



An
Bord
Pleanála

Inspector's Report ABP-313024-22.

Development	Construct a house with garage and associated site development works.
Location	Gurteennacloona, Ballylongford, County Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	21/431.
Applicant(s)	Maria O'Connor & Kieran McEnergy.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Maria O'Connor & Kieran McEnergy.
Observer(s)	None.
Date of Site Inspection	23/06/2022.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Gurteennacloona, Ballylongford, County Kerry, approximately 4.3km to the south-east of the village of Ballylongford, in North Kerry. The site lies to the north of the local road which connects Ballylongford in the north-west to the N69 to the south-east. The site is to be accessed via an existing entrance at the southern end of the site. There is a ribbon of development across the road from the subject site, with no residential development within 150m on either side of the subject site in this rural area.
- 1.2. The subject site has a stated area of 0.59 hectares and is currently under grass with rushes evident and is enclosed with existing natural boundaries. It does not appear that the site forms part of a wider farmland holding. The site is level and there is a ditch along the western boundary of the site which had flowing water in it the day of my site inspection. There is a further roadside ditch along the south-western side of the site.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices to construct a dwelling house, domestic garage, treatment unit and raised sand polishing filter and associated site works, all at Gurteennacloona, Ballylongford, County Kerry.
- 2.2. The application included the following documents:
 - Plans and particulars
 - Completed planning application form
 - Site Characterisation Form and details of the proposed WWTP to be used
- 2.2.1. Following a request for further information, the applicant submitted proposals to reduce the area of the site to 0.47ha by omitting an area within the original boundary. The submission also relocated the proposed access to the site to correspond with the existing access. In addition to the above, the trial hole was re-dug to enable inspection by the Council. An extension of time was ultimately requested in order to fulfil the requirements of the Council in relation to site suitability issues.

2.2.2. In addition to the above, a letter from the applicant was submitted to outline the extensive ties they have with the local area and the family plot, which has been in the applicants' family since 1990.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reason:

1. Having regard to the high water table on site and mottling encountered at 200mm below the existing ground level which indicates seasonal high water table, the Planning Authority is not satisfied, on the basis of submissions made in relation to the application, that the effluent arising from the proposed development could be adequately disposed of on site.

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 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 visual impact and residential amenity but notes concerns in terms of road safety / traffic, site suitability and settlement location policy. Further information was requested with regard to 5 issues included site suitability, pre-archaeological testing, landholding map, access to site and cross sections indicating existing ground levels and proposed finished floor levels relative to the public road.

Following receipt of the response to the FI request the second Planning Officers report concludes that the applicants have satisfied the rural settlement policy for the area and that the house design and visual impact of the overall proposal is acceptable. However, the concerns around site suitability remain, and following the

submission of a final report from the SAU, the final report recommends that permission be refused for the proposed development. This recommendation formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

County Archaeologist: The report notes that there are no recorded monuments in proximity to the proposed development. However, given the scale of the development (greater than 0.5ha), pre-development archaeological testing should be carried out across the site and a report submitted prior to any grant of permission.

A second report is noted on the PAs file which advises that a revised site layout in respect of the development where the site area has been reduced to 0.47ha has been received. As such, archaeological pre-development testing is no longer required.

Site Assessment Unit: The report notes that the applicant is proposing a connection to the public mains which is greater than 1km distance from the site.

In terms of site suitability, it is submitted that the SAU visited the site and noted a lot of rush growth on site with no signs of ponding. A drainage ditch to the front boundary was noted as was a water course /stream running along the south-western boundary.

The report notes that the site is unsuitable for a conventional septic tank system and that the assessor has made the correct design PE assumptions.

Further information is required as there are concerns with regard to soil conditions on site. It is requested that the applicant excavate a new trial hole for inspection by the SAU.

Following the re-opening of the trial holes, the SAU carried out a number of site inspections, 10th June 2021, 6th July 2021, 21st January 2022 and 16th February 2022. The findings indicate mottling at 200mm below ground level and seasonally high-

water table – photographs included. The conclusion of the SAU is that a positive recommendation cannot be made as a new WWTP would pose an unacceptable risk to the groundwater aquifer, would pose an unacceptable risk to public health and would lead to an unacceptably high risk of environmental pollution in the area.

