



An  
Bord  
Pleanála

## Inspector's Report ABP-313646-22.

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<b>Development</b>	Retain demolition of two stone outhouses, and retention and completion of partially constructed granny flat. Permission for tool-shed, art studio, gym and sauna.
<b>Location</b>	Ballynalacken, Leitrim, Kilworth, Co Cork.
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	21/6047.
<b>Applicant(s)</b>	Thomas Lysaght.
<b>Type of Application</b>	Retention permission and permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Daniel Feeney.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22/09/2022.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Ballynalacken, Leitrim, Kilworth, Co Cork, approximately 4km to the south-east of the village of Kilworth. The site is set back from the public road and is accessed via a long avenue. The original site comprised a small homestead which included a collection of out buildings to the rear of the original thatched cottage on the site.
- 1.2. The subject site has a stated area of 0.036 hectares (which I consider to be a mistake as the site is clearly over 0.2ha in area) and is currently occupied by a detached, two storey house. It is noted that this building replaced the original cottage which existed at the site. To the rear of the building, an old stone outbuilding was demolished, and a new structure erected in its place. The new building used the old stone in the construction.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the retention of demolition of two stone outhouses, and retention and completion of partially constructed granny flat, together with permission to construct a domestic tool shed, a domestic art studio, (incorporating existing ruin of former outhouse), and a domestic gym and sauna., all at Ballynalacken, Leitrim, Kilworth, Co. Cork.
- 2.2. The application included the following documents:
  - Plans and particulars
  - Completed planning application form
  - Cover letter setting out occurrences at the site since the applicant purchased it in 2019 and the detail of the Warning Letter which issued to the applicant.
  - Conservation Report
- 2.3. 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 applicant submitted the folio which demonstrates ownership of the site and that the site boundaries are correct.

- The north-east elevation overlooks a pathway to a field owned by the third-party and a cattle shed (not owned by the third-party).
- The original structure was not a protected structure.
- The windows in the tool shed also overlook the pathway and the windows in the studio will look onto a field.
- There is no rubble on the third-party lands.
- It is submitted that the third-party was the original developer of the house which the applicant now occupies.
- It is submitted that the objection to the development is vexatious in nature and has nothing to do with planning, privacy or property ownership issues.

2.3.1. Following a request for further information, the applicant submitted a Site Assessment Report which recommends that the existing septic tank on the site be decommissioned and replaced with a waste water treatment unit and a 90m<sup>2</sup> percolation area and polishing filter. The response also clarifies the intended use of the art studio. The location of the well is also identified.

2.3.2. Following the submission of a further letter from the objector, the applicant submitted the folio for the land showing the applicant to be the full owner.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 24 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 but raises concerns in terms of the scale of the works proposed. The report does not consider that the development will impact on residential amenity of third-parties and considers that the applicant has provided sufficient evidence of ownership to facilitate a decision on the application. Further information is required in relation to the intended use of the art studio, the location of the well, clarification regarding the septic tank and sight distances.

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**

**Area Engineer:** The report notes the presence of a well-established entrance and that water is from a private well, the location of which is required to be shown. The structural intactness and suitability of the old septic tank is required to be confirmed with regard to the intensification of use proposed. A site characterisation report is required. The report requests that further information be sought. Following the submission of further information, the AE noted that the proposed development was acceptable, subject to compliance with conditions.

### 3.2.3. **Prescribed Bodies**

None.

### 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:

- A previous application for the development was refused.

- Windows on the northern elevation of the granny flat will totally interfere with privacy.
- The stone building was a preserved building and is now a block building.
- The height of the buildings will affect views of third party.
- A wall was built on the right-hand side of the right of way and the third-party objects to building on the right of way.
- Windows recently installed are not in accordance with the planning given.
- Rubble from knocked walls is piled on third-party property and rats have been nesting there.
- Site map is not correct.

