



An  
Bord  
Pleanála

## Inspector's Report ABP-312404-22.

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<b>Development</b>	Dwelling house, domestic garage and WWTP. House will use existing entrance onto the public road.
<b>Location</b>	Carrigaline, Rathmore Post Office, Co Cork.
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	21/5812.
<b>Applicant(s)</b>	Dermot Hickey.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Transport Infrastructure Ireland.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	04/03/2022.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Carrigaline, Rathmore Post Office, Co. Cork, approximately 2.8km to the east of the Kerry border and Rathmore. The site lies to the south of the N72, National Secondary Road and off a stretch of the road which has a 100kph speed limit. The site is to be accessed via an existing and long established entrance which currently serves the applicants family farm yard. The applicants family home lies immediately to the east of the proposed development site and the existing house has a second vehicular entrance onto the N72.
- 1.2. The subject site has a stated area of 0.349 hectares and is currently under grass, forming part of the wider farmland holding. The site is level and adjoins the established farmyard to the south. There is a ditch along the northern boundary of the site, to the N72, and one along the eastern boundary of the site, which runs from north to south towards the rear of the existing farmyard and associated buildings.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices to construct a dwelling house and domestic garage served by mechanical aeration unit and sand polishing filter and use existing entrance onto the public road, all at Carrigaline, Rathmore Post Office, Co Cork.
- 2.2. The application included the following documents:
  - Plans and particulars
  - Completed planning application form
  - A cover letter from the applicants architect
  - A letter from the applicant setting out the reasons for the site selection.
  - Site Characterisation Form and details of the proposed WWTP to be used
  - Letter of consent from applicants father, landowner
- 2.2.1. Following a request for further information, the applicant submitted details of the existing traffic movements to and from the site via the access proposed to serve the development. In terms of the existing access, it is submitted that no works are

required to setback roadside boundaries as sight distances in excess of 240m are available in both directions. The existing access is safe.

2.2.2. With regard to the TII submission, the applicants agent submits:

- The proposal does not include a new entrance but intends to use an existing entrance, which is currently used daily by the applicant.
- Using the existing entrance will not increase and generate additional traffic movements.
- In terms of exceptional circumstances, it is submitted that the applicant needs to be close to the existing farmyard complex, and a grant of permission for the subject site would result in less traffic movements than if he lived off site.
- Living off site would result in a minimum of 6 additional traffic movements daily, increasing to 12 daily movements during busy times on the dairy farm.
- The proposal is a practical and logical solution which will result in less traffic movements.
- The current site is more suitable than alternative locations in terms of traffic movements.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 22 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 and EIA assessment.

The Planning Report concludes that the proposed development is acceptable in terms of principle in terms of settlement location policy. The report notes no objection to the proposed house design subject to a reduction in the ridge height and the proposed servicing of the site raises no issues. The report notes the proposal to use an existing access to the proposed dwelling and includes the commentary from both the Area Engineer and the TII. The report raises concerns regarding the access proposals and recommends that further information be sought in order to address the concerns of the AE.

The report concludes noting no concerns in terms of AA.

Following receipt of the response to the FI request, the second Planning Officers report concludes that the proposed amendments to the house were acceptable. The matters relating to the use of the existing access were also considered. Clarification was required in relation to the applicant demonstrating that he is working full time, only on the farm.

Following receipt of the response to the clarification request, the Planning Officer notes the evidence submitted in terms of the applicants' farming credentials. It is noted that the applicant did not confirm that he was farming fulltime and not otherwise engaged in employment elsewhere. The PO concludes that on the basis that the applicant is being honest and that he is a fulltime farmer, there is no objection to the proposed development. The final report 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

**Area Engineer:** The report notes that the applicant is proposing to use an existing farm entrance to access the proposed development. It is noted that 240m of sight lines are available.

The report also notes the submission of the TII and considers that as this is an existing entrance with adequate sightlines in both directions, the development may not adversely affect or increase traffic movements along the national road. The report requires the applicant to outline what are the existing traffic movements in/out of the entrance and what would be the

potential increase in traffic movements as a result of the development.

No issues raised regarding water services.

