



An  
Bord  
Pleanála

## Inspector's Report ABP-311803-21.

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<b>Development</b>	Retain of house extension and reconstruction of retaining wall.
<b>Location</b>	North Cregg, Templenow, Fermoy, Co Cork.
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	21/5533.
<b>Applicant(s)</b>	Oliver & Mary McCarthy.
<b>Type of Application</b>	Retention permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Simon & Maria Barber.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	26/01/2022.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of North Cregg, Templenoe, Co. Cork, approximately 5km to the west of the town of Fermoy and 3.6km to the east of the village of Ballyhooly. The site is located adjacent to the N72 National Secondary Road along an identified scenic route and is currently accessed from the national road. There are a small number of one-off dwellings located on the road, including the appellants property which is surrounded by the applicants site and fronts onto the N72.
- 1.2. The subject site has a stated area of 1.262 hectares and is currently occupied by a detached, two storey over basement 19<sup>th</sup> Century house. The house is located at an elevated point, approximately 38m from the N72 National Secondary Road which forms the southern boundary. The existing house comprises a 5-bay hipped roof building with gable chimneys and steps up to the centrally located front door. It appears that the house has been extended in the past and the existing house on the site has a stated floor area of 195m<sup>2</sup> with the floor area of extensions to be retained indicated at 102m<sup>2</sup>.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for retention for extension to existing dwelling as constructed and for reconstruction of retaining wall and for set back fence to southern boundary and all associated works all as constructed on site, all at North Cregg, Templenow, Fermoy, Co Cork.
- 2.2. The application included the following documents:
  - Plans and particulars
  - Completed planning application form
- 2.3. A cover letter was submitted with the application which sought to set out the construction issues which led to the deviation from the permitted development.
- 2.4. The Board will note that the applicant submitted unsolicited further information in response to the third-party objection to the retention application. The submission seeks to address the points raised in the third-party objection as follows:

- The description of the development is clear and unambiguous.
- It is disagreed that the design of the contemporary extension is inconsistent with the patten of development in the area and the objectors own extension bears similar characteristics.
- The drawings are accurate and not misleading. There is a separation distance of 22.3m and all finished floor levels as constructed have been lowered by 1.1m from those permitted. Levels were not raised on the site.
- No existing natural screening along the boundary has been removed and the installation and nature of the setback boundary fence had been amicably discussed.
- The footprint of the extension is the same as granted with a storeroom / toilet added to the rear.
- The stairwell window is 25m from the nearest north facing first floor window of the objectors dwelling.
- The setback fence as constructed at a mean height of 2050mm above ground level is reasonable, practical and fair.
- Previous archaeological conditions of permission were not ignored as suggested.
- The extension is inextricably linked to the house.
- The development is an extension to an existing house and does not lead to intensification of the entrance.
- Sheet limestone rock, confirmed by the archaeological report, was encountered on the back wall foundation strip resulting in a shift southward of the entire extension footprint. This left 5.4m<sup>2</sup> of the entire footprint extending 1.3m beyond the frontline, 1.6m back from the porch front line. To attempt breaking rock mechanically could have greatly endangered the integrity of the existing old dwelling.

The submission includes an Archaeological Monitoring report for the development.

2.4.1. Following a request for further information, the applicant submitted a Site Assessment Report which noted that the existing septic tank on the site is not in

compliance with the 2021 EPA CoP. A new pre-cast concrete double chamber septic tank and percolation area are to be installed.

- 2.4.2. Following the submission of a further letter from the objector, the applicant advised that the suggestion in the third-party submission is ambiguous and false.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 10 conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening, EIA and Flood Risk assessment.

The Planning Report concludes that the proposed development is acceptable in terms of principle and seeks to address the design of the extension to be retained. It is considered that the as constructed extension (to be retained) is more impactful than the permitted extension. It is concluded that the impact of the extension on the original house is not so significant that it cannot be considered. The report also considers that the extension does not have a significant visual impact on the character of the area or will undermine the protected views from the designated scenic route.