Following the submission of the response to the FI request, the objector submitted a further letter again raising issue with the location of the septic tank. In addition, the issue of land ownership is raised as well as the construction of a dog house on the right of way. Objections are further noted in terms of the provision of windows on the granny flat and gym building.

#### 4.0 Planning History

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

**PA ref: 07/8305:** Permission granted for the retention and completion of ground floor, first floor and two storey extension to dwelling house and alterations to entrance and treatment unit (applicant was the current third-party appellant).

**Enforcement:**

**EF 20087:** Enforcement case in relation to the works at the site which are the subject of the retention element of the subject application.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. The Board will note that the Elected Members of Cork County Council made the Cork County Development Plan 2022-2028 and adopted the Plan on the 25th of April 2022. The Plan came into effect on the 6th of June 2022. It is noted that the application, the subject of this appeal, was submitted under the provisions of the previous County Development Plan.
- 5.1.2. Chapter 5 of the CDP deals with Rural (including rural housing) and the subject site is located within a rural area which is identified as being under strong urban influence and within the Greater Cork Ring Strategic Planning Area. Specific policies are noted in relation to housing in such areas whereby applicants are required to satisfy a number of criteria. The subject proposed development relates to works to and around an existing, permitted rural house and as such, the principle of the residential use of the site is established.
- 5.1.3. Section 5.13 of the Plan deals with New Uses for Disused or Derelict Farm Buildings, which is also relevant to the subject proposed development.

#### **Objective RP 5- 31: New uses for disused or derelict farm buildings.**

Encourage the sensitive refurbishment and conversion of suitable disused or derelict traditional farm buildings, built using traditional methods and materials, and other suitable historic buildings such as mills and churches, for residential purposes, community, or commercial uses (including social enterprise) where appropriate, subject to normal planning considerations, while ensuring that the re-use is compatible with environmental and heritage protection.

- 5.1.4. Chapter 6 of the CDP deals with Social and Community, and Section 6.6 relates to Planning for Ageing. Section 6.6.11 sets out the six principles for Housing for our Ageing Population, as established in the Housing Options for our Ageing Population by the Department of Housing, Planning and Local Government and the Department of Health 2019, which includes the provision of ancillary family accommodation where appropriate. In this regard, the following is relevant:

## **Provision of Ancillary Accommodation**

6.6.23 Ancillary accommodation units provide a step-down residential accommodation model option for older or disabled persons and consideration can be given to building ancillary accommodation either as an extension to an existing house or as a separate dwelling unit in cases where it can be shown that such is required for an older or disabled family member. This would include circumstances where a member of the family requires separate living space which is on the same property as the main dwelling. Such units can be established in conjunction with a dwelling house either within or attached to the house but within the bounds of the site.

6.6.24 This provision allows families to provide accommodation for older or disabled relatives. These units should be permitted where the following criteria can be met:

- There is only one dwelling and one ancillary accommodation unit on the same site.
- The ancillary accommodation should not exceed 80sqm in floor area.
- Normally the ancillary accommodation should be single storey only. However, in exceptional circumstances, i.e. where the curtilage is too small or too restricted, consideration may be given to the provision of a two storey ancillary accommodation having regard to the design, scale and form of the existing dwelling and the impact on its residential amenity.
- Provision for shared vehicular entrance only.
- The ancillary unit should not impact adversely on either the residential amenities of the existing property or the residential amenities of the area.
- The property and ancillary accommodation unit should not be subdivided.

- Additional parking, sewage treatment units or private amenity space is not required.
- The unit should not be sold off separately from the existing dwelling and a Section 47 agreement should be entered into by the property owner to ensure that any physically separate unit be retained as part of the existing property in perpetuity as a burden on the title.

### **CDP Objective SC 6-12: Age Friendly Policies**

To implement Age Friendly policies in the refurbishment/adaptation of existing housing stock, and to consider the needs of the older generation in terms of design and lifelong living.

