expansion to an established commercial use.

### **10.1.8 Facts on the ground**

10.1.9 There is little dispute between the parties to the appeal as to the historic and current pattern of use at this site, as documented in the earlier sections of my report. In summary, the premises had been in residential use (East building), with an ancillary building (South building) in use by the house's occupant as a yacht design business, with a number of staff.

10.1.10 The applicant or an associated party purchased the premises in 1991. In 2004 and 2005 there were refusals of permission for change of use from residential to office and vice versa, along with associated enforcement cases. In 2013 there were 3 applications as follows

- to retain the change of use of the dwelling (East building) to office
- to demolish/construct a shed/warehouse (North building).
- Retain alterations to the offices (South Building).

10.1.11 The first two of these applications were deemed withdrawn, while the 3<sup>rd</sup> was refused on appeal to the board. There is a current enforcement case open in relation to the unauthorised works.

10.1.12 The activities on site, on the basis of the information supplied and my site inspection, would appear to be administration, laboratory work, and storage in association with a company that harvests seaweed, processes it (off site), and sells products onward to the food and health industries.

10.1.13 It would appear that the South building is not in full use, with some offices and other rooms recently refurbished and fitted out, but not occupied by staff. Similarly, the North building would appear to be used to a low intensity, largely for the storage of paper files.

### **10.1.14 Impacts of the commercial uses on site**

10.1.15 It is clear that the preferred landuses in a Greenbelt area would be agricultural and recreational, with some room for limited residential development and established commercial uses. It is my opinion that residents in the vicinity do not have a reasonable expectation to be surrounded by residential and compatible landuses as might otherwise be the case in lands zoned for residential development.

That being said, reasonable consideration must be given to the impacts on these residents' residential amenities.

- 10.1.16 In my opinion, the pattern of commercial activity evident on site is within the bounds of what can be considered reasonable given the site's relationship to surrounding houses in terms of layout and separation distances. I note the planning authority's Condition No. 13 which sets noise limits.
- 10.1.17 However, while the pattern of activity as currently exists is acceptable, I have concerns that the low intensity of use at present, and the capacity for expansion that the applicant has created by virtue of works to the North and South buildings, and the removal of all residential use from the East building, has created a significant amount of 'headroom' for further expansion. Should permission be granted for the development as proposed, significant intensification could occur on site without necessitating any recourse to the planning system.
- 10.1.18 Furthermore, while there is 'headroom' within the applicant's operations, an additional concern would be the impacts that might arise from a different operator buying or letting the premises, with a more intensive pattern of activity. A related issue is raised by the planning authority, who have concerns about subdivision and subletting, which they address by way of Condition 3.
- 10.1.19 In addressing these concerns, there are perhaps 4 broad options available
- a) Refuse permission on the basis of the capacity of the buildings on site to accommodate unacceptable patterns of activity.
  - b) Issue a temporary permission with a view to the site's ultimate return to residential use.
  - c) Issue a split decision that would authorise the South and North buildings, but not the change of use for the East building, in order to limit the floorspace available for commercial uses.
  - d) Grant permission subject to conditions attempting to regulate the use of the premises.
- 10.1.20 In my opinion, the most appropriate approach would be option b), the issuing of a temporary permission.

## **10.2 TRAFFIC AND PARKING**

- 10.2.1 In my opinion, ample parking is available on site, and the issue of sight lines at the junction with the public road has been adequately addressed by way of the further information request. There are no outstanding issues of road safety or capacity.

### **10.3 WASTEWATER**

- 10.3.1 The information presented with regard to the upgrade to the wastewater treatment system on site, as supplemented by way of unsolicited further information, would appear to be consistent with all relevant policies and guidelines, and would not represent an undue risk to groundwater or surface water.
- 10.3.2 I note that the proposed percolation area, which is located in an adjacent field, with the consent of the landowner, is the requisite distance away from the shoreline, in accordance with EPA guidelines.

### **10.4 FLOOD RISK**

- 10.4.1 On the issue of flood risk, I note that the applicant states that he finished floor levels of the buildings are between 2.7 and 3.0 [m aOD]. The Lee CFRAMS study report<sup>2</sup> states that Cork City Council requires all new developments to have a minimum floor level of 3.1m AOD. This minimum floor level has been in place since the 1960's and relates to the maximum water level in Cork City during the 1963 flood.
- 10.4.2 As such, the proposed development is 0.4m below the level that would be permitted in the City. However, the city is subject to both coastal and fluvial flooding, whereas the subject site is subject to coastal flood risk only.
- 10.4.3 Table 5.2 of the CFRAMS refers to Crosshaven, stating that
- Flooding at Crosshaven results from tide and storm surges. Flooding mainly affects Lower Road and Point Road with the majority of properties prone to flooding at the junction of these two roads. Minor flooding starts for the 50% AEP event with more extensive flooding occurring for flood events greater than the 1% AEP event.*
- 10.4.4 On the balance of the information available, I do not consider that there is sufficient evidence to suggest that flood risk is an issue in this instance.

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<http://www.opw.ie/en/media/Lee%20Catchment%20Flood%20Risk%20Management%20Plan.pdf>

## **10.5 SCREENING FOR APPROPRIATE ASSESSMENT**

- 10.5.1 I note the AA screening report prepared by the applicant and the screening exercise undertaken by the planning authority.
- 10.5.2 The site is around 220m from the Cork Harbour Special Protection Area, is 8km downstream from the Great Island Channel Special Area of Conservation.
- 10.5.3 Potential likely effects are runoff to groundwater of potential pollutants. Using the source-pathway-receptor model, and considering the proposed wastewater treatment system on site, I do not consider that the proposed development would be likely to impact on the qualifying interests of the Natura 2000 sites.
- 10.5.4 It is reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and in particular specific sites Great Island Channel SAC (Site code 1058) and Cork Harbour SPA (Site code 004030) in view of these sites' conservation objectives and an appropriate assessment (and submission of a NIS) is not therefore required.