With regard to potential impacts on residential amenity, the Planners Report notes that the building is not set directly behind the neighbouring property and that there is planting on the boundary as well as a newly constructed fence. It is not considered that the development would have an overbearing impact and that overlooking, and overshadowing are not issues.

In terms of engineering issues, the Planning officers report notes the Area Engineers report. In this regard, it is noted that as the proposed development comprises an extension to an existing house, there is no conflict in terms of national policy or the CDP policy. The submission of TII notes no observations in relation to the application. With regard to the existing treatment system on site, it is noted that the previous application proposed to upgrade the system. It is further noted that there is an existing connection to the public water supply.

The initial report concludes that as the concern in relation to the existing on site wastewater treatment unit was raised, this concern will need to be addressed to complete the AA Screening process. Further information is required with regard to the upgrade of the existing on-site WWTP.

Following receipt of the response to the FI request, the final Planning Officers report, which includes AA Screening, concludes that the proposed development is acceptable. The Planning Officer recommends that permission be granted for the proposed development and this recommendation formed the basis of the Planning Authority's decision to grant planning permission.

### 3.2.2. Other Technical Reports

**Ecology Report:** The report notes the history of the site, and the permitted development under PA ref. 20/5096. The report notes that the site is located c25m from the Blackwater River (Cork/Waterford) SAC, and 130m to the north of the actual main channel of the Blackwater River, 70m from the flood zone of floodplain of the river. It is further noted that no AA Screening report was submitted.

The report concludes that no land take within the SAC will occur or has occurred and no direct impact on the habitats and species has arisen.

The development does not present a significant risk to the levels of occurrence, population density and habitats either during construction or post construction due to disturbance or displacement effects. There are no features or habitats of value within the proposed development site.

Due to the scale of the works, lack of direct hydrological connection, the presence of buffers between the site and the River Blackwater, impacts are only likely to arise from extremely severe levels of siltation during construction. The risk of silt being generated is low.

The report concludes that the development is unlikely to pose a risk of significant effects on the QIs of the Blackwater River SAC. No ecological issues are noted.

The report advises no objection subject to conditions.

Following the submission of further information, no further comments are noted.

**Area Engineer:** The report notes the presence of an old septic tank and no piped percolation area. The report requests that further information be sought for upgrade proposals and site assessment to 2021 EPA guidelines.

In addition, independent water quality test results on the existing well if application and location to be confirmed.

Following the submission of further information, the AE noted that the proposal to upgrade the existing treatment system to a new septic tank and percolation area are acceptable.

### 3.2.3. Prescribed Bodies

**TII:** No observations.

Following the submission of further information, the TII resubmitted a letter advising no observations.

### 3.2.4. Third Party Submissions

There is 1 no. third party objection/submission noted on the planning authority file. The issues raised are summarised as follows:

- The validity of the application is questioned as the description of the development to be retained in the notices is vague and unclear.

- The applicant continued to work on the property even after enforcement notices were served.
- The extension as constructed does not respect or reflect the character of the existing building.
- The drawings are inaccurate and misleading and separation distances do not accord with the provisions of the Development Plan.
- Due to the proximity, height, mass, scale, bulk, length and position on an elevated site, the development will have an unacceptable negative impact on the privacy, general residential amenity and visual amenity of the objectors property and garden, and would depreciate the value of the property.
- The extension on the prominent elevated site would be visually obtrusive and would have a negative impact on the character of the area located on the scenic route, contrary to the CDP.
- The development is inconsistent with the pattern of development in the area.
- It is submitted that the applicant has not complied with conditions and has required retention applications to be lodged.
- The development will result in overlooking due to the elevated levels on the site. It is submitted that the applicant has raised the levels of the site.
- The fence to be retained is located close to the boundary and there is no proper defined boundary at present. Issues raised with the construction of the retaining wall.
- It is submitted that the location of the fence, its proximity to the boundary and excessive height will have an overbearing impact on the third-party property.
- The development for retention is essentially an independent unit being sought by stealth, contrary to the development plan due to the intensification of use of an existing entrance onto the National Secondary Road.

