



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316080-23

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<b>Development</b>	Retention of (a) existing dwelling and garage as constructed and (b) all associated siteworks
<b>Location</b>	Hillsdale, Newtown, Bantry, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	22427
<b>Applicant(s)</b>	Paul Twomey
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Mortimer O'Sullivan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> July 2023
<b>Inspector</b>	Mary Crowley

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	6
3.3. Prescribed Bodies .....	7
3.4. Third Party Observations .....	7
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.3. Natural Heritage Designations .....	8
5.4. EIA Screening .....	9
6.0 The Appeal .....	9
6.1. Grounds of Appeal .....	9
6.2. Planning Authority Response.....	10
6.3. Observations.....	10
6.4. Further Responses .....	10
7.0 Assessment.....	10
7.4. Principle .....	11
7.5. Effluent Disposal .....	11
7.6. Surface Water .....	12
7.7. Other Issues.....	13
7.8. Appropriate Assessment.....	13

8.0 Recommendation..... 13

9.0 Reasons and Considerations..... 13

10.0 Conditions ..... 14

## 1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.22ha comprises a gable ended one and a half storey dwellinghouse. The entrance has a dished footpath with a steep concrete access driveway. There is a freestanding garage set to the side and rear of the dwellinghouse. The site is accessed from the public road (N71) via an existing recessed vehicular entrance. The retained development is on an elevated site that slope towards the public road. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

2.1. Permission is sought for the retention of the existing dwelling house and garage as constructed together with all associates site works.

2.2. **Further information** was submitted on the 29<sup>th</sup> March 2022 comprising the following:

- There is an existing grated acu-drain across the full width of the existing driveway. This shall collect any surface water runoff from the existing driveway preventing any runoff to the N71. The drain is connected to an onsite soakaway (Site Plan 22043-P103-Rev-B refers). The drain has been cleared of debris and is fully operational.
- There is no public sewer available. The existing septic tank and percolation area re located along the southwestern boundary and is not up to standard.
- A Site Suitability Assessment concluded that a secondary treatment system and soil polishing filter shall be required and installed in accordance with manufacturers details.

2.3. **Unsolicited information** was submitted on 19<sup>th</sup> December 2022 comprising page 8 of the SSA form. result of surface percolation test is still between 3 and 50. Site is suitable for a septic tank system, secondary of tertiary system for discharge to groundwater (reference Table 6.4 of the EPA Code of Practise).

2.4. **Clarification of further information** was submitted on 30<sup>th</sup> January 2023 comprising the following:

- In addition to the existing drainage channel across the existing pillars, a new drainage channel which is deeper and wider has been added. This drainage channel will take 95 percent of the surface water from the driveway and if any water runs past it will be picked by the older drainage channel. The soakaway has also been upgraded to accommodate same. This will prevent any significant volumes of surface water flowing onto the public road N71. See Site Plan 22043-P103-Rev-C for location and photographs showing newly installed drainage channel and soakaway.
- In regards to SSA form, it was noted that page 8 was not properly filled in. 2 No. copies of page of form attached.
- Result of Surface Percolation Test is still between 3 & 50. Site is suitable for a Septic Tank System, Secondary or Tertiary System for discharge to groundwater (Reference Table 6.4 of the EPA Code of Practice).
- The location of bio cycle unit has also been revised and complies with separation distances. See Site Plan 22043-P103-Rev-C

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Cork County Council issued a notification of decision to grant retention permission subject to 9 no conditions summarised as follows:

<b>1.</b>	Compliance with plans and particulars submitted on 29 <sup>th</sup> June 2022, 24 <sup>th</sup> November 2022, 19 <sup>th</sup> December 2022 and 30 <sup>th</sup> January 2023.
<b>2.</b>	Within 6 months of the date of final grant the foul drainage shall be upgraded as detailed and shall meet the requirements of the EPA Code of Practice
<b>3.</b>	The wastewater treatment plan shall be operated and maintained to the satisfaction of the Planning Authority
<b>4.</b>	Surface water disposal
<b>5.</b>	Drainage gratings

6.	Garage use incidental to dwelling house
7.	No extension permitted without planning permission
8.	Water supply
9.	Development contribution

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The **Case Planner** in their **first report** requested further information in relation to (1) evidence demonstrating compliance Condition No 8, 9 and 10 of the extant permission (Reg Ref 07/366) (drainage and surface water) and (2) report confirming that the installed septic tank is suitable for the retained development. Further information was requested on 18<sup>th</sup> August 2022.
- The **Case Planner** in their **second report** and having considered the further information submitted requested clarification of further information in relation to (1) plans to prevent significant volumes of surface water flowing from the steep concrete driveway onto the N71 Road and (2) a fully completed / revised site characterisation form to support the recommendation.
- The **Case Planner** in their **third report** and having considered the clarification of further information recommended that planning permission be granted subject to conditions. The notification of decision to grant permission issued by Cork County Council reflects this recommendation.

