



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317691-23

<b>Development</b>	Retention of extension to existing workshop
<b>Location</b>	Liscahane, Millstreet, Co. Cork,
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	225652
<b>Applicant(s)</b>	Noel C Duggan Structural Steel Ltd
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Grant Retention
<b>Type of Appeal</b>	First and Third Party
<b>Appellant(s)</b>	Noel C Duggan Structural Steel Ltd Church Street Residents Association of Millstreet
<b>Observer(s)</b>	Nora and Denis Healy
<b>Date of Site Inspection</b>	16 August 2024
<b>Inspector</b>	Claire McVeigh

## **1.0 Site Location and Description**

- 1.1. The subject site (stated area 3.04ha) is located in Millstreet to the northwest of County Cork. The subject site sits to the south of the R583 and extends to the southeast with a gated entrance/panelled fencing along the boundary with the R582.
- 1.2. The principal access to the site is via a steel gated archway from the R583 with a surface car park serving the hardware and building materials shop and additional car parking forecourt to the structural steel office building and large manufacturing structures. A large area of hardstanding is immediately behind the structures on site and is used for storage.
- 1.3. The long rear gardens of the residential properties along the R582 (Church Street) adjoin the eastern boundary of the site and the St. Joseph's Gardens residential area adjoins the western boundary of the site. Agricultural fields adjoin the southern portion of the subject site.

## **2.0 Proposed Development**

- 2.1. The development to be retained comprises a workshop extension of 799sq. m as stated on submitted application form (I note that the floor area of the extension to be retained is referred to as 820sq. m in Noise Impact Assessment Report) The entire factory floor area is stated as 11,980 sq. m., inclusive of the workshop extension sought to be retained all on a subject site area of 3.04ha. The workshop structure is 9.1 m high at the ridge and 7.1m high at its eaves, insulated in anthracite cladding. There is a smaller lean-to structure on the side adjacent to the metal roller shutter door with a heavy duty curtained covering to the entrance.
- 2.2. The new extension is used for welding, cutting, drilling, cleaning and fabrication/processing of steel and steel members for use in the erection of building and structures off site. Welding equipment, grinder, hand cutter, machine cutter and air hand tools are used and supplied by an externally located air compressor. Table 4.6 of the submitted Noise Impact Analysis Report sets out the new extension internal and external equipment in the noise source data.
- 2.3. The hours of operation are between 07:00 and 18:00 hours. The factory is not normally operational on Saturday or Sunday.

- 2.4. As part of the response to clarification of further information the applicant proposes to install a rainwater harvesting system in the yard area south of west of the workshop that retention is being sought (Drawing no. 21-067-104 Rev. B submitted 8<sup>th</sup> August 2023). A modular bypass interceptor (Drawing 'Site Layout Plan Overview 21-067-104A) is proposed close to the western site boundary on the historic storm water sewer.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Retention permission granted on the 11 July 2023 for the extension to existing workshop, said extension used for the welding, cutting, drilling, cleaning and fabrication/processing of steel and steel members for use in the erection of buildings and structures off-site, all-in accordance with plans and particulars submitted subject to 15 no. conditions.

Further information and clarification of further information sought in relation to a range of matters including: - noise survey and proposals to mitigate same, landscaping plan, point of clarification on the use of materials/paints and licensing requirements and disposal of metals, information to assist the appropriate assessment screening with regard to construction stage run-off and clarification on pollution interception, site specific flood impact assessment and revised drawings excluding the section of the subject site zoned 'Existing Residential/Mixed Residential and Other Uses' from the use as part of the steel fabrication business.

##### 3.1.1. Conditions

**Condition no. 2** This permission does not authorize the use of the southeastern most section of the site, fronting onto Macroom Road, in association with the steel business. There shall be no storage of goods including raw materials, manufactured goods, packaging or crates at that location.

**Condition no. 5** Any damage to the public road or footpath adjacent to the site by machinery or otherwise, the repairs of same shall be carried out by the developer to the satisfaction of Cork County Council.

**Condition no. 6** Noise levels emanating from the proposed development when measured at noise sensitive receptors shall not exceed 55 dBA (30-minute LAR) between 0700 hours and 1900 hours, 50 dBA (30 Minute LAR) between 1900 and 2300 and shall not exceed 45 dBA (15 minute Leq) between 2300 and 0700. A penalty of +5dBA will be applied to the measured noise if the noise contains a discrete continuous tone (whine, hiss, screech, hum etc.) or if there are distinctive impulses in the noise (bangs, clicks, clatters or thumps).

**Condition no. 7** A monitored noise survey carried out within 3 months of the grant of planning permission and every 12 months thereafter (this can be reviewed if the survey shows compliance).

**Condition no. 8** Hours of operation are limited to Monday-Saturday 7am to 5.30pm.

**Condition 9.** Landscaping plan for eastern boundary to be submitted and agreed.

**Condition no. 10** All doors to the workshop shall be kept closed at all times except for brief period when machinery is passing through the doors.

**Condition no. 11** A method statement for the preparation and application of all surface coatings including details of all air pollution control measures on site and location of any extract and/or ducts ventilating to atmosphere.

**Condition no. 14** Special contribution of €12, 800.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- *Primary report 7 September 2022* – Notes that there hasn't been recent planning history pertaining to the site and that the subject application follows enforcement action over the alleged construction of a shed and noise and odour pollution from the site. Principle of development is generally acceptable, however, further information sought in respect of the following matters: -noise survey and proposals to deaden steel on steel noise (especially for the yard area as this is tonal noise) and operation of door/access points to minimise noise impacts, landscaping plan, use of materials/paints and licensing requirements for same and disposal of metal wastes, information to assist the appropriate assessment screening with regard to construction stage run-off

and clarify any form of pollution interception, site-specific flood impact assessment and same to inform updated AA screening report, revised drawings to show that the subject site zoned 'Existing Residential/Mixed Residential and Other Uses' is not in use as part of the steel business and clarification of hours of operation of the business.