It is requested that permission be refused for the retention application.

Following the submission of the response to the FI request, the objector submitted that the details of the existing septic tank system is unclear. It is requested that the ambiguity of the drawings be addressed by condition to ensure that the house and

extension are served by one treatment system. It is still argued that the extension to be retained is to be used as an independent dwelling. The original issues raised are considered to remain relevant.

## 4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

**PA ref: 15/6222:** Permission sought by the current applicants son for the construction of a dwelling house, domestic storage shed, septic tank and percolation area on the northern area of the current site at North Cregg, Templenow, Fermoy, Co Cork. Permission was refused for the following stated reason:

Access to the subject site is proposed via an entrance off a cul de sac adjacent to the National Secondary Road, the N72 and it is considered that the proposed development would: -

- Involve the intensification of use of an existing entrance directly onto the National Secondary, N72 Route by reason of the additional traffic likely to be generated by the new dwelling proposed, at a point where sightlines are poor,
- Conflict with the Council's Policy, as expressed in the specific objective TM 3-1 of the Cork County Development Plan 2014 and conflict with the Department of the Environment Guidelines with respect to Spatial Planning and National Roads (January, 2012) which seek to curtail development along National Roads, to safeguard the strategic role of the National Road Network and to avoid intensification of existing accesses to national roads,

therefore the traffic movements likely to be generated by the proposed intensified use of an existing entrance onto the N72 would interfere with the safety and free flow of traffic on the national road, at a point where sightlines are poor and would contravene the County Development Plan, be contrary to S 28 Guidelines and would be contrary to the proper planning and sustainable development of the area



**PA ref: 17/6257:** Permission again refused to the applicants son for the construction of a dwelling to the north of the family home site for the same reason as above. at North Cregg, Templenow, Fermoy, Co Cork.

**PA ref: 19/6496:** Permission granted to the current applicants for retention of the permanent closure of agricultural entrance and passageway and retention of new agricultural entrance and passageway and all associated works at North Cregg, Templenow, Fermoy, Co Cork.

**PA ref: 20/5096:** Permission granted for an extension to the side of the existing dwelling house and to upgrade existing septic tank with a new tank and percolation area and permission for retention of the front porch and the east side extension to the kitchen and all associated works at North Cregg, Templenow, Fermoy, Co Cork.

**Enforcement:**

**EF21008:** Enforcement proceedings were started as the applicant did not construct the extension permitted under 20/5096 in accordance with the permission granted.

## **5.0 Policy and Context**

### **5.1. Development Plan**

- 5.1.1. Cork County Development Plan 2014 is the relevant policy document pertaining to the subject site. The Board will note however, that the CDP does not include specific policies relating to domestic extensions.
- 5.1.2. The subject site is located within a high value landscape and as such objective of G1 6-2 is relevant and seeks to minimise the visual and environmental impact of development in this landscape.
- 5.1.3. The site is also located off the National Secondary Road, the N72 and as such, Policy TM 3-1 is relevant.

## 5.2. Natural Heritage Designations

The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 25m to the south of the site.