The report concludes that there is a slight concern with the traffic hazard associated with the development and requests that further information be sought.

Following the submission of further information, the AE noted that the level of traffic movements will not increase because of the development. A development at an alternative location will result in an increase in traffic movements. The report concludes that the proposed development is acceptable. No objections to the proposed development subject to compliance with conditions.

**National Roads Office:** The report notes that the proposal is at variance with official policy in relation to the control of development on/affecting national roads. It is submitted that the further information submission does not fulfil the policy requirements.

It is considered that ordinarily, the proposed development would intensify the use of the existing entrance in a 100kph speed limit and would adversely affect both the level of service of the road and the general safety. However, if the applicant's place of work is operating and running the dairy farm, which is located alongside the proposed development site, and that the dwelling house is to be the applicants only residence, the report considers that the intensification of use of the existing entrance is much reduced.

The Cork NRDO has no objection to the development subject to appropriate verification that farming is the applicants main occupation.

### 3.2.3. Prescribed Bodies

**Irish Water:** No objection

**TII:** The report submits that the proposed development, by itself or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network. The report recommends that permission be refused.

Following the submission of further information, no further submission from the TII was received.

#### 3.2.4. **Third Party Submissions**

None.

### 4.0 **Planning History**

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

**PA ref: 91/2421:** Permission granted for the retention and completion of an unroofed silo.

**PA ref: 89/3149:** Permission granted for farm buildings.

### 5.0 **Policy and Context**

#### 5.1. **National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

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

5.1.2. National Policy Objective 15 seeks to Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

5.1.3. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, ie. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

## **5.2. Sustainable Rural Housing Development Guidelines 2005**

5.2.1. The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and sets out the information the Planning Authority will need to enable a speedy and informed decision to be made in all areas including road safety requirements. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.2.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

5.2.3. Section 3.3.4 deals with transport and indicates the need to protect the national road network by not permitting new access to such roads for residential, commercial or industrial or other development dependent on such means of access outside of the speed limit zones for towns and villages.

## **5.3. Spatial Planning and National Roads – Guidelines for Planning Authorities, 2012**

Section 2.5 states that the policy of the PA will be to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh

apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

#### **5.4. Development Plan**

- 5.4.1. Cork County Development Plan 2014 is the relevant policy document pertaining to the subject site. The site is located in a rural area which is identified in the 2014 CDP as being Structurally Weak. Chapter 4 of the Plan, Section 4.3 identifies such areas as being less populated rural parts of the county which exhibit characteristics such as persistent and significant population decline. Section 4.4 of the Plan sets out the categories of rural generated housing need and policy RCI 4-6 relates to Structurally Weak Rural Areas stating as follows:

These less populated areas are more distant from urban areas and suffer from persistent population decline with lower demand for rural housing. Therefore, it is an objective to accommodate permanent residential development as it arises in Structurally Weak Rural Areas subject to good planning practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.

- 5.4.2. The site is also located off the National Secondary Road, the N72 and as such, Policy TM 3-1 is relevant, and in particular the following sections:
- c) Restrict individual access onto national roads, in order to protect the substantial investment in the national road network, to improve carrying capacity, efficiency and safety and to prevent the premature obsolescence of the network.
  - d) Avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 50kph apply.

#### **5.5. 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 250m to the south of the site.



## 5.6. EIA Screening

- 5.6.1. 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.
- 5.6.2. 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.
- 5.6.3. The proposed development comprises the construction of a rural house in Co. Cork, on a site of 0.349ha. 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.
- 5.6.1. 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

6.1.1. This is a third-party appeal from TII, against the decision of the Planning Authority to grant planning permission for the proposed development. The appeal document notes that the proposed development relies on the use of a private entrance directly onto the N72 national secondary road, where the 100kph speed limit applies and as such, it is at variance with the provisions of official policy.