In section 7 notes the requirement for appropriate assessment has been screened out for this proposed development having regard to the lack of ecological or hydrological connection between the development site and any European Site. In section 12 assessment I note that the planner acknowledges the Heritage Office seeks further information in respect to a number of matters relating to the submitted 'Report to inform AA screening'.

- *Further Information planner report 28 March 2023* –Opening hours stated as being between 0700 and 1730 Monday to Saturday. Notes Noise Impact Assessment refer to the hours of 0700 and 1900. Clarification sought in respect to noise impact assessment, landscape plan, proposals to manage closure of doors, details to be clarified on the use of all surface coatings including degreasers, anti-corrosion steel primers, primers or any other process where the steel surface is otherwise treated including air pollution control measures, further detail in relation to processing of metals and how metals and metal particulates are disposed of from site, whether protective bunding was provided to prevent runoff to the surface water drainage system on site, existing and proposed surface water drainage plan and an assessment of the potential for impact to qualifying interests of the River Blackwater SAC and potential cumulative effects connected to the same surface water drainage system.
- *Clarification of Further Information 7 July 2023* – The response received has not fully responded to the planning authority's request with respect to the south-eastern portion of the site, the NIA as currently presented has not demonstrated that the development and use would not injure the amenities of noise sensitive locations in the vicinity and the landscaping scheme for the eastern boundary not sufficiently detailed. It is considered that, given the request for FI and CFI there is no further time available to seek clarification

again, that permission should be granted subject to condition to address the outstanding issues.

### 3.2.2. Other Technical Reports

- Engineering Report:
  - Initial Report –The existing facility generates the movement of many articulated vehicles on a weekly basis. Therefore, to ensure the integrity of the area in front of the entrance gates is maintained a special development contribution will be applied to cover any remediation costs incurred by the Council in the future. Cost of the area to be overlaid with 40mm of Stone Mastic Asphalt 60mm of dense binder course asphalt concrete  $20m.8m = 160 \text{ sq. m} \times €80/\text{sq.m} = €12,800$ . The site is within the extent of Flood Zones A and B and a flood risk assessment (FRA) should be submitted.
  - FI report – notes the applicant states that an FRA is not required as the lands are located 350m away from flood zones A and B. Recommend granting permission subject to condition.
- Engineering report – Environment Directorate Report
  - As the building has already been constructed there are no further emissions from the building, no objection to this development.
- Ecology:
  - Initial report - Further information required in relation to the processing of metals and how metals and metal particles are disposed of from the site, clarification if any surface water linkages between the site and the Finnow include any form of pollution interception, consider the potential impact to the QI of the Blackwater River SAC associated with potential increased hydrological flows associated with the development of the new structure, Flood Risk Assessment to inform the AA screening.
  - FI report – The response provided in respect to the processing of metals and how metal particles are disposed of has not been responded to fully and as such the applicant shall be requested to address this point in full. The information submitted indicates that there

is no interceptor in place but that the applicant has no difficulty in fitting same. Further clarification sought on whether bunding was utilised during the pouring of concrete to prevent runoff of the surface water drainage system on site. Hydrological link shown between the site and Finnow River on the surface water drawing. Further information confirms that stormwater drainage system has been in situ for upwards of 50 years and is also connected to St. Joesphs Garden. No assessment of the potential for impact to qualifying interests of the Blackwater SAC due to the increased hydrological flows associated with the new structure on-site and potential cumulative effects associated with hydrological flows considering other developments are also connected to the same surface water system. Notes that FRA not required given the distance from the flood zones A and B. Seeks replacement planting of the proposed *Leylandii* with *Taxus baccata*. (native Yew). Applicant to address in full the points a-c of the FI request and provide an updated report to inform AA screening.

- CFI report – Satisfied with the response that the landscaping plan has been updated to include *Taxus Baccata Fastigata* hedging along the eastern boundary. A revised rainwater proposal now proposed to include a rainwater recycling facility which will eliminate hydrological flow associated with the development as there is no surface water connection between the shed extension and the Finnow River. Given the buffering of the drainage ditch from the extension workshop by way of existing infrastructure and open yard no adverse effects on the water quality within the SAC as a result of surface water runoff are expected to have occurred during the construction phase. Notes updated report to inform screening for Appropriate Assessment and its conclusions that the workshop extension subject to the retention application does not have the potential to significantly affect any European site in light of their conservation objectives. The shed extension roof area represents 7% and as such is considered not to be significant with respect to the potential alteration of hydrological flows. No over ground exposed storm water drainage channels/gullies which could act as a conduit for

deleterious substances for surface water runoff generated during the construction phase. Is satisfied with the submitted waste collection permit and waste facility permit for United Metal Recycling the contracted company for collecting and recycling all metal waste. Ecological conditions recommended with respect to the cutting of trees, hedgerows and vegetation and landscaping.

- Environment Report:
  - Initial report - Notes that they have received a number of complaints regarding this premises with regard to the noise and paint fumes from the premises. Further information sought
  - FI report – The response to the request for further information is inadequate. Noise Impact Analysis report submitted does not adequately present a clear trail between the presented results and the final conclusions, no detailed mitigation measures identified other than the planting of a leylandii hedge. Having regard to (NG4) (EPA 2016) the applicant shall repeat the Noise Impact Assessment. Clarification of further information sought in respect of hours of operation, monitored noise survey and method statement for the preparation and application of all surface coatings including details of all air pollution control measures on site and verification of efficacy.
  - CFI report- As currently presented it has not been demonstrated on the basis of the information submitted that the development and use by reason of noise and nuisance would not injure the amenities of noise sensitive locations in the vicinity. Further clarification is required on items of information not responded to in the clarification of FI, as time constraints will not allow for further clarification the issues can be dealt with by way of conditions as recommended.

### 3.3. Prescribed Bodies

None.