## 5.3. EIA Screening

- 5.3.1. The application was submitted to the Board after the 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 5.3.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units
  - Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.
- 5.3.3. The proposed development comprises the retention of an extension to a rural house in Co. Cork, on a site of 1.262ha. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA. The requirements of section 172(1)(b) of the Planning and Development Act 2000 (as amended), in terms of sub-threshold developments, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.
- 5.3.1. Having regard to:
- (a) the nature and scale of the development,
  - (b) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact

assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The appeal document sets out the planning history of the site and the issues raised reflect those raised during the PAs assessment of the proposed development and are summarised as follows:

- The validity of the application is questioned.
- Accuracy of drawings raised and are described as inaccurate and misleading.
- The design of the constructed extension does not maintain the character of the existing dwelling and does not accord with the proper planning and sustainable development of the area.
- The development has a negative impact on the residential amenity of the adjacent property and due to its elevated position, height, proximity to the boundary, length, mass and bulk, it has a dominating presence.
- The proposal does not allow for the required separation distance of 22m for first floor opposing windows.
- The fence being constructed / retained / completed is situated close to the boundary with the appellants and there is no reliable defined boundary on the property line at present. The fence will have an overbearing impact on the appellants property.
- Method of construction of the retaining wall.
- The development if permitted will depreciate the value of neighbouring properties.
- The development if permitted will impact on a scenic route and on the visual amenity and character of the area. There is an over reliance on vegetative screening.

- The applicant is seeking an independent dwelling unit and the proposal amounts to planning by stealth.
- Given the planning history of the site, and non-compliance with conditions of permission, it is submitted that the Council should be extending their powers under Section 35 of the Planning and Development Act as there is a real and substantial risk that the development / retention to which this application relates would not be completed / retained in accordance with such permission if granted or with a condition to which such permission if granted would be subject.

It is requested that the Board refuse permission for the retention application.

## 6.2. First-Party Response to Third-Party Appeal

6.2.1. The applicants' have responded to the third-party appeal. The response sets out the detail of the third-party conclusions and seeks to address each one in order.

6.2.2. The response to the grounds of appeal are summarised as follows:

- The application and public notice were accurate, clear and unambiguous. The drawings are accurate and not misleading.
- The contemporary design of the extension clearly defines it as an extension to a 19<sup>th</sup> century building. The applicants disagree with the third party assessment that it is inconsistent with the pattern of development in the area and notes that the third-party's own extension bears some of the same characteristics.
- There is a separation distance of 22.3m and there are no directly opposing windows.
- All the finished floor levels as constructed have been lowered by 1.1m from those permitted and the windows have been downsized. The appellants were aware of the presence of the existing dwelling house first floor windows when building their extension in 2010/2011.
- Works to the boundary were discussed with the appellants and agreed. It is not agreed that the appellants garden is overlooked. The setback fence as constructed is reasonable, practical and fair and evergreen planting could

resolve the longstanding garden privacy issues on both sides of the boundary line.

- The applicant disagrees with the conclusion that the development is visually obtrusive or impacts on the character of the landscape.
- The site levels were not raised and conditions attached to previous grant of permission have not been ignored or disrespected as suggested.
- The dwelling and extension as constructed are inextricably linked and incidental to the enjoyment of the dwelling house as a whole unit.
- The permitting of an extension does not lead to intensification in terms of the existing entrance.

The submission also addresses other points made in the appellants submission, and are summarised as follows:

- No work has continued since the 8<sup>th</sup> of May 2021 and the extension remains incomplete.
- The stairwell window has no impact.
- The retaining wall is situated north-west of, and is not connected to, the appellants property and therefore has no impact.
- It is not true to say that there is no defined boundary on the property line. There is a post and wire fence interwoven by a natural hedgerow which was placed there in the late 1940s / early 1950s.
- The photographs submitted do not accurately represent distance or what is actually on the ground.
- The response again sets out the construction issues which led to the deviation from the permitted drawings and notes non-compliance issues with the appellants property.
- Other descriptions of the applicants property are exaggerated and inaccurate. The extensions being regularised are in excess of 30 years old and their status needed to be regularised.

It is requested that the Board uphold the decision of the PA to grant permission.

### 6.3. **Planning Authority Response**

The Planning Authority submitted a response to the third-party appeal noting that the relevant issues have been covered in the technical reports already forwarded to the Board. The PA has no further comments to make.