Refusal of permission recommended.

3.2.3. **Prescribed Bodies**

Irish Water: No objection

3.2.4. **Third Party Submissions**

None.

3.2.5. **Elected Representatives**

Deputy Michael J Healy-Rae TD has made representations on behalf of the applicant. The submission notes that the site is on family owned and it is requested that the planning department look favourably on their request for planning.

4.0 **Planning History**

There is no relevant planning history pertaining to the subject site:

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.
- 5.1.4. Box 2 Stronger Rural Areas states:

The key development plan objective in relation to these types of areas should be to consolidate and sustain the stability of the population and in particular to strike the appropriate balance between development activity in smaller towns and villages and wider rural areas. The development plan should aim to strike a reasonable balance between:

- (1) Accommodating proposals for individual houses in rural areas subject to good practice in relation to matters such as siting and design as outlined elsewhere in these guidelines,
- (2) Actively stimulating and facilitating new housing development in smaller towns and villages to provide for balanced urban and rural choices in the new housing market and
- (3) Carefully monitoring development trends to avoid areas becoming overdeveloped in terms of leading, for example, to extensive ribbon development. The overall approach in this regard in such areas is to ensure these areas maintain a stable population base in both urban and rural parts. In addition, policies should include references to:
 - Selecting particular small villages and towns to pilot combined local authority and private investment to stimulate attractive high quality

individual housing or private site developments to attract population growth and further investment,

- The need to monitor population and development trends in rural areas in order to identify areas at risk from population decline and trigger policies aimed at encouraging appropriate levels of new development in rural areas and selected villages and smaller towns, and
- The need to monitor population and development trends in rural areas in order to identify pockets where very significant individual housing activity is occurring leading to ribbon development, wastewater disposal difficulties, traffic or other serious planning issues.

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.

5.3. Development Plan

- 5.3.1. The Kerry County Development Plan 2015-2021 is the relevant policy document pertaining to the subject site. The site is located in an area zoned 'Rural General' which is detailed in section 3.3.1 of the Plan.

5.3.2. Chapter 3, Section 3.3 sets out Rural Development Policies and objectives RS-1 to RS-6 deal with the overall Rural Housing Policy objectives as follows:

- **RS-4:** Ensure that the provision of rural housing will protect the landscape, the natural and built heritage, the economic assets and the environment of the County.
- **RS- 6:** Ensure that all permitted residential development in rural areas is for use as a primary permanent place of residence. In addition, such development shall be subject to the inclusion of an occupancy clause for a period of 7 years.
- **RS-12:** Accommodation demand for permanent residential development as it arises subject to good sustainable planning practice in matters such as design, location, wastewater treatment and the protection of important landscapes and environmentally sensitive areas.

5.3.3. Table 3.7 of the County Development Plan states that in an area zoned Rural General, any development permitted shall be for the use as a permanent primary place of residence.

5.3.4. Chapter 12 deals with Zoning and Landscape and Section 12.3.1 deals with Rural General stating that **Rural (c)** 'It is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development'.

5.3.5. The following landscape policies are considered relevant:

- **ZL-1:** Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.
- **ZL-4:** Regulate residential development in Rural Areas in accordance with the zoned designation of that area and the policies outlined in the Rural Settlement Strategy set out in Section 3.3 of this Plan.

5.3.6. As per Map 3.1 the site is located within an area categorised as a Stronger Rural Areas. In these areas population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong rural/agricultural economic base. The key challenge in these areas is to maintain a reasonable balance between development

activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas.

- **RS-10:** Facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations.
- **RS-11:** Consolidate and sustain the stability of the rural population and to promote a balance between development activity in urban areas and villages and the wider rural area.

5.4. Natural Heritage Designations

The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 2.8km to the south of the site. The River Shannon and River Fergus Estuaries SPA (Site Code: 004077) lies approximately 4.9km to the north and the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) lie approximately 7.2km to the east.