### 3.4. Third Party Observations

A total of three third party observations were received by the planning authority, namely from Denis Healy, Aidan O'Sullivan, Una Donovan for and on behalf of Church Street Residents Association. In summary the key issues raised include:

- The steel fabrication premises has been a source of extreme nuisance for residents on Church Street since the early 2000's.
- Construction of the extension c. 2018 due to its proximity to gardens has resulted in noise from the business being exacerbated to almost unbearable levels in conjunction with the additional fumes and toxins from the spraying of the steel girders.
- The business should not be allowed to expand anywhere beyond the original permission. It is too close to houses and gardens. The suitability of the development to the character of the area is questioned.
- Due to the removal of the shelter belt and ditch together with the native trees and planting the noise emissions increased. (Aerial photos submitted of how close the additional shed is to gardens and the relative size and scale of the premises).
- A retaining wall is required to be constructed along the original boundary of the site, following excavation of land at the rear of our properties (Ref: EF040053) and the construction of a block wall minimum 1 metre height along the removed road boundary.
- Non-compliance with previous planning permissions and conditions.

### 4.0 Planning History

225230	Incomplete application.
225105	Permission granted (September 2022) to retain the erection of 916 sq. m or 159.30 kWp of photovoltaic panels on the roof of the existing manufacturing building and all associated site works.
224749	Incomplete application.

- 217167      Permission granted (March 2022) to retain metal arch advertising structure and associated site trusses and columns as constructed on site.
- 216296      Incomplete application.
- 064311      Withdrawn.

The applicant in their response to the third-party appeal has provided details of the planning history of the site pre-2006, and I am highlighting those as relevant as follows:

- 974991      Permission granted (March 1998) for an extension (1269.45 sqm) to the steel fabrication workshop for Green Glens Developments Ltd.

Subject to 15 no. conditions, of relevance to the subject application:

Condition no. 8 -      Noise levels emanating from the proposed development when measured at the nearest noise sensitive locations shall not exceed 55 dBa (15-minute Leq) between 08.00 hours and 20.00 hours Monday to Fridays inclusive and shall not exceed 45dBa (15-minute Leq) at any other time. Measurements shall be made in accordance with ISO Recommendations R. 1996/1... If the noise contains a discrete, continuous note (whine, hiss, screech, hum, etc.) or if there are distinct impulses in the noise (bangs, click, clatters or thumps), or if the noise is irregular enough in character to attract attention, a penalty of +5dBa should be applied to the measured noise level and this increased level shall be used in assessing compliance with the specified levels (Ref. BS 4142 Section 7.2).

Condition 9 requires that all operations on-site shall be carried out in such a manner as to ensure that no odour or dust nuisance occurs beyond the site boundary because of such operations.

Condition 12 all cutting, trimming, grinding, milling, bending, polishing, shearing, chipping, spray painting etc. to be carried out within the confines of the buildings on site.

952723      Permission granted (November 1995) for the construction of structural steel fabrication workshop (18,624 sq. ft/1730.2 sq. metres), offices and toilets for Green Glens Developments Ltd.

Subject to 1 condition requiring a site layout plan (scale 1:1000) shall be submitted identifying the storm water drains and foul sewers passing through the property. The plan shall also show the sewers and drains under the timber store, the shop and the car park.

The applicant's response to appeal includes the following planning register references: (1240/81) Permission granted (June 1981) for the retention of storage workshop/hardware/garage buildings and (33/67) Permission granted (July 1967) for the erection of a factory, offices, toilets, store, yard and entrance.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2022-2028

Millstreet is a main town within the North Cork Strategic Planning Area (Macroom Municipal District)

**County Development Plan Objective CS 2-5: North Cork Strategic Planning Area** (b) Establish an appropriate balance in the spatial distribution of future population growth so that Kanturk, Millstreet, Mitchelstown, Charleville, Buttevant and Newmarket, can accelerate their rate of growth, in line with this Core Strategy and achieve a critical mass of population to enable them to maximise their potential to attract new investment in employment, services and public transport

#### **CS 207: Network Of Settlements – Higher Order Settlements**

It is a strategic aim for Millstreet as a County Town: To provide a better balance of development between each town and its rural hinterland and fulfil their role as economic and employment centres providing for the needs of their extensive rural hinterlands, so that they can become the location of choice for most people especially those with an urban employment focus.

**Table 8.4: Employment Network** (Other Main Towns - including Millstreet) Support existing employment uses and the development of local catchment employment, particularly related to local assets, resources or opportunities.

### **Land Use Zoning:**

The subject lands are zoned existing mixed/general business/industrial uses, and the wider site also includes a section of town centre/neighbourhood centres zoning and existing residential/mixed residential and other uses (on lands fronting onto Church Road).

The rear boundary of the site abuts the greenbelt 1 zoning.

### ***Existing Mixed/General Business/Industrial Uses (MGB) 18.3.10***

The areas identified as Existing Mixed/General Business/Industrial Uses consists of a mix of employment uses generally including long term establishments. These areas include (but not exhaustively) a large range of uses including general warehousing, manufacturing, storage, builders provider/yard, food processing facility, logistics, vehicle sales outlets, high technology manufacturing, plant and tool hire, public services, service station, vehicle servicing/maintenance garage. This zoning will protect existing uses and support expansion where appropriate of existing uses while not permitting uses that would threaten the vitality and integrity of the primary use of these areas.

***County Development Plan Objective ZU 18-10: Existing Mixed/General Business/Industrial Uses*** Facilitate development that supports in general the employment uses of the Existing Mixed/General Business/ Industrial Areas. Development that does not support or threatens the vitality or integrity of the employment uses of these areas shall not be permitted.