- 5.1.5. Chapter 14 of the Plan deals with Green Infrastructure and Recreation, including landscape. The subject site is located within a high value landscape where considerable care will be needed to successfully locate large scale developments without them becoming unduly obtrusive.

### **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) and the Blackwater Callows SPA (Site Code: 004094), both of which are located approximately 640m 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 demolition of a shed and the retention of a partially constructed granny flat, and permission for the construction of a shed, art studio and gym and sauna on a rural house site in Co. Cork. 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 area of the site is incorrect. No part of the appellants land is included in the site area.

- The septic tank will to be moved as the boundary wall was knocked by the previous owner without permission.
- An entrance gate at the road cannot be erected as this avenue is a right of way to appellants' field.
- Dog house was built on the right of way and will have to be removed.
- Percolation area must be kept within the required measurements from boundary and right of way.
- Permission was granted for dark windows and doors in the house – this needs to be checked.

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

- 6.2.1. The applicants' have responded to the third-party appeal. The response submits that the appeal is based on the belief that the applicant is not the owner of the lands in question. The response includes the folio details and map for the land which shows that the lands involved are in the legal ownership of the applicant. It is further noted that the boundaries have been verified by an engineer, whose report is on the file.

## **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. Further Responses**

The third-party appellant submitted a response to the first-party response to the third-party appeal. The submission is summarised as follows:

- The area of the site is 0.24ha and not 0.36ha as submitted in the application.
- Questions the planning status of wall built.
- No third-party land was sold with the house.
- Issues relating to the right of way.

## 6.5. 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. Third Party Issues
2. Principle of the development
3. Visual Impacts
4. Water Services & Site Suitability Issues
5. Other Issues

### 7.1. Third Party Issues

- 7.1.1. Having regard to the nature of the third-party appeal, I consider it reasonable to address the central concern of the third-party in the first instance. It is submitted that the area of the subject site is not correct, and that the applicant has included an area of third-party lands within the site boundary.
- 7.1.2. In acknowledging this concern, I would advise the Board that the site area as detailed in the submitted planning application form, being 0.036ha, is certainly incorrect. The site area is approximately 0.24ha (my calculation and having regard to the information available in terms of the planning history of the site). While I acknowledge this error, I also note that the applicant has submitted details of ownership of the land in question, including the folio and relevant maps. In addition to the above, I note that no right of way has been included in the folio details.
- 7.1.3. In this regard, any outstanding questions of ownership are a civil matter and not for the Board to determine. I am satisfied that the applicant has provided sufficient legal

interest to make the planning application and I refer to the provisions of Section 34(13) of the Planning and Development Act 2000, as amended which provides that the applicant shall not be entitled solely by reason of a grant of permission to carry out any development.

7.1.4. Other issues raised by the third-party appellant are dealt with further below.

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

The proposed development seeks permission for the retention of demolition of two stone outhouses, and retention and completion of partially constructed granny flat, together with permission to construct a domestic tool shed, a domestic art studio, (incorporating existing ruin of former outhouse), and a domestic gym and sauna at an existing detached rural house site. In principle, there is no objection to the development of a residential extension.

7.2.1. There are four elements to the development the subject of this application as follows:

- i. Retention and completion of granny flat with a floor area of 40m<sup>2</sup>
- ii. Construction of a tool shed with a floor area of 49m<sup>2</sup>
- iii. Redevelopment of a derelict outbuilding for use as an artists' studio with a floor area of 54m<sup>2</sup>
- iv. Construction of a gym with a floor area of 42m<sup>2</sup>.

In total, the above works will result in a combined floor area of 185m<sup>2</sup>.

7.2.2. With regard to item i) above, I note that the principle of providing ancillary accommodation for elderly family members is supported in both national and local policy documents. Section 6.6.23 of the 2022 Cork Development Plan facilitates the establishment of such ancillary accommodation either within or attached to the house, but within the bounds of the site. In addition, I note that the development proposes only one such unit and that the size of the unit does not exceed 80m<sup>2</sup>. Overall, and having regard to the provisions of CDP Objective SC 6-12, I am satisfied that the principle of the proposed granny flat is both acceptable and appropriate at this location.