### 6.4. **Observations**

None.

## 7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the development the subject of this retention application and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Visual Impacts
3. Residential Amenity Impacts
4. Water Services & Site Suitability Issues
5. Other Issues
6. Appropriate Assessment

### 7.1. **Principle of the Development:**

- 7.1.1. The proposed development seeks to retain a domestic extension at an existing and long-established detached house. I note that permission had been granted for the construction of an extension to the house, with a stated floor area of 57.2m<sup>2</sup>, and the current application has arisen due to deviations from that permitted development. I note that the floor area of the original house extends to 195m<sup>2</sup> which includes various extensions, some of which were constructed 30 years ago. The extension

the subject of the current appeal extends to 102m<sup>2</sup> in floor area over two floors. In principle, there is no objection to the development of a residential extension.

7.1.2. There are three elements to the development the subject of this retention application as follows:

(i) for the extension to the dwelling as constructed (102m<sup>2</sup>)

(ii) reconstruction of retaining wall

(iii) set back fence to southern boundary

And all associated site works.

7.1.3. With regard to item ii) above, I would note that the appellant has raised concerns in terms of the reconstruction of the 1.2m retaining wall. I note that this wall has been constructed wholly within the applicants property and does not appear to have any impact or connection with the appellants property. I note that ground works were carried out on the appellants property when constructing their permitted extension which would have reduced site levels to the rear of their home, but I do not consider that any impact arises from the reconstruction of the retaining wall as detailed. I therefore have no objection to this element for retention.

7.1.4. In terms of item (iii) of the elements for retention, I note that the applicant has constructed what is referred to as a 'set back fence' along the north/south boundary between the appellants and subject appeal site. This fence does not appear to correspond with the actual party boundary, being set approximately 1m into the appeal site. While the appellant suggests that there is no defined boundary, I would accept that there is in fact a post and wire boundary which appears to have been in place for many years. This is located to the south of the newly erected 'set back' fence. I have no objection in principle to the proposed retention of the set back fence and I propose to deal with the visual impact and impact on residential amenity of the fence further below.

7.1.5. I therefore have no objection in principle to the construction of a residential extension at the site, subject to consideration of matters relating to residential amenity and visual impact which I will discuss further below.

## 7.2. Visual Impacts

- 7.2.1. The subject site is identified as being located within a high value landscape and adjacent to a designated scenic route (Castlehyde – Fermoy Bridge – S9). The permitted extension on the site rose to 5.85m and extended to 9.6m in length and 7.2m in depth. The total floor area, over two floors amounted to 57m<sup>2</sup> and provided for a ground floor master en-suite bedroom with the first floor comprising a new en-suite bathroom for existing Bed 2. The design of the extension reflects that of the as constructed extension with a flat roofed design.

	<b>Permitted Extension</b>	<b>Extension to be retained</b>
<b>Height</b>	5.85m	5.55m
<b>Length</b>	9.6m	11.6m
<b>Depth</b>	7.2m	11.86m
<b>Floor Area</b>	57m <sup>2</sup>	102m <sup>2</sup>

In terms of the as constructed extension, the Board will note that the main body of the extension depth extends to 7.8m with the additional 4.2m comprising a store and a shower room at the rear of the house. If permitted, I note that this is the only ground floor WC in the property.

- 7.2.2. The extension as constructed provides for a level entry into the house via the new kitchen area and I note that the existing kitchen in the house is to be repurposed as a study / playroom. The remaining ground floor area will comprise a formal dining room and separate sitting room. The upper floor of the extension will comprise a new master suite, with the dressing room proposed on the southern space. Ultimately, if permitted, the development will see a reimagining of the ground floor living space and the addition of a master bedroom. While I acknowledge that the extension extends beyond the front wall of the house, and that the overall floor area is substantially bigger than the permitted development, I have no objections in terms of the design or scale of the extension. I consider that the scale of the residential site is capable of accommodating the extension as construction and given the contemporary design, I am satisfied that the extension reads as such, being an extension to an older house.