***Appropriate Uses in Existing Mixed/ General Business/Industrial Uses*** General warehousing, trade warehousing and distribution, manufacturing and repairs, storage, builders' provider/ yard, food processing facility, logistics, fitting and business to business activity, wholesaling, vehicle sales outlets, high technology manufacturing plant and tool hire, public services, service station, vehicle servicing/maintenance garage, incubator units, childcare facilities, commercial film studio facilities

*Section 18.2.2 Transitional Lands - it is important to avoid abrupt/disconnected transitions in scale and use in the boundary areas of adjoining land uses.*

County Development Plan Objective ZU 18-5: Transitional Zones

Have regard to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands in the vicinity of zoning boundaries.

*Section 15. 11 Noise and Light Emissions:*

County Development Plan Objective BE 15-13: Noise and Light Emissions

- a) Seek the minimisation and control of noise pollution associated with activities or development, having regard to relevant standards, published guidance and the receiving environment.
- b) Ensure noise-sensitive developments are adequately protected from potential sources of noise (e.g. national roads). New developments should take account of, and mitigate against, any existing noise sources.
- c) Support the implementation of Noise Action Plans prepared for the Cork County area.
- d) Seek the minimisation and control of light pollution associated with activities of development, having regard to relevant standards, published guidance and the receiving environment and Dark Sky principles.
- e) Review and update Cork County Council Policy Guidelines for Public Lighting to take account of impacts of public lighting on wildlife and night skies

The Cork Agglomeration Area Noise Action Plan 2018 – 2023.

*Volume 3 North Cork - Water Quality Issues affecting the River Blackwater SAC*

## **5.2. Natural Heritage Designations**

The subject site lies approximately 200 metres from a terrestrial part of the Special Area of Conservation: Blackwater River SAC (Cork/Waterford) Site Code 002170.

### 5.3. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. An EIA screening determination or an EIA, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

#### *First Party Appeal*

- Appeal against Condition no. 14 Special Development Contribution of €12,800 as the reason for the condition to protect the integrity of the public road is neither exceptional nor specific to the proposed development to be retained and, therefore, not in accordance with section 48 (2)(c) of the Planning and Development Act 2000 (as amended).
- Such charges to protect public roads adjacent to development are included in the general development contributions scheme. Contributions levied do not accord with the principles of reasonableness or proportionality.
- No basis for the calculation of the special contribution in question has been provided.
- Planning precedent An Bord Pleanála have omitted or modified special planning contributions for road and public lighting improvements in circumstances similar to this appeal.

#### *Third Party Appeal*

- Nature of development – the development proposed to be retained is adjacent to an established residential area of terraced houses at Church Street. These residential properties predate the development, and the development is contributing to extreme nuisance to the residents caused by noise from the workshop (welding, cutting, drilling, cleaning/fabrication of steel and steel

members), noise from machinery movements along the route to the rear of several houses on Church Street and environmental pollution.

- Environmental Pollution – Spray painting undertaken at the site generates effusion and vapours giving rise to chemical smells in the appellants homes and gardens. Concerns about health impacts of this practice of spraying so close to a residential area.
- History of failure of applicant to comply with past planning permissions - Noise (55dba) and environmental related (odour or dust nuisance occurs beyond the site boundary) conditions on existing planning permission 97/4991 are not being adhered to. The applicant is in contravention of Enforcement Orders EF040053 and EF191159 which prohibit the storage of steel on the residential zoned lands. Demolition of a building of historic interest to which Enforcement Orders EF040053 and EF19159 relate.

## **6.2. Applicant Response**

- The applicant is the oldest family run structural steel fabricator in Ireland, established in 1875 and is in its 5<sup>th</sup> generation employing 50 people directly in its Millstreet base. The subject site zoned 'Existing Mixed/General Business/Industrial Uses' is explicitly supported as a long-term employment use in the Cork County Development Plan 2022. It is an established use that is appropriately located. The workshop is needed to ensure the efficient and effective operation and sustainability of the long-established steel fabrication business.
- Unclear who and how many residents the Church Street Residents Association represent.
- Disagree with the third party's statement that the planning authority did not take full cognisance of the objection made by Church Street Residents Association. They highlight the considerations in the planner's report and the conditions attached to the notification to grant permission that obligate the applicant to operate the activity in a way that would not seriously injure the amenities of the area and that is not prejudicial to public health.

- Noise reports submitted at further information and clarification of further information stage detail the calculated predicted noise levels at neighbouring facades as a result of the new extension to the existing factory and conclude that the background noise and noise levels at the facades of the closest residential unit are not affected by the new extension at weekdays between 18:00 and 7:00 nor are they affected on Saturdays (and Sundays).
- The background noise can be affected by +/- 2.5dBLEaq16 with the external compressor untreated. Adding a noise barrier reduces the noise level to 0.5dBLEaq16 and this is unlikely to give rise to noise nuisance complaints. The resultant noise levels at the façade of the closest reception with all the equipment operating simultaneously are well below the EPA and Cork County Council noise action plan daytime limits of 55dBLden and 45dBLnight with the air compressor acoustically treated, and only marginally in excess of the recommended 55dBLEaq16 daytime limit with the air compressor untreated.
- Applicant will comply with noise conditions and hours of operation (to include Saturdays as required) if the Board were minded to grant permission. Conditions no. 6, no. 7 and no. 8 of planning authority notification of decision to grant referenced.
- Applicant is willing to accept a condition requiring the application of an acoustic noise barrier to the external air compressor in the event of a grant of permission.
- The applicant has ordered and will install a rapid roll door on the extension to the workshop to further ensure that the amenities of the area are safeguarded.
- With respect to the appellants concerns about the spray painting and treatment of steel girders the applicant has clarified that there is no painting process used in the premises, steel is primed on the site with Kem Kromil 155, and a method statement was submitted with the application. The report of the Environmental Officer noted no objection on environmental grounds. Condition no. 11 relates to the preparation and application of surface coatings and details of all air pollution control measures on site including the



verification of efficacy and location of any extract and / or ducts ventilating to atmosphere.