#### 3.2.2. Other Technical Reports

- **Area Engineer** – In their first report requested the following further information as summarised:
  - 1) Report confirming that the installed system is suitable for the retained development. If found not to be suitable then a full Site Suitability Report with completed Site Characterisation Form shall be submitted, with a recommendation for a wastewater treatment system suitable for the retained development.

- 2) Applicant to confirm that the interceptor drainage grating is operational and can contain / divert the surface water from the sloping driveway and prevent the surface water from flowing onto the public road.
- **Area Engineer** – In their second report and having considered the further information submitted requested clarification as follows:
    - 1) The applicant shall submit a report from a competent Engineer who shall confirm that the existing interceptor has the capacity to prevent surface water from the site flowing onto the public road. The Engineer shall also confirm that the surface water from the interceptor can be fully disposed of within the site.
    - 2) If it is confirmed that the interceptor drain can comply with the above, this drain will need ongoing maintenance in perpetuity to ensure no surface water flows from the site on to the public road. To be dealt with by condition.
    - 3) The applicant is requested to submit a fully completed / revised Site Characterisation Form, to support this recommendation.
  - **Area Engineer** – In their third report and having considered the clarification of further information had no objection to the proposed development subject to conditions as outlined in their report.

### 3.3. Prescribed Bodies

- **TII** – No observations.

### 3.4. Third Party Observations

- 3.4.1. There is one observation recorded on the appeal file from Mortimer O'Sullivan, Newtown, Bantry (adjoining landowner). Concerns raised relate to the location of the septic tank and percolation area at a higher level to the observers property, seepage to observers' property, open drain adjoining the site, percolation and water table test should be carried out on site and general concern regarding the ridge height of the dwelling to be retained.

## 4.0 Planning History

4.1. There is no evidence of any previous appeal at this location. The following planning history has been made available with the appeal file.

**Reg Ref 07/366** – Cork County Council granted planning permission in 2007 for the modernisation and refurbishment of existing dwelling consisting of construction of extension to rear including kitchen, utility, bedroom, modification to existing roof including dormer windows and creating first floor accommodation and associated site works subject to 13 no conditions. Conditions of note area as follows:

<b>11</b>	Connection shall be made to the Group Sewerage Scheme
<b>13</b>	Development Contribution in the amount of €3,142.18

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative plan for the area is the **Cork County Development Plan 2022 – 2028**. Relevant planning policies are as follows:

- **WM 11-3** Preserve from protected groundwater and surface water quality throughout the county.
- **WIM 11-5** Ensure that the discharge from septic tank and waste water treatment systems comply with relevant approved standards EPA Code of Practices including installation and maintenance. Consider the cumulative impact.

5.2. **Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)"** – Environmental Protection Agency, 2009 – Sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

### 5.3. Natural Heritage Designations

5.3.1. The appeal site is not located in or immediately adjacent to a European Site



## **5.4. EIA Screening**

- 5.4.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. 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. The first party appeal has been prepared and submitted by Mortimer O’Sullivan, Newtown, Bantry, owner of adjoining property to the west, and may be summarised as follows:
- Concerns submitted to Planning Authority were not taken into account when deciding on this planning permission.
  - The raised polishing filter for the treatment unit has been located in close proximity to the appellants boundary and serious concerns are raised with regard to drainage from this system which will almost certainly affect appellant’s property.
  - If one compares the level of the ground on the appellants side with the raised ground level on the subject site it is obvious that there will be seepage on to the appellants property.
  - Also the said raised soil polishing filter is adjacent to an open drain and not in compliance with the governing regulations/distances as required by the EPA. The open drain has not been shown on the site layout plan.
  - Concern also raised at possible smell from the discharge area which again will have a negative impact on value of the appellants property and may also pose health issues and affect the enjoyment of outdoor living in my house.
- 6.1.2. The appeal was accompanied by a copy of the appellants submission in respect of the initial planning application, site layout map highlighting the appellants property, extract from the EPA website and Planners report.

## 6.2. **Planning Authority Response**

6.2.1. None

## 6.3. **Observations**

6.3.1. None

## 6.4. **Further Responses**

6.4.1. None

## 7.0 **Assessment**

7.1. This assessment is based on plans submitted to the Planning Authority on the on 2th June 2022, as amended by further information submitted on 24<sup>th</sup> November 2022, unsolicited information submitted on 19<sup>th</sup> December 2022 and clarification of further information submitted on 30<sup>th</sup> January 2023.

7.2. I note the concerns raised in the appeal that the issues raised in the observation to the Planning Authority were not taken into account when deciding on this planning permission. The appeal before the Board is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application. Further I have considered the information available on file and I am satisfied that together with my site inspection that there is adequate information available to consider the appeal.

7.3. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle

- Effluent Disposal
- Surface Water
- Other Issues
- Appropriate Assessment

#### 7.4. Principle

7.4.1. Permission is sought for the retention of the existing dwelling house and garage as constructed together with all associated site works. I refer to the previous application on this site and plans and particulars therein (Reg Ref 07/366 refers). Save for matters pertaining to the wastewater disposal and surface water (to be discussed in further detail below) the proposed house as constructed on site reflects that permitted in 2007 in terms of elevational treatment. However, it is noted that the dwellinghouse in situ is greater in terms of gross floor area (265.35 square metres as opposed to 187.40 square metres). Whilst there are material amendments from that approved in 2007 they are not deemed so unacceptable as to warrant a refusal of retention. On balance, there is no objection to the proposed retention of the existing dwelling and garage.