## **11.0 CONCLUSION AND RECOMMENDATION**

Based on the above, I recommend that permission be granted. The existing operations on site are acceptable in terms of their impacts on the surrounding areas. I have concerns regarding the capacity of the premises to accommodate a more intensive and disruptive pattern of uses. I consider the best (of 4) options to address this is to issue a temporary 10 year permission.

## 12.0 REASONS AND CONSIDERATIONS

Having regard to the development plan objectives for the area and the pattern of development in the area, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area and would not be prejudicial to public health and, therefore, would be in accordance with the proper planning and sustainable development of the area.

### Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 2<sup>nd</sup> day of September 2015 and the 21<sup>st</sup> day of December 2015, 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 interests of clarity

2. This permission shall be for a period of 10 years from the date of this order. Prior to the end of this period, all structures that were unauthorised prior to this order shall be removed and all uses that were unauthorised prior to his order shall cease unless, prior to the end of the period, permission for its their retention shall have been obtained.

Reason: To allow for a review of the development having regard to the circumstances then pertaining and in the interest of recreational amenity.

3. The structures as detailed on the documentation submitted with the application shall be used solely as that permitted herein as a single business entity and no change of use/subdivision shall take place without benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning & Development Regulations 2001, as amended.

Reason: To safeguard the amenities of the area.

4. Notwithstanding the exempted development provisions of the Planning & Development Regulations 2001, as amended, no additional structures shall be erected within the site curtilage save with the benefit of a further planning permission.

Reason: To safeguard the amenities of the area.

5. Surface run off from the development shall discharge to the foreshore via an appropriately (hydraulic) sized bio-swale.

Reason: To safeguard the amenities of the area, and minimise water pollution.

6. No polluting matter, soiled water, silt or gravel shall be allowed to drain from the site into any watercourse and detailed proposals for installation and maintenance of silt traps and other measures to ensure this shall be submitted and agreed with the Planning Authority before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing.

Reason: To prevent water pollution.

7. Design calculations and detailed working drawings of the proposed wastewater treatment plant together with a description of equipment, operation & maintenance procedures and control system shall be submitted and agreed with the Planning Authority before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing.

Reason: In the interests of public health and orderly development.

8. An on-site wastewater treatment and pumped disposal system via soil polishing filter, in accordance with plans and particulars submitted with this application, shall be installed in the proposed location, and maintained by the operator. The WWTP shall comply with the requirements of EN 12566-3 and Irish National Annex, and shall meet

the setback distances per the Wastewater Treatment Manuals: Treatment Systems for Small Communities, Business, Leisure centres and Hotels (EPA, 1999),

Construction of the wastewater treatment system shall be supervised by a suitably qualified specialist, and an "as built" certificate indicating compliance with the design details, specifications, and relevant EPA requirements, shall be submitted to the Planning Dept. following completion of the works.

The existing septic tank shall be decommissioned to the satisfaction of the Planning Authority.

The Applicant shall satisfy the Planning Authority that an appropriate right of way has been agreed with the land owner where the polishing filter is proposed to be situated.

Prior to the waste water works being brought into use, the Applicant shall apply for a Section 4 Local Government (Water Pollution) Act 1977 to 2007 from Cork County Council.

Reason: To safeguard the amenities of the area and to prevent water pollution.

9. All domestic wastewater pump sumps or other chambers from which spillages might occur shall be fitted with high-level alarms. The alarm systems contain an audible and visible alarm, and shall relay via GSM dial out to a responsible person. There shall be no emergency overflow arrangements from any such sump.

Reason: To safeguard the amenities of the area, and prevent water pollution.

10. The drainage field shall be designed and built in accordance with BS 6297:2007. Details to be submitted and agreed with the Planning Authority before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing.

Reason: In the interests of public health.



11. Noise levels emanating from the proposed development when measured at the site boundaries shall not exceed 55 dBa (15 minute Leq) between 08.00 hours and 20.00 hours, Monday to Saturday inclusive, and shall not exceed 45 dBa (15 minute Leq) at any other time. Measurements shall be made in accordance with I.S.O. Recommendations R.1996/1 "Acoustics - Description and Measurement of Environmental Noise, Part 1: Basic quantities and procedures".

If the noise contains a discrete, continuous note (whine, hiss, screech, hum, etc.), or if there are distinct impulses in the noise (bangs, clicks, clatters or thumps), or if the noise is irregular enough in character to attract attention, a penalty of +5 dBA shall be applied to the measured noise level and this increased level shall be used in assessing compliance with the specified levels. (Ref. BS 4142 Section 7.2)

Reason: To safeguard the amenities of the area

12. All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the Planning Authority. In any case no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on-site arrangements for the storage of recyclable materials prior to collection shall be made to the satisfaction of the Planning Authority.

Reason: To safeguard the amenities of the area

13. Prior to the commencement of development the developer shall consult with Irish Water in relation to the requirement for a connection agreement for the development.

Reason: In the interests of orderly development

14. The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

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G. Ryan  
Planning Inspector  
13<sup>th</sup> May 2016