- History of failure to comply with planning permission has been put forward by the third-party appellants. In response the applicant:
  - has removed all steel stored in the south-eastern part of the site and has discontinued the use of this part of the site for storage. The applicant is willing to comply with conditions attached in respect to noise and to install a noise barrier to the external air compressor and that applicant has ordered and will install a rapid roll door to the workshop.
  - The third party has not provided any evidence to confirm noise regularly exceeds 100dBA which is not supported by the applicant's noise assessment.
  - No evidence has been submitted that the applicant is in non-compliance with conditions attached to planning register reference 97/4991.
  - The building that was demolished, was a hazard to pedestrians and road users, was not a protected structure nor listed on the National Inventory of Architectural Heritage, nor located in an Architectural Conservation Area.

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

- None received.

### **6.4. Observations**

Nora and Denis Healy

- Church Street was a quiet residential street built by Wallis of Drishane c. 1880 for his workers in Drishane. Twenty houses in the street with a right of way from the side of house no. 1 to the gardens and plots. At the rear of the gardens was a mill race (mill race cut off in the early seventies).

- Beyond the mill race was a treelined ditch and the right of way to the rear was an idyllic gem in the town.
- In late 2004 the applicant bought and demolished house no. 20 in the street without planning permission. This was the original courthouse. Retention permission was granted for its demolition. The planning authority authorised that a wall be built and that the garden was not to be used for storing steel. The wall was never built, just a plastic type fence and the yard is full of steel girders.
- The boundary ditch by the mill race was demolished by the applicant who claimed that he had bought the residents right of way. A shed built where the mill race was demolished by the applicant and following legal action the fuel shed had to be rebuilt by the applicant.
- The applicant company has completely destroyed the rural ambience of Church Street, it has lowered the value of the property, and the gardens are out of bounds as a result of noise impacts.

## 6.5. Further Responses

Church Street Residents Association in response to first party appeal consider that the level of the contribution is appropriate given the location of the development and its proportionate impact on the locality relative to another development that is not located in the town centre.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the reports of the local authority and having inspected the site, and having regard to the relevant local, regional, national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of development
- Noise nuisance and fumes

- Non-compliance with previous planning permission conditions
- Attachment of Special Development Contribution
- Miscellaneous

## 7.2. *Principle of development*

- 7.2.1. The applicant has provided in their response to the appeal details of the business which it is stated forms part of a family run structural steel fabricator business established in 1875 and is in its 5<sup>th</sup> generation employing 50 people directly in its Millstreet base. Planning history register references provided by the applicant demonstrate the expansion of operations that has occurred. I acknowledge that this is an existing established and permitted steel fabrication business on the lands. I am unable to view all the records, specifically those pre-1995 decisions. Notwithstanding, of the records available to me and the information on file I am of the opinion that there is a lack of clarity as to the total workshop area permitted, the issue of enforcement is addressed in section 7.4 of my report.
- 7.2.2. The subject site has three separate applicable land use zonings, including 'Town Centre' to the northern boundary, 'Existing Mixed/General Business/Industrial Uses' to the central and southern section of the subject site with a portion to the southeast zoned 'Existing residential/mixed residential and other uses', as set out in section 5.1 of this report. The workshop proposed to be retained is located within the 'Existing Mixed/General Business/Industrial uses' zoning.
- 7.2.3. I note that the Cork County Development Plan states in section 18.3.2 that the approach taken in the plan was to differentiate between general existing built-up areas to distinguish areas that are 'predominately residential' and have the potential to expand residential development and those areas which are 'predominantly employment' uses. As noted in section 5.1 of this report the section of the site in which retention is sought is an area distinguished as 'predominately employment'. However, I also acknowledge the immediately adjoining 'Existing Residential/Mixed Residential and Other Uses' land use zonings of Church Street and Saint Josephs' Gardens.
- 7.2.4. The applicant in their response to the third-party appeal refer to the planner's report of September 2022 which categorises the use of the building as 'light industrial' and

the applicants state they agree with this categorisation as this correctly recognises that the steel fabrication activities carried out are of a type that would be acceptable in a residential area without determinant to the amenity of that area by reason of noise or smell. Having regard to the definition of light industrial contained in article 5 (1) of the Planning and Development Regulations 2001 (as amended) I do not agree with applicant's interpretation and note that the planner highlights that there is serious concern as to the negative impact the development appears to be having on the residential amenity of the area.

- 7.2.5. Having regard to the development plan, I note that the zoning objective is for 'industrial' uses and indicates that the appropriate uses in Existing Mixed/General Business/Industrial Uses include manufacturing and repairs, builders' provider/yard etc. whereas 'light industry' is identified as appropriate within the zoning for Business and General Employment Areas. I note that industrial is not defined in the development plan but taking into account the differentiation in the zonings and its impacts with respect to noise etc. I am of the opinion that the steel fabricating business would appropriately fall within the 'industrial' use category.
- 7.2.6. I refer to Table 8.4: of the development plan which seeks to '*Support existing employment uses and the development of local catchment employment, particularly related to local assets, resources or opportunities*'. Having regard to the stated employment of 50 people, the current land use zoning for the subject site I would agree with the planning authority in that the principle of development of a workshop and its industrial use, as part of an expansion of an established employment use is in accordance with the land zoning designation.
- 7.2.7. I acknowledge the issues put forward by the appellants that the use of the workshop by its very nature generates substantial noise and disturbance and environmental pollution. I shall address these matters in section 7.3 of this report taking into account development plan objective ZU 18-5 in respect to transitional zones.

### 7.3. *Noise nuisance and fumes*

- 7.3.1. A key issue addressed in the planning authority's assessment of the subject application is the impact of the development on the existing Church Street residents having regard to previous complaints and third-party submissions received on the subject application. The proposed workshop to be retained is located within 4

metres, at its closest, of the subject site shared boundary with the laneway access and rear gardens of residential properties along Church Street.