- 7.2.3. In addition to the above, I would note that the appellant has raised concerns in terms of the inclusion of windows overlooking their property. I note that the building proposes 3 windows on the north eastern elevation, serving the bedroom, bathroom and living room, and these windows will look out onto an agricultural yard and shed. I would also note that other than the bathroom window, the 1 room deep unit includes other windows to serve these rooms. The submitted site layout plans indicate that the building is located approximately 2.5m from the site boundary. As such, I would concur with the Planning Authority that there are no potential residential amenity issues arising from the development. I recommend that a condition relating to landscaping be included in any grant of planning permission with particular attention to be given to the site boundaries.
- 7.2.4. With regard to item ii), and the proposed tool shed, I note that the proposed building is to be located within an area which has previously been occupied by a storage building. The shed will occupy a floor area of 49m<sup>2</sup> and will rise to an overall height of approximately 5m. The building will connect to the granny flat and will include a glass link to the proposed artist's studio. I have no objection to this element of the proposed development.
- 7.2.5. Part iii) of the proposed scheme proposes the redevelopment of a derelict outbuilding for use as an artists' studio with a floor area of 54m<sup>2</sup>. I note that the CDP encourages the reuse of disused or derelict farm buildings for residential, community or commercial purposes. As such, there is no objection in principle to the proposed development.
- 7.2.6. The building will rise to an overall height of approximately 4.75m in height with the reinstatement, albeit at a higher level, of the mono-pitch roof which existed on the existing building. The unit will connect to both the tool shed and the proposed home gym by way of a glass link and the layout provides a WC and a sink area. The rear of the building will be set out from the original rear wall and will include a large, glazed area which will overlook the adjacent countryside. The use of the space has been clarified by the applicant as being for personal use only and I have no objection in principle to this element. A condition restricting the use should be included in any decision to grant permission in the interest of clarity and the proper planning and sustainable development of the area.

- 7.2.7. The proposed gym, part iv), will have an overall floor area of 42m<sup>2</sup> and will include a shower room and a sauna. The overall height of this building will rise to approximately 4m in height and will complete the creation of the courtyard effect to the rear of the main house on the site.
- 7.2.8. Overall, the proposed works will be faced in stone and will comprise ancillary uses associated with the main house on the site. I note the indication by the applicant that there is no commercial use proposed at the site. The extent of development was raised as a concern initially by the Planning Authority but having regard to the nature of the site and the proposed uses, I am generally satisfied that the proposed development is acceptable. A condition should be included in any grant of permission however, to preclude any further development at the site without the benefit of planning permission in the first instance.

### **7.3. Visual Impacts**

- 7.3.1. The subject site is identified as being located within a high value landscape where considerable care will be needed to successfully locate large scale developments without them becoming unduly obtrusive. The subject site is set back from the public road and together with the existing roadside boundaries and presence of trees in and around the site, 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, and the location of the proposed works to the rear of the house, I am satisfied that the ancillary accommodation 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 existing house has been subject to a grant of planning permission which included conditions relating to the upgrading of the existing wastewater treatment system. The development the subject of this retention appeal relates to additions to the residential site in the form of a granny flat, tool shed, artist studio a gym. The issue of the servicing of the site was raised at further information stage by the Planning Authority. In response to this issue, and following the submission of a Site Characterisation Report, the applicant

proposes to install a new wastewater treatment system with percolation area and polishing filter to service the overall development. I also note that the development was readvertised to include this element of the overall development. I would, therefore, 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. I further note that the Councils Area Engineer is satisfied with the proposed works.