6.1.2. The grounds of appeal are summarised as follows:

- National policy is to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads and is applicable to all categories of development.
- TII considers that the provision of a new additional house accessing the N72, regardless of the applicants housing circumstances, will inevitably bring about additional vehicular movements resulting in intensification of access onto and off the N72.
- It is considered that a grant of permission would be at variance with official policy to preserve the level of service, safety and carrying capacity of national roads and to protect the public investment in such roads and would set an undesirable precedent for further similar development.
- National roads account for less than 6% of the total length of public roads in the country and there is a critical need to maintain the strategic function and to protect, maintain and ensure the safety of this finite and critical network resource.
- The creation of new accesses and intensification of existing accesses to national roads gives rise to the generation of additional turning movements that introduce additional safety risks to road users.
- It is considered that the permission granted is inconsistent with the provisions of the Cork County Development Plan 2014-2020, in particular Objective TM 3-1. The TII does not concur with the conclusions of the PA.

- It is noted that the applicants landholding has the availability of access to a lower category local road.
- The Council appears to have relied on the NRO report, which does not represent TII's position. The Planner report dated 2 December 2021 appears to refer to the NRO comments as those of TII, which is incorrect.
- Section 206 of the DoECLG Guidelines provide a mechanism whereby a less restrictive approach may be applied to the control of development accessing national secondary roads as part of the Development Plan process. Neither the current or draft plan include agreed exceptions in this regard.
- No exceptional reasons have been outlined to justify such a significant departure from official policy and road safety considerations in this instance.
- The precedent a grant of permission would set would conflict with national policy and the provisions of the CDP.
- It is a priority to ensure adequate maintenance of the national road network in order to protect the value of previous investment.

It is requested that the Board refuse permission for the proposed development.

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

6.2.1. The applicants' have responded to the third-party appeal. The response to the grounds of appeal are summarised as follows:

- The TII appeal hinges on the presumption that the proposed development will increase the number of turning movements onto the N72. This is not the case.
- The applicant currently lives in the family home and works in the adjoining farmyard. The proposed development site will not result in an increase in turning movements onto the N72 as he will continue to run the farm in the same manner he currently does.
- Any alternative site will increase traffic movements to and from the farm as he will have to attend between 3 and 6 times a day depending on the time of year, resulting in between 12 and 24 movements on/off the N72 per day.

- Sight distances of 240m, in excess of the 215m required, are available at the existing entrance.

The Board will note that a further submission by the First Party, sent 4 days after the initial response to the third-party appeal was returned under the provisions of Section 129(4) of the Planning and Development Act, 2000 (as amended)

### **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. Roads & Traffic
3. Visual Impacts
4. Water Services & Site Suitability Issues
5. Other Issues
6. Appropriate Assessment

## 7.1. Principle of the Development:

7.1.1. The Cork County Development Plan 2014 is the relevant policy document pertaining to the subject site. The site is located in a rural area which is identified in the 2014 CDP as being Structurally Weak. Chapter 4 of the Plan, Section 4.3 identifies such areas as being less populated rural parts of the county which exhibit characteristics such as persistent and significant population decline. Section 4.4 of the Plan sets out the categories of rural generated housing need and policy RCI 4-6 relates to Structurally Weak Rural Areas stating as follows:

These less populated areas are more distant from urban areas and suffer from persistent population decline with lower demand for rural housing.

Therefore, it is an objective to accommodate permanent residential development as it arises in Structurally Weak Rural Areas subject to good planning practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.

7.1.2. In terms of the above, I note that the applicant is the son of the landowner and that he currently lives in the family home. He has not owned a house in the rural area, and the proposed house will be his permanent place of residence. In addition, it is noted that the applicant is farming the land with his father, and it appears that he is full time farming. As such, I am satisfied that the applicant has established a need to live in the rural area, and, in terms of the above policy objective, I would consider that the applicant adequately accords with the Cork County Development Plan in terms of settlement location policy, the provisions of the National Planning Framework and the guidance provided within the Sustainable Rural Housing Guidelines.

7.1.3. The site, however, is also located off the National Secondary Road, the N72 and as such, Policy TM 3-1 is relevant, and in particular the following sections:

- c) Restrict individual access onto national roads, in order to protect the substantial investment in the national road network, to improve carrying capacity, efficiency and safety and to prevent the premature obsolescence of the network.
- d) Avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 50kph apply.