- 7.3.2. The third-party appellants highlight the significant disturbance the noise that the machinery operating within and outside the workshop generates. Machinery operating in the area immediately adjacent to the gardens of several houses on Church Street and the noise of steel being moved and stacked against other pieces of steel is causing an extreme nuisance to the residents. The appellants also raised concerns about the use of the spray paints to treat the steel girders which generates effusion and vapours travelling beyond the boundary of the yard and into the third-party appellants gardens and homes.

#### *Noise Nuisance*

- 7.3.3. I note both the submitted Noise Impact Analysis Report (received the 1 March 2023) and updated Noise Impact Analysis (NIA) Report (received 15 June 2023). The report received from the Environment Section of Cork County Council following review of both the original and updated NIA reports consider that it has not been demonstrated that the development and use, by reason of noise and nuisance would not injure the amenities of noise sensitive locations in the vicinity. The Environment Section highlight that the NIA does not clearly set out and detail (a) the existing noise levels and (b) the additional noise levels arising from the development to be retained and (c) a cumulative assessment of the noise levels and the corresponding resultant impact on the prevailing noise climate at noise sensitive receptors in the vicinity. In addition, they set out that all noise mitigation measures must be clearly illustrated and detailed to allow an audit of these measures.
- 7.3.4. As already acknowledged in section 7.2 the steel fabrication business is an established use and I acknowledge that there is an existing noise environment associated with this use and that the business is subject to conditions relating to noise in order to protect the adjoining residential amenities. In my assessment I am, therefore, assessing whether the additional noise emissions resulting from the extension proposed to be retained would be excessive when measured, allowing for the additional noise disturbance caused by the incident type noises i.e. dropping/banging metals.

- 7.3.5. Having reviewed the NIA reports I am of the view the updated report (June 2023) does allow for a comparison of a baseline for background noise, albeit with a lack of clarity to what the background encompasses, and then the effects on the background noise as a result of the addition of the new extension noise sources. Notwithstanding, the updated noise impact assessment has changed the defined noise source environment of identified internal use equipment and external use equipment from that originally identified in the NIA of March 2023. The original NIA dated March 2023 did include for 'incident' type noises arising from a blaster, incident clan, and forklift truck manoeuvring and reversing. The original NIA (March 2023) included recommendations to mitigate against the forklift truck reverse alarm which was found to be particularly noisy event and also recommended the addition of sound insulation to the externally located compressor and shot blasting equipment. No explanation is provided as to why these noise sources are not included for in the updated NIA and the mitigation measures originally recommended now not included.
- 7.3.6. I am of the view, taking into account the difference between both NIA's noise sources that the information available submitted in the June 2023 NIA does not adequately address applicable penalties for tonality and impulsivity where these characteristics are present, for example the reversing forklift truck alarm. Subsequently I consider that there is a lack of clarity in what noise mitigation measures are proposed. As noted in the Environment Section's report that detail is required to allow for future auditing of those measures.
- 7.3.7. Given the third-party concerns raised, which draw attention to the extreme noise nuisance and the lack of clarity in respect to mitigation measures I do not consider that the information as submitted demonstrates sufficiently that there will not be a determinantal impact to the amenity of the area by reason of excessive additional noise emissions, including for tonality and impulsivity, arising from the workshop extension.

#### *Fumes*

- 7.3.8. With respect to fumes, I note that clarification of further information was sought in respect to a method statement for the preparation and application of surface coatings. The NCD Method Statement for the application of primer outlines that the

steel is shot blasted and any residue from oil lubricants are cleaned down by solvent wipes, steel is blown down by compressed air prior to the application of primer. The primer is applied by airless spray to ensure a wet and even coat and after primer dries testing is carried out on the steel and recorded. Upon completion of the work all the work surfaces are brushed, and metal particles and off cuts are disposed of to a metal recycling skip. From my site inspection I was aware of fumes when walking along the external boundaries of the workshop. There was no obvious air extraction /ducting. I note the planning authority sought as part of the method statement identification of all air pollution control measures on site and the location of any extract and/or ducts ventilating to the atmosphere.

7.3.9. From the information available on file and the response to the CFI request no details of air pollution control measures on site and the location of any extract and/or ducts ventilating to the atmosphere have been submitted to determine whether it would be possible to reduce the effects of the fumes. The planning authority attached Condition no. 11 to address this gap in information, requesting that a detailed method statement be submitted within one month of the grant of permission. On the basis of the information available I do not consider there to be sufficient evidence to determine the impact of the development to be retained on the air quality/impact of fumes.

7.3.10. Notwithstanding the issues relating to air quality impacts identified above I am of the view, that the deficiencies in the information with respect to the NIA are of such significance to warrant a recommendation of refusal, given that the information as submitted does not demonstrate sufficiently that there will not be a determinantal impact to the amenity of the area by reason of noise arising from the workshop extension.

#### *7.4. Non-compliance with previous planning permission conditions*

7.4.1. With respect to other matters relating to the steel fabrication business operating outside of conditions of previous permissions and issues raised extraneous to the development the subject of the appeal, I acknowledge the applicant's rebuttal of these concerns raised by the appellant and note for the record the matter of enforcement falls under the jurisdiction of the planning authority. It is beyond the remit of An Bord Pleanála to adjudicate on such matters.

## 7.5. Attachment of Special Development Contribution

7.5.1. The planning authority in the decision to grant retention permission for the workshop attached two financial contributions namely:

- Condition no. 14 for a special contribution of €12, 800 to Cork County Council in respect to works to protect the integrity of the public road adjacent to the entrance under Section 48 of the Planning and Development Act 2000).
- Condition no. 15 a section 48. contribution of €13, 039.68 to Cork County Council in respect of public infrastructure and facilities benefiting development in the area of the planning authority in accordance with the Development Contribution Scheme.