#### 7.5. Effluent Disposal

7.5.1. As documented in Section 4.0 Planning History above planning permission was granted in 2007 for the modernisation and refurbishment of the existing dwelling with a connection to a Group Sewerage Scheme (Condition No 11 of the decision refers). However, this Group Sewerage Scheme did not proceed and so a septic tank was installed on site. Therefore, while not explicitly stated it appears to be taken that the retention of “*associated site works*” as described in the public notices also refers to the retention of the septic tank on site.

7.5.2. I agree with the Planning Authority that it is unreasonable to expect a connection to be made to the Newton Sewage Group Scheme located more than 800 metres away in this case. However, it is also clearly evident that the existing septic tank and percolation area is substandard. I note the site characterisation assessment report where it is recommended that the septic tank be removed and that a new wastewater treatment plant complete with a soil polishing filter be constructed in order to address

the current deficiency. This proposal has been considered in detail by the Area Engineer who supports the installation of same. However, I also share the views of both the Area Engineer and the Case Planner that a relatively short, timescale for the implementation of the new wastewater treatment system should be agreed. I agree with the Case Planner that *“there is little, if any, point in submitting details for the same if the new secondary treatment unit and polishing filter are not actually installed”*. Therefore, I agree that a period of six months from the date of the final grant of permission is considered a reasonable time period to install the new wastewater treatment system and that same should be dealt with by way of condition.

7.5.3. Having regard to the established habitable dwelling on site I consider that in all likelihood the risk to public health is much greater in respect of the existing septic tank which appears to discharge to an unidentified soak pit, than from the proposed development. On this basis I consider that the proposed wastewater treatment system as recommend at this location, would be adequate, subject to condition, to treat and dispose of the foul effluent generated by the existing dwelling house without undue risk to public health.

7.5.4. **NOTE** – As observed in Section 7.5.1 above the public notices accompanying the planning application did not make explicit reference to the retention of the septic tank on site. It is further noted that the Planning Authority did not seek amended public notices having regard to the proposal to now install a new wastewater treatment system. Prior to making its decision the Board may wish to consider seeking amended public notices in this regard.

## 7.6. **Surface Water**

7.6.1. Significant concern has been raised by both the Area Engineer and the Case Planner given the elevated nature of the site, proximity to the N71 and the concrete access roadway with regard to surface water flowing over the inceptor grating at the entrance to the site and onto the N71 road as it the inceptor drainage was not fit for purpose. In their clarification of further information response on 30<sup>th</sup> January 2023 the applicant confirmed that a new inceptor drainage grating and soakaway has been placed in situ. I note from the Case Planners report that this inceptor grating is now functioning adequately and that this view is endorsed by the Area Engineer. I consider the matter

to have been adequately addressed within the application process and recommend that should the Board be minded to grant permission that a condition be attached requiring the regular maintenance of same.

## 7.7. Other Issues

- 7.7.1. **Development Contributions** – I refer to the Cork County Council Development Contribution Scheme. The development is not exempt from the requirement to pay a development contribution. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000

## 7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development, the nature of the receiving area (the proposed development has demonstrated that a wastewater treatment plant can be safely accommodated at the site), the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 8.0 Recommendation

- 8.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the following reason.

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the policy and objectives as set out in the Cork County Development Plan 2022 – 2028, the nature, scale and design of the proposed development to be retained, to the pattern of existing and permitted development in the area it is

considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing visual character of the area and would be acceptable in terms of public health and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 10.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 24<sup>th</sup> November 2022, 19<sup>th</sup> December 2022 and 30<sup>th</sup> January 2023, 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.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>a) The proposed septic tank drainage system shall be installed within 6 months of the date of grant of this permission.</p> <p>b) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>c) Treated effluent from the septic tank system shall be discharged to a raised 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, 2009.</p> <p>d) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional</p>

	<p>indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p>c) The existing drainage gratings, along with a discharge pipe to a soakaway located near the entrance within the site, shall be maintained in perpetuity and free from debris and / or blockage to the satisfaction of the Planning Authority.</p> <p><b>Reason:</b> In the interest of traffic safety and to prevent pollution.</p>
4.	<p>a) The garage area shall be used solely as a garage, a non-habitable use, associated with the main residential accommodation.</p> <p>b) No extension to the dwelling shall be permitted without a further permission from the Planning Authority, notwithstanding the Exempted Development provision of the Local Government Planning and Development Regulations 2001 – 2022 (as amended)</p> <p><b>Reason:</b> In the interest of clarity and residential amenities</p>
5.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>

6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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**Mary Crowley, Senior Planning Inspector, 31<sup>st</sup> July 2023**