7.2.3. In terms of the visual impacts arising, I note that the house is set back from the public road and as the maximum speed limit applies in the vicinity of the site, together with the existing roadside boundaries and presence of trees within the front lawn area, there are no significant views towards the house. Having regard to the scale of the existing house on the site, together with the area of the wider site, I am satisfied that the extension can be accommodated on the site. I do not consider that there are any significant visual impacts arising in the vicinity of the subject site.

### **7.3. Residential Amenity**

7.3.1. It is submitted by the third-party appellant, that the development if permitted will have a negative impact on the residential amenity of their property. The appellants home is located to the south of the subject site, and is effectively surrounded on the west, north and east by the application site. The N72 comprises the southern boundary of the appellants property. The existing boundaries of the appellants property comprise a mix of stone wall with hedge to the roadside, and stone walls and natural vegetation to the remaining boundaries. The northern boundary of the appellants property backs onto the subject site and the Board will note that there is a change in site levels between the two properties, in the order of approximately 3m.

7.3.2. The appellant submits that due to the elevated position of the extension, together with the height, proximity, length, mass and bulk, it has a dominating presence. I also note that the accuracy of the drawings is questioned in terms of the separation distance between the first floor opposing windows. The appeal also raises concerns in terms of the proximity of the fence to the boundary and the overbearing impact this has on the appellants property.

7.3.3. The Board will note that the subject extension is not located directly to the rear of the appellants property, and as such, there is no issue with regard to opposing windows. There is a separation distance of 22m between first floor windows, measured on the diagonal which is acceptable. I also note that the existing boundaries between the two properties includes a number of trees which rise significantly higher than the extension. While these trees offer seasonal screening, give that the use of the first-floor room to the south of the extension comprises a dressing room, I am satisfied that there is very little or no scope for overlooking of the private amenity space of the

neighbouring property arising. I have no objection to the proposed retention of the extension as constructed in this regard.

- 7.3.4. In terms of the impact of the 'set back' fence erected on the site, I note that its effect is to essentially exclude view of the upper floor windows from the private amenity space of the appellants. I also note that the fence has been stepped from east to west – following the natural slope of the site – which has the effect of minimising the visual impact of the fence and reducing the potential for loss of views of the sky from the appellants amenity space. I also note that the extension as constructed is lower than that previously permitted on the site. While the overall length of the extension is longer, the additional length is located to the rear of the extension and some 28m from the neighbouring house. I also note that a number of additional trees have been planted on the northern side of the fence to provide for additional screening between the two properties.
- 7.3.5. Overall, I am satisfied that the extension can be considered acceptable and will not, if permitted, give rise to any significant overlooking or be overbearing of the adjacent residential property.

#### **7.4. Water Services & Site Suitability Issues**

- 7.4.1. In terms of site suitability, the Board will note that the existing house has been subject to a grant of planning permission for an extension which included conditions relating to the upgrading of the existing wastewater treatment system. The development the subject of this retention appeal relates to an extension, albeit larger than previously permitted, and I would accept that the proposals for the upgrading of the existing septic tank together with the installation of a percolation area, have been appropriately dealt with under the current application. It is intended that the overall development will include the upgrading of the septic tank.
- 7.4.2. I am satisfied that the proposed development is acceptable in principle. In the event of a grant of planning permission, conditions 7 and 8 of the PAs decision to grant should be included, with a requirement that the upgrading is supervised and certified by an appropriately qualified person.