7.5.2. Section 48(2) (c) of the Planning and Development Act 2000, as amended sets out the special requirements that justify the imposition of special contribution conditions as follows:

*“A planning authority may, in addition to the terms of the scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development”.*

7.5.3. Accordingly, three essential requirements or characterises are necessary to justify the imposition of a ‘special contribution’ condition. Under s48(2)(c) the payment must be required:

- a) In respect of a development,
- b) Specific exceptional costs must be incurred as a result of or in order to facilitate it, and
- c) Such costs cannot be covered by a Development Contribution Scheme made under Section 48 or 49 of the Act.

7.5.4. Under the first test (a) I am of the opinion that the payment is levied in respect of a “development” and meets with this test.

7.5.5. Secondly having regard to the test under (b) I am of the view that costs as a result of the development, including works to protect the integrity of the public road, will be



incurred due to the movement of articulated vehicles turning into and exiting the site. I acknowledge the planner's report outlines the methodology for the special contribution and note that this appears to be based on a fixed rate per metre. It is stated that the area adjacent to the existing entrance will need to be overlaid with 40mm stone mastic asphalt on a 60mm of dense binder course asphalt concrete over a 20mx8m =160 sq. m x €80/sq. m =€12,800. No drawings of the specific area have been provided for the proposed reinforced road surface and the costings set out for the works are limited in nature. This is a relatively small extension within a larger industrial and commercial development and not all movements that would arise solely relate to this extension. I would be of the opinion, therefore, that the costs for the proposed works to protect the integrity of the road surface at the entrance are not specific costs incurred in respect of this workshop extension development. I am of the view that the condition relating to an uncoded project does not pass the 'specific test'.

- 7.5.6. Thirdly whether such costs are already covered by a Development Contribution Scheme I refer to Cork County Council Adopted Development Contribution Schemes (Adopted 23<sup>rd</sup> February 2004) and the Development Contribution Schemes – Rates for 2014 and until further notice. The contributions applicable to grant planning permission, were calculated by dividing the planned expenditure on the provision of services over twenty years by the amount of development that it projects to happen during that period.
- 7.5.7. Millstreet is located in the North Cork Strategic Planning Area (NCSPA) and outside of the supplemental development contribution scheme for suburban rail. The general development contribution scheme applicable for this development:

Non-Residential Developments		
Roads €14.29	Amenity €2.03	Total €16.32

The planning authority attached condition no. 15 with respect to development contribution of €13, 039.68 (calculated as 799 sq.m x €16.32). I note that this contribution is assigned to both expenditure on roads and amenity.

7.5.8. The intention of the special contribution included in condition 14 is to provide funding for works to protect the integrity of the public road adjacent to the entrance. The retail/commercial and industrial use is established for a significant period at the subject site. As noted above the costs for the proposed works to protect the integrity of the road surface at the entrance are not specific costs incurred in respect of this development, the workshop extension. I am of the opinion that if the provision of works to protect the integrity of the public road adjacent to the entrance in this context is provided for under the General Contribution Scheme and fails to pass the test under (c). I consider that the provision of works to protect the integrity of the public road adjacent to the entrance should, therefore, not be included for as a special contribution and it fails to meet the essential requirements or characteristics to justify attachment of a 'special contribution' condition.

7.5.9. Separately, I note for the Board that condition no. 5 requires the developer to repair any damage to the public road or footpath adjacent to the site to the satisfaction of Cork County Council.

In conclusion on this point and having regard to the nature of the condition the subject of the first-party appeal, I am of the view that condition no. 14 relates to an project with limited details provided for a specific costed scheme design, and fails to meet the 'specific exceptional costs test' and furthermore, the intention of the special contribution to provide funding for works to protect the integrity of the public road is already provided for under the Cork County Council's General Development Contribution Scheme. In the event that the Board is minded to grant permission I recommend that a direction is given to the said Council to (a) REMOVE condition number 14 and the reason, therefore.

## 7.6. *Miscellaneous*

7.6.1. The applicant has raised an issue with the membership of 'Church Street Residents Association' and contends that there is a misrepresentation as they do not represent all owners/occupiers of nos. 1-19. I note that the applicant owns no. 18 Church Street and confirms that they are not a member of this residents' association. I note that the third-party submission made by Church Street Residents Association is

identified as being, for and on behalf of Una Donovan a resident of Church Street and, as such, I consider this to be a moot point.

- 7.6.2. It is not the role of the Board to look behind the nature of the appellant (e.g. a resident's association) and determine whether the objection, and subsequent appeal/observation to the Board, were within, or outside, the powers and duties of the chairperson of the association. I do not consider that there is any basis for dismissing the appeal on these grounds.

## **8.0 AA Screening**

- 8.1. A 'Report to Inform Screening for Appropriate Assessment' (dated 27th March 2022) was submitted with the planning application. A revised 'Report to Inform Screening for Appropriate Assessment' (dated 12th June 2023) was subsequently submitted in response to a request for clarification of further information.
- 8.2. The planning authorities initial report screens out the requirement for Appropriate Assessment (AA) for this development having regard to the lack of ecological or hydrological connection between the development site and any European site.
- 8.3. I note that Cork County Council's (CCC's) ecologist, in their report dated the 5<sup>th</sup> July 2023 following receipt of clarification of further information highlights that it is now proposed to harvest the surface water run-off from the roof of the workshop extension and, as such, there would be no increase in hydrological flows to the SAC as a result of the development. In their report the CCC's ecologist notes that the submitted report to inform screening for appropriate assessment has not taken into consideration the potential implications of increased hydrological flows within the SAC prior to the proposed modification to include rainwater harvesting. Notwithstanding this omission, the CCC ecologist considers that given the stated 7% increase in roof area as a result of the workshop extension to be relatively minor in scale and that any potential alteration of hydrological flows with the SAC as a result of same to be not significant. Therefore, they rule out the potential for significant effects on the integrity of the SAC as a result of alteration of hydrological flows. Furthermore, as there are no over ground exposed storm water drainage channels/gullies which could act as a conduit for deleterious substances for surface water generated during the construction phase and the intervening distance, they are

satisfied that the proposed development to be retained has not and will not result in a deterioration of water quality within the River Finnow and in turn the Blackwater River SAC. The CCC ecologist concludes that the works subject to this retention application are screened out from the requirement to carry out a Stage 2 Appropriate Assessment.