The Moanveanlagh Bog SAC (Site Code: 002351) lies approximately 6.8km to the south.

5.5. EIA Screening

- 5.5.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 5.5.2. 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.

5.5.3. The proposed development comprises the construction of a rural house in Co. Kerry, on a site of 0.59ha. 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.

5.5.1. 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 first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal document includes a photograph of the water level within the trial hole – dated 12th March 2022. The appellants agent submitted a report which is summarised as follows:

- The sole reason for refusal was that the water table according to Kerry County Council was at 200mm below ground level.
- The attached photograph clearly shows the water level at more than 200mm from the existing ground level.
- The system proposed for the site is a raised sand filter which requires 500mm unsaturated layer under the filter, and from the photograph, there is 600mm unsaturated layer available.

- Kerry County Council was satisfied that the P and T tests passed.
- The site inspection by Kerry County Council was at the wettest time of the year and after prolonged heavy rain.

6.2. **Planning Authority Response**

The Planning Authority made no response to the first-party appeal.

6.3. **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. Water Services & Site Suitability Issues
3. Other Issues
4. Appropriate Assessment

7.1. **Principle of the Development:**

- 7.1.1. The Kerry County Development Plan 2015 is the relevant policy document pertaining to the subject site. The site is located in a rural area which is identified in the CDP as a Stronger Rural Area. The site is located in an area zoned 'Rural General' which is detailed in section 3.3.1 of the Plan. Chapter 3, Section 3.3 sets out Rural Development Policies and objectives RS-1 to RS-6 deal with the overall Rural Housing Policy objectives and Table 3.7 of the County Development Plan states that

in an area zoned Rural General, any development permitted shall be for the use as a permanent primary place of residence.

- 7.1.2. The key challenge in Stronger Rural Areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas. Objective RS-10 is relevant in this regard and seeks to 'facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations'. Both applicants appear to have connections to the local area, and both appear to have been brought up in a rural area within 7-8km from the site. In principle, I would accept that the applicants accord with the provisions of the CDP as it relates to rural housing in this area of Co. Kerry.

7.2. Water Services & Site Suitability Issues

- 7.2.1. 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 new wastewater treatment system 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. The Board will also note that the SAU (Environment Section of Kerry County Council) undertook a number of site inspections in order to consider the proposals for the site.
- 7.2.2. The site characterisation assessment, submitted as part of the planning application, notes that bedrock was identified in the trial pit, one of which was dug to 3.25m bgl. The water table was noted at below 2.3m 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 'Mudstone, siltstone & sandstone' while the soil and subsoil type is identified as 'till derived from Namurian sandstones and shale'.

- 7.2.3. *T tests were carried out on the site at a level of 0.9m and 0.95m bgl at the base of the hole, yielded a value of 56.92. *P tests were also carried out at a level of 0.4m bgl, yielding a value of 45.31. The report concludes recommending a packaged wastewater treatment system and polishing filter with discharge to ground water. A Tricel Novo Package Plant, with a PE capacity of 6, is proposed to be installed and will discharge to a 15m² Sandcel Sand Polishing filter which will provide tertiary treatment. The system will discharge to groundwater with a hydraulic loading rate of 60l/m².
- 7.2.4. The Board will note that there have been a number of reports from the SAU section of Kerry County Councils Environment Section who deal with site assessments. The initial report accepted the assessment of the applicants' agent. However, following a site visit, the SAU noted a lot of rush growth, and, together with the photographs of the trial hole submitted with the application, raised concerns in terms of the soil conditions on the site. The trial hole was re-opened for inspection in July 2021, where mottling was noted and that the topsoil was underlain by saturated subsoil which appeared to be grey clay. This visual inspection raised concerns that there may be issues with percolation and water table at this site. It was therefore requested that a trial hole be opened in January 2022 to clarify the water table level on the site.
- 7.2.5. Two further site visits to the site, in January and February 2022 found clear mottling at 200mm below the ground level which indicates a seasonal high-water table. A visit to the site in February 2022 found the trial hole almost full. On this basis, a positive recommendation could not be made, and the SAU recommended refusal of permission on the grounds of risk to public health and environmental pollution.
- 7.2.6. I note the first party appeal submission which seeks to submit that there is 600mm of unsaturated soil. The proposed sand polishing filter requires a 500mm unsaturated layer under the filter. It is further submitted that the site inspection by Kerry County Council took place at the wettest time of the year and after prolonged heavy rain.
- 7.2.7. Having undertaken a site inspection, I can confirm that the site was somewhat overgrown. I attempted to enter the site but decided against it as I found the ground to be heavy underfoot and I was unsure if the trial hole had been filled. In any case, I am satisfied that the concerns regarding the site conditions in terms of drainage are