7.1.4. The Board will note that the proposed development does not essentially propose to construct a new entrance onto the N72, rather, the existing entrance will be used to access the proposed residential site. The TII has submitted a third-party appeal and while I accept the principle of the proposed development, I will discuss roads and traffic matters further below.

## **7.2. Roads & Traffic**

7.2.1. The sole issue relating to the principle of the proposed development lies in the access to the site. The development proposes to use the existing entrance which is used on a daily basis to serve the applicants family home and his place of work, the family farm. I fully acknowledge the submission of the TII, and national policy which seeks to protect the the strategic function of the national road network, and the investment in the network.

7.2.2. There is a difficulty in considering this proposal given the fact that all policies pertaining to the national road network seeks to prevent any development which requires access via a national road. Of note, the Spatial Planning and National Roads – Guidelines for Planning Authorities, 2012, Section 2.5, states that the policy of the PA will be to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant. The Board will also note that the family landholding includes land which does not require direct access off the national road network.

7.2.3. As such, notwithstanding that the applicant is farming the land and currently lives in the family home adjacent to the farmyard, the site, and existing access, is located on a stretch of the N72 which has a speed limit of 100kmh, well in excess of the 60kmh stipulated in the guidelines. While I acknowledge the arguments of the applicant in terms of residing off the site, it is clear that the proposed development would intensify the use of an existing entrance onto the N72 where the maximum speed limit applies. I cannot therefore conclude otherwise but that a grant of planning permission would be contrary to TM 3-1 of the Cork County Development Plan and

would also be contrary to Department of Environment, Community and Local Government Guidelines 'Spatial Planning and National Roads' 2012.

- 7.2.4. The proposal if approved would be contrary to national policy, would result in an intensification of an existing direct access onto a national road where the maximum speed limit applies and would therefore, by itself and by precedent, endanger public safety by reason of traffic hazard.

### **7.3. Visual Impacts**

- 7.3.1. The subject site is not located within any designated or sensitive landscape. The proposed house design provides for a contemporary two storey house with an overall stated floor area of approximately 245m<sup>2</sup>. The drawings indicate a plaster finish with stone on the front elevation at ground floor level to the entrance and sitting room elevations.
- 7.3.2. The layout of the site sets the proposed house towards the centre/rear of the site. The site boundaries comprise mature hedgerows and trees to the rear (south) and eastern boundaries. The front boundary comprises a low sod and stone boundary with trees intermixed. The development will not see the removal of the front boundary and the proposed access to the site, from the existing drive which accesses the farmyard to the south-east of the proposed site, is proposed between two existing trees. There will be little impact to the existing natural boundaries.
- 7.3.3. I have no objections to the proposed development in terms of design. In terms of the visual impacts arising, I note that the house is set back from the public road. Having regard to the scale of the proposed house on the site, together with the area of the wider site, existing site boundaries and the presence of the established farmyard and associated buildings, I am satisfied that the development 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.

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

- 7.4.1. In terms of site suitability, the Board will note that the proposed house is to be served by a connection to the mains water supply and a mechanical aeration unit and sand polishing filter. Having considered the information provided on the planning authority

file with regard to the proposed development, it is clear that the sites suitability with regard to the treatment and disposal of wastewater has been considered. In this regard, the applicant submitted a completed site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site.

- 7.4.2. The site characterisation assessment, submitted as part of the planning application, notes that no bedrock was identified in the trial pit, which was dug to 2.1m bgl. The water table was noted at 2m bgl. The assessment identifies that the site is located in an area where there is no Groundwater Protection Scheme but categorises the site as being a locally important aquifer (LI) with low vulnerability. A Groundwater Protection Repeal of R1 is indicated. The bedrock type is described as 'Namurian Shale, Sandstone, Siltstone & Coal' while the soil and subsoil type is identified as silt/clay.
- 7.4.3. \*T tests were carried out on the site at a level of 0.8m bgl at the base of the hole, yielded a value of 46.67. \*P tests were also carried out at a level of 0.4m bgl, yielding a value of 29.94. The report concludes recommending a packaged wastewater treatment system and polishing filter. A Tricel Novo Package Plant, with a PE capacity of 6, will be installed and will discharge to a 15m<sup>2</sup> Sandcel Sand Polishing filter which will provide tertiary treatment. The system will discharge to groundwater with a hydraulic loading rate of 10l/m<sup>2</sup>.
- 7.4.4. I am satisfied that overall, if permitted, the development is acceptable in terms of site suitability for the treatment and disposal of wastewater arising from the development.