#### **8.4. Screening Determination**

Please see Appendix 3 - Screening the need for Appropriate Assessment.

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, including the reports to inform screening for appropriate assessment in which there is uncertainty about the reliance on mitigation measures, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European Site (Site Code: 002170), or any other European site, in view of the site's conservation objectives.

This is a new issue, and the Board may wish to seek the views of the parties. Notwithstanding, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

#### **9.0 Recommendation**

I recommend that RETENTION permission is refused in accordance with the following reasons and considerations:

#### **10.0 Reasons and Considerations**

1. Having regard to the location of the proposed workshop extension to be retained in close proximity to residential dwellings, and to the lack of adequate baseline information presented in respect of these sensitive receptors, inconsistencies in identified noise sources including internal and external noise emitting equipment and their applicable penalties for tonality and impulsivity where these characteristics are present; and, the lack of clarity in respect to mitigation measures the information as

submitted does not demonstrate sufficiently that there will not be a determinantal impact to the amenity of the area by reason of noise arising from the workshop extension. Therefore, it is considered that the proposed development to be retained, would seriously injure the amenities of properties in the vicinity by reason of noise and general disturbance, and would depreciate the value of properties in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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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Claire McVeigh  
Planning Inspector

27 September 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317691-23		
<b>Proposed Development Summary</b>	Permission to retain extension to existing workshop, said extension used for welding, cutting, drilling, cleaning and fabrication/processing of steel and steel members for use in the erection of buildings and structures off site.		
<b>Development Address</b>	Liscahane, Millstreet, Co. Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	√
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			
<b>No</b>	√		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>			
<b>Yes</b>	√	Class 13. Changes, extensions, development and testing (a) (i) and (ii) with reference to Class 10 (a) Industrial estate development projects, where the area would exceed 15 hectares.	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2 - Form 2

### EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317691-23	
Proposed Development Summary	Permission to retain extension to existing workshop, said extension used for welding, cutting, drilling, cleaning and fabrication/processing of steel and steel members for use in the erection of buildings and structures off site.	
Development Address	Liscahane, Millstreet, Co. Cork.	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The subject site is located within an existing steel fabrication business on serviced lands, the nature of the proposed workshop extension to be retained is not exceptional in this context.</p> <p>Scrap metal is removed from the site by truck with hook loaders or truck mounted crane and all waste metal is transported under the waste collection permit, waste material is then transported to a permitted waste facility for inspection and segregation and shipment to foundries for recycling.</p> <p>Localised emissions to air.</p>	No
Size of the Development	The area of the subject site is 3.04 ha which is significantly	No



<p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>below the threshold for industrial estate development (15 ha) as set out in Schedule 5 of the Planning and Development regulations (2001) as amended. In addition, assessing the development under Class 13 the proposed extension to be retained represents approximately 7% of the total floor area of the steel fabrication business, significant below the thresholds set out in (Class 13 (a) (i) and (ii).</p> <p>The proposed workshop extension is located adjacent to and surrounded by the larger existing steel fabrication workshop. The cumulative considerations with respect to the proposed development to be retained and the existing steel fabrication plant will result in additional noise, emissions to air and traffic movements.</p> <p>The submitted report to inform screening for Appropriate Assessment identified in Table 4-1 plans and projects which may contribute to cumulative or in-combination impacts including planning authority register reference (216269) I note that this application was withdrawn and (194070) permission granted for the construction of 14 no. two storey semi-detached houses on the southern side of the River Finnow.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p>	<p>The location of the development proposed to be retained is adjacent to and surrounded by the built form of the existing steel fabrication workshop, within an urban area.</p>	<p>No</p>

<p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>There are no ecologically sensitive locations in the immediate vicinity of the site. The nearest European site is located 200m to the west is the designated Blackwater River SAC.</p> <p>The proposed development to be retained is not immediately proximate to any protected structures.</p>	
<p style="text-align: center;"><b>Conclusion</b></p>		
<p>There is no real likelihood of significant effects on the environment in terms of the nature, size and location of the proposed development and having specific regard to the criteria set out in Schedule 7 of the P&amp;D Regs 2001 (as amended).</p> <p>EIA is not required.</p>		

**Inspector:**

**Date:**

\_\_\_\_\_

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

## Appendix 3 - Screening the need for Appropriate Assessment

### Appropriate Assessment Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed retention of extension (799 sq.) to existing workshop used for welding, drilling, cleaning and fabrication/processing of steel and steel members for use in the erection of buildings and structures off site in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

A 'Report to Inform Screening for Appropriate Assessment' (dated 27<sup>th</sup> March 2022) was submitted with the planning application and further revised 'Report to Inform Screening for Appropriate Assessment' (dated 12<sup>th</sup> June 2023) was submitted, prepared by *Greenleaf Ecology* on behalf of the applicant, in response to a request for clarification of further information. The objective information presented in that report informs this screening determination.

### Description of the proposed development

The proposed development to be retained comprises 799sq. metres floor area workshop extension to an existing steel fabrication business. The ecologist in the report describes that workshop is used for sandblast cleaning of steel and that there is no wastewater produced from this activity. The surface water runoff from the new development's roof discharges by gravity to the existing below ground pipe drain, which discharges to a drainage ditch located at the west of the factory yard before ultimately draining into the Finnow River.

Section 3.1.1 of the report to inform AA screening (June 2023) states it is proposed to collect rainwater from the roof of the workshop extension for use within the building in toilet facilities and for watering of the proposed landscaping. Location of rainwater harvesting system indicated on drawing Site Layout Plan – Overview 21-067-104 B.

The applicant's state in the cover letter response to further information received by the planning authority on the 1<sup>st</sup> of March 2023 that from inspection of the current storm water system there does not appear to be any interceptor located on the