## **7.5. Other Issues**

7.5.1. The Board will note the concerns raised by the third-party appellant with regard to the subject development. I would note the planning history of the site and in particular the seeking of a house for the current applicants son on the wider site. While I acknowledge the submission of the appellant with regard to the intended use of the extension, I would note that there is no indication that the extension is to be used as an independent residential unit. I note the first-party submission in relation to the servicing of the whole building and I would accept the extension and house are to be occupied as a single residential unit. A condition to this effect should be included in any grant of planning permission. I would also note that issues of compliance with conditions of said grants of planning permission are a matter for the local authority and not the Board.

### **7.5.2. Roads & Traffic**

Having regard to the nature of the proposed development, I am satisfied that the extension to an existing and long standing house on this site would not give rise to an intensification of use of the access / egress to the N72.

### **7.5.3. Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

## **8.0 Appropriate Assessment**

### **8.1. Introduction**

8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.

8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site

in view of its conservation objectives. The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 25m to the south of the site. The development the subject of this retention application and appeal is not directly connected with or necessary to the management of a European site. The applicant did not submit a Natura Impact Statement.

8.1.3. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

8.1.4. Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

## 8.2. Consultations

8.2.1. With regard to consultations, the Board will note that the Ecology Report prepared by Cork County Council noted the proximity of the site to the Blackwater River (Cork/Waterford) SAC. The report notes that:

- No land take within the SAC will occur
- The development does not present a significant risk to the levels of occurrence, population density and habitats during any phase of the development.
- No features or habitats of value are noted within the site.
- There is a lack of hydrological connections and buffers between the site and the SAC. The risk of silt being generated is low.

The report concludes that the development is unlikely to pose a risk of significant effects on the qualifying interests of the Blackwater River SAC.

8.2.2. I note that the third-party appellant does not raise concerns in terms of AA.

**8.3. Screening for Appropriate Assessment**

8.3.1. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application. The site is not located within any designated site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 20m to the south of the site.

8.3.2. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 2 Natura 2000 Sites occurring within a 15km radius of the site. I am satisfied that following site can be screened out in the first instance, as it is located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated site to the development site and therefore, I conclude that no significant impacts on the following site is reasonably foreseeable. I am satisfied that the potential for impacts on the following Natura 2000 site can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Blackwater Callows SPA	004094	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. <b>Screened Out</b>

8.3.3. I consider that the following Natura 2000 site, located within 25m of the subject site, can be identified as being within the zone of influence of the project, for the purposes of AA Screening, as follows:

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

**8.4. Qualifying Interests for Natura 2000 Sites within Zone of Influence**

8.4.1. The subject development site located within a rural environment and within 25m of the Blackwater River (Cork/Waterford) SAC which lies to the south, of the site and to the south of the N72 national secondary road. The appeal site comprises a long standing residential site which includes a two storey detached house. The site is not located within any designated site. The site does not appear to contain any of the habitats or species associated with any Natura 2000 site.

8.4.2. The following table sets out the qualifying interests for the identified Natura site:

European Site	Qualifying Interests
<p><b>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</b></p> <p>Located approx. 20m to the South of the site</p>	<ul style="list-style-type: none"> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</li> <li>• Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</li> <li>• <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</li> <li>• <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</li> <li>• <i>Petromyzon marinus</i> (Sea Lamprey) [1095]</li> <li>• <i>Lampetra planeri</i> (Brook Lamprey) [1096]</li> <li>• <i>Lampetra fluviatilis</i> (River Lamprey) [1099]</li> <li>• <i>Alosa fallax fallax</i> (Twait Shad) [1103]</li> <li>• <i>Salmo salar</i> (Salmon) [1106]</li> <li>• <i>Lutra lutra</i> (Otter) [1355]</li> <li>• <i>Trichomanes speciosum</i> (Killarney Fern) [1421]</li> </ul>