reasonable. While I acknowledge the arguments made by the appellant, it is clear that the seasonal water table in this area is very high, and above the 600mm bgl suggested, evidenced by mottling at 200mm bgl. The poor drainage of the area is also evident in the necessity for land drains. Having regard to the level of existing residential development in the immediate vicinity, all of which is dependent upon private septic tanks / WWTPs, I am satisfied that the proposed development would contribute to this proliferation of individual systems and would give rise to a significant pollution threat.

7.2.8. I am satisfied that, overall, the development is not acceptable in terms of site suitability for the treatment and disposal of wastewater arising from the development.

7.3. **Other Issues**

7.3.1. **Roads & Traffic**

7.3.2. The proposed development is to be accessed off the local road via the existing field access. I have no objections in this regard and having regard to the nominal scale of the proposed development, I am satisfied that no road safety issues arise.

7.3.3. **Visual Impacts**

7.3.4. The subject site is not located within any designated or sensitive landscape. The proposed house design provides for a 3-bedroom single storey house with an overall stated floor area of approximately 236m². A detached garage is also proposed which will have a floor area of 43.2m². The drawings indicate a smooth plaster finish with select stone on part of the front elevation.

7.3.5. The layout of the site sets the proposed house towards the front and northern area of the site. The site boundaries comprise existing hedgerows and ditches and the Board will note that a windfarm is visible to the north. The development will not see the removal of the front boundary and the access to the site will be via the existing field access. There will be little impact to the existing natural boundaries.

7.3.6. I have no objections to the proposed development in terms of design. Having regard to the scale of the proposed house on the site, together with the area of the wider site and existing site boundaries, 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.

7.3.7. **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.
- 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.

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 Natura 2000 site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 2.8km 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. In addition to the Lower River Shannon SAC (Site Code: 002165), the following Natura 2000 Sites are noted as occurring within a 15km radius of the site:

- The River Shannon and River Fergus Estuaries SPA (Site Code: 004077) - approximately 4.9km to the north.
- The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) (closest section) approximately 7.2km to the east.
- The Moanveanlagh Bog SAC (Site Code: 002351) - approximately 6.8km to the south.

8.3.2. While a connection to the Natura 2000 site is not obvious, I did note that there is a ditch to the north-western boundary of the site. This ditch runs in a south-westerly direction and connects with the wider drainage ditches in this area of North Kerry. Ultimately, this ditch feeds into the Lower River Shannon SAC approximately 2.8km to the south of the site. As such, I consider it reasonable to assess 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 2.8km of the Lower River Shannon SAC (Site Code: 002165) which lies to the south of the site. The appeal site comprises a greenfield site and 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. There is a potential hydrological connection to the Natura 2000 site via the existing land drain system in this area of Co. Kerry.