7.4.2. I am satisfied that the proposed development is acceptable in principle.

## 7.5. **Other Issues**

### 7.5.1. **Roads & Traffic**

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

### 7.5.2. **Development Contribution**

The Board will note that the Planning Officers report includes a consideration of development contributions, which indicates that as the proposed tool shed, artist studio and gym buildings are non-habitable spaces, any development contribution liability shall only arise from the granny flat element. It is concluded that as the proposed granny flat is not attached to the main dwelling and has a stated gross floor area of 40m<sup>2</sup>, it is considered to be exempt from development contributions.

I am satisfied that this is acceptable, and no development contribution is applicable in this instance.

## 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 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 no issues relating to AA were raised by 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 site



is not located within any Natura 2000 site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) and the Blackwater Callows SPA (Site Code: 004094), both of which are located approximately 640m 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 3 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
Lower River Suir SAC	002137	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)
- Blackwater Callows SPA (Site Code: 004094)

#### 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 640m of the Blackwater River (Cork/Waterford) SAC and Blackwater Callows SPA which lie

to the south of the site. The appeal site comprises an established residential site which includes a dormer style detached house with outbuildings. 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 sites.

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

European Site	Qualifying Interests
<p><b>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</b></p> <p>Located approx. 640m 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 maritima</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Water courses of plain to montane levels with the <i>Ranunculum fluitans</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> (Twite 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>
<p><b>Blackwater Callows SPA (Site Code: 004094)</b></p> <p>Located approx. 640m to the South of the site</p>	<ul style="list-style-type: none"> <li>• Whooper Swan (<i>Cygnus cygnus</i>) [A038]</li> <li>• Wigeon (<i>Anas penelope</i>) [A050]</li> <li>• Teal (<i>Anas crecca</i>) [A052]</li> <li>• Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</li> <li>• Wetland and Waterbirds [A999]</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. 640m 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 Callitricho-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>
<p><b>Blackwater Callows SPA (Site Code: 004094)</b></p> <p>Located approx. 640m to the South of the site</p>	<ul style="list-style-type: none"> <li>● The NPWS has not identified site-specific conservation objectives for the SPA and as such, the overall objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</li> <li>● To acknowledge the importance of Ireland's wetlands to wintering waterbirds, "Wetland and Waterbirds" may be included as a Special Conservation Interest for some SPAs that have been designated for wintering waterbirds and that contain a wetland site of significant importance to one or more of the species of Special Conservation Interest. Thus, a second objective is included as follows: <ul style="list-style-type: none"> <li>○ To maintain or restore the favourable conservation condition of the wetland habitat at Blackwater Callows SPA as a resource for the regularly occurring migratory waterbirds that utilise it.</li> </ul> </li> </ul>

## 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 640m from the boundary of any designated site, or the banks of the river itself. 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 retention of works to a 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 and ancillary accommodation proposed.  
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) or the Blackwater Callows SPA (Site Code: 004094).

I am generally satisfied that the potential for likely significant effects on the qualifying interests of the Blackwater River (Cork/Waterford) SAC or the Blackwater Callows SPA (Site Code: 004094) 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 retention and completion of works ancillary works at a rural 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 2022, 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 retention works and proposed development works, 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 14<sup>th</sup> day of March 2022 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 granny flat for retention shall be jointly occupied as a single residential unit, an occupied by a member of the immediate family of the occupier of the main house. The granny flat 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. The proposed tool shed, artist studio and gym shall be used solely ancillary to the enjoyment of the primary residential use of the site and shall not be used for commercial purposes, sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** To restrict the use of the proposed works in the interest of the proper planning and sustainable development of the area.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

**Reason:** In the interest of development control and the amenities of the area.

5. The external finishes of the proposed buildings (including roof tiles/slates) shall be finished in accordance with the requirements of the Planning Authority. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

- 6 (a) The proposed waste water 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 waste water 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.

7. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the establishment of a hedgerow along all side and rear boundaries of the site.



Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

6. The mobile home on the site shall be removed within 1 month of the completion of the proposed development, or immediately after the expiration of this permission, whichever occurs sooner.

**Reason:** In the interest of orderly development.

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A. Considine

Planning Inspector

29/09/2022