## 8.5. Conservation Objectives:

8.5.1. The Conservation Objectives for the relevant designated sites are as follows:

European Site	Conservation Objectives
<p><b>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</b></p> <p>Located approx. 20m to the South of the site</p>	<ul style="list-style-type: none"> <li>• The NPWS has identified a site-specific conservation objective to <b>maintain</b> the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets:               <ul style="list-style-type: none"> <li>○ Austropotamobius pallipes (White-clawed Crayfish) [1092]</li> <li>○ Lampetra planeri (Brook Lamprey) [1096]</li> <li>○ Lampetra fluviatilis (River Lamprey) [1099]</li> <li>○ Salmo salar (Salmon) [1106]</li> <li>○ Estuaries [1130]</li> <li>○ Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>○ Perennial vegetation of stony banks [1220]</li> <li>○ Salicornia and other annuals colonising mud and sand [1310]</li> <li>○ Mediterranean salt meadows (Juncetalia maritimi) [1410]</li> <li>○ Trichomanes speciosum (Killarney Fern) [1421]</li> <li>○ Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</li> </ul> </li>   <li>• The NPWS has identified a site-specific conservation objective to <b>restore</b> the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets:               <ul style="list-style-type: none"> <li>○ Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</li> <li>○ Petromyzon marinus (Sea Lamprey) [1095]</li> <li>○ Alosa fallax fallax (Twaite Shad) [1103]</li> <li>○ Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</li> <li>○ Lutra lutra (Otter) [1355]</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> <li>○ Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</li> <li>● The status of Taxus baccata woods of the British Isles [91J0] as a qualifying Annex I habitat for the Blackwater River (Cork/Waterford) SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this habitat.</li> </ul>
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## 8.6. Potential Significant Effects

8.6.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- Habitat loss / alteration / fragmentation: The subject site lies at a remove of some 25km from the boundary of any designated site, with the banks of the river itself located at a distance of approximately 130m. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- Disturbance and / or displacement of species: The site lies within a developed environment, being a rural house site. No qualifying species or habitats of interest, for which the designated sites are so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 sites have been designated.



- **Water Quality:** The proposed development relates to the construction of a two-storey extension to an existing house on a rural site. The development includes a proposal to upgrade the existing septic tank system and install a percolation area to serve the dwelling.

Having regard to the nominal scale of the proposed development, together with the separation distances between the site and the boundary of the SAC, I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality of the Blackwater River (Cork/Waterford) SAC (Site Code: 00217).

I am generally satisfied that the potential for likely significant effects on the qualifying interests of the Blackwater River (Cork/Waterford) SAC can be excluded given the distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

#### **8.7. In Combination / Cumulative Effects**

- 8.7.1. Given the nature of the proposed development, being the construction of a house, I consider that any potential for in-combination effects on water quality in the Blackwater River can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in the Blackwater River via rivers and other surface water features are also subject to AA.

#### **8.8. Conclusion on Stage 1 Screening:**

- 8.8.1. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

## 9.0 Recommendation

- 9.1.1. Having regard to the information submitted in support of the appeal and development the subject of retention, together with all other matters and details on the file, I am satisfied that the principle of the development is acceptable. As such, I recommend that permission be granted for the development for the following reasons and considerations and subject to the stated conditions.

## 10.0 Reasons and Considerations

Having regard to the provisions of the Cork County Development Plan 2014, the established residential use and the planning history of the site, the pattern of development in the vicinity and the scale of the development as proposed, it is considered that the extension and works proposed for retention, and subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would not, therefore, be contrary to the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 16<sup>th</sup> day of August 2021 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 existing dwelling and extension for retention shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** To restrict the use of the extension in the interest of residential amenity.

3. All relevant conditions attached to previous grant of permission for development at the site, Planning Authority reference 20/5096 shall be strictly adhered to.

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area.

4. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

(b) Treated effluent from the septic tank system shall be discharged to a percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

(c) Within three months of this grant of planning permission, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

5. The existing sept tank system shall be decommissioned and removed, or cleaned out and backfilled with selected granular fill to the satisfaction of the Planning Authority.

**Reason:** In the interest of public health.

6. 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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A. Considine

Planning Inspector

13/02/2022