## 7.5. Other Issues

### 7.5.1. 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 250m to the south of the site. The development the subject of this 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 no issues relating to impacts on ecology are noted from any party.

### 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 250m to the south of the site. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. The Blackwater River (Cork/Waterford) SAC (Site Code: 002170) is the only 2 Natura 2000 Sites occurring within a 15km radius of the site.
- 8.3.2. While a connection to the Natura 2000 site is not obvious, I did note that there is a small ditch to the north of the site, along the N72. This ditch turns south along the eastern boundary of the site for a short distance towards the farmyard buildings. I could not locate a connection between this ditch and a further small watercourse, approximately 100m to the east of the site, which flows from the N72 in a southerly direction towards a larger drainage system, approximately 275m to the south-east of the site. This larger drainage system connects to the River Blackwater. As such, I consider it reasonable to assessment the potential AA impacts associated with the proposed house.

### 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 250m of the Blackwater River (Cork/Waterford) SAC which lies to the south of the site. The appeal site comprises a greenfield site which forms part of a larger farm holding and is located to the south of the N72. 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
<b>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</b>	<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></ul>

<p>Located approx. 250m to the South of the site</p>	<ul style="list-style-type: none"> <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>Ranunculon fluitantis</i> and <i>Callitricho-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> (Twaite 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>
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## 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. 250m 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>○ <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</li> <li>○ <i>Lampetra planeri</i> (Brook Lamprey) [1096]</li> <li>○ <i>Lampetra fluviatilis</i> (River Lamprey) [1099]</li> <li>○ <i>Salmo salar</i> (Salmon) [1106]</li> <li>○ Estuaries [1130]</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <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 (<i>Juncetalia maritimi</i>) [1410]</li> <li>○ <i>Trichomanes speciosum</i> (Killarney Fern) [1421]</li> <li>○ Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</li> </ul> <ul style="list-style-type: none"> <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>○ <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</li> <li>○ <i>Petromyzon marinus</i> (Sea Lamprey) [1095]</li> <li>○ <i>Alosa fallax fallax</i> (Twaité Shad) [1103]</li> <li>○ Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</li> <li>○ <i>Lutra lutra</i> (Otter) [1355]</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> (Alno-Padion, <i>Alnus incanae</i>, <i>Salicion albae</i>) [91E0]</li> </ul> </li> <li>● The status of <i>Taxus baccata</i> 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 250km from the boundary of any designated site. 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 proximate to an established farmyard. 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 house on a rural site. The development includes a proposal to install a wastewater treatment system to serve the dwelling. I note that there is a ditch on the northern and eastern side of the proposed development site. The submitted details indicate that a silt fence is to be installed along the eastern and southern boundaries during the construction of the proposed house. There is no indication as to why this silt fence is required, and one may consider it a measure to ensure the protection of the adjacent drainage ditches. As indicated above, I could not determine if there is a connection to the larger ditch to the south-east of the proposed development site which flows into the River Blackwater, however, I would note

that in order to connect to same, the ditch would run immediately adjacent to the farmyard and its associated buildings.

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 context of the site within the existing farmyard.

#### **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 on the basis of the information available, that the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is, therefore, no potential impact pathway connecting the designated site to the development site. 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 in terms of the rural housing policies of the Cork County Development Plan 2014. However, given the location of the site and the intention to access same off the N72 National Secondary Road, I recommend that permission be refused for the development for the following reason.

## 10.0 Reasons and Considerations

Access to the subject site is proposed via an existing entrance off the heavily-trafficked National Secondary Road N72 at a point where a speed limit of 100 km/h applies, 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,
- 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, and would contravene the County Development Plan, be contrary to Section 28 Guidelines and would be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector  
25/04/2022