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

European Site	Qualifying Interests
<p>Lower River Shannon SAC (Site Code: 002165)</p> <p>Located approx. 2.8km to the South of the site</p>	<ul style="list-style-type: none"> • Sandbanks which are slightly covered by sea water all the time [1110] • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260] • <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] • 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] • <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] • <i>Petromyzon marinus</i> (Sea Lamprey) [1095] • <i>Lampetra planeri</i> (Brook Lamprey) [1096] • <i>Lampetra fluviatilis</i> (River Lamprey) [1099] • <i>Salmo salar</i> (Salmon) [1106] • <i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]

	<ul style="list-style-type: none"> • Lutra lutra (Otter) [1355]
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Lower River Shannon SAC (Site Code: 002165)

8.4.3. This very large site stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/ Kerry Head, a distance of some 120 km. The Shannon and Fergus Estuaries form the largest estuarine complex in Ireland. They form a unit stretching from the upper tidal limits of the Shannon and Fergus Rivers to the mouth of the Shannon Estuary (considered to be a line across the narrow strait between Kilcredaun Point and Kilconly Point). Within this main unit there are several tributaries with their own ‘sub-estuaries’.

8.4.4. In terms of threats to the SAC, domestic and industrial wastes are noted to be discharged into the Shannon, but that the water quality is generally satisfactory, except in the upper estuary where it reflects the sewage load from Limerick City. Analyses for trace metals suggest a relatively clean estuary with no influences of industrial discharges apparent. Further industrial development along the Shannon and water polluting operations are potential threats.

8.5. Conservation Objectives:

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

European Site	Conservation Objectives
<p>Lower River Shannon SAC (Site Code: 002165)</p> <p>Located approx. 2.8km to the South of the site</p>	<ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to maintain 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"> ○ Lampetra planeri (Brook Lamprey) [1096] ○ Lampetra fluviatilis (River Lamprey) [1099] ○ Sandbanks which are slightly covered by sea water all the time [1110] ○ Estuaries [1130] ○ Mudflats and sandflats not covered by seawater at low tide [1140] ○ Large shallow inlets and bays [1160]

	<ul style="list-style-type: none"> ○ Reefs [1170] ○ Perennial vegetation of stony banks [1220] ○ Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] ○ Salicornia and other annuals colonising mud and sand [1310] ○ Tursiops truncatus (Common Bottlenose Dolphin) [1349] ○ Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] ○ Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] <ul style="list-style-type: none"> ● The NPWS has identified a site-specific conservation objective to restore 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"> ○ Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] ○ Petromyzon marinus (Sea Lamprey) [1095] ○ Salmo salar (Salmon) [1106] ○ Coastal lagoons [1150] ○ Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] ○ Lutra lutra (Otter) [1355] ○ Mediterranean salt meadows (Juncetalia maritimi) [1410] ○ Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
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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 2.8km 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 rural environment, with low density residential and farming the primary uses. 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 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 north-western and south-western side of the proposed development site. The Board will note that no AA screening was carried out by the applicant.

The submitted details with regard to the installation of the wastewater treatment system, together with the assessment of SAU (Environment Section of Kerry County Council) suggests a thorough assessment of the site has been undertaken. The site is wet under foot and a high seasonal water table has been identified. The PA refused planning permission for the proposed development on the grounds of inability to dispose of treated wastewater arising from the development. As such, it might reasonably be considered that there is a risk to the groundwater aquifer.

However, and 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 Lower River Shannon SAC (Site Code: 002165) can be excluded given the distance to the sites, the nature and scale of the development.

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 Lower River Shannon can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in the Lower River Shannon 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 structurally and functionally linked to the proposal site via the existing drainage network in the area. There is, therefore, a potential impact pathway connecting the designated site to the development site.
- 8.8.2. However, given the nominal scale of the proposed development, and the distance between the site and the Natura 2000 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 this site.

9.0 Recommendation

- 9.1.1. I recommend that permission be refused for the development for the following reason.

10.0 Reasons and Considerations

Having regard to the poorly drained ground conditions on site, together with the very high seasonal water table, the cumulative pressures on water resources resulting from the number of houses in the vicinity served by individual wastewater systems/septic tanks, and notwithstanding the documentation submitted in support of the application and appeal, the Board is not satisfied that the site is suitable for the treatment and disposal of wastewater arising from the proposed development. The Board is further not satisfied and that the proposed development will not pose an unacceptable risk to water resources in the area.

The proposed development would, therefore, constitute an unacceptable risk of pollution, would be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
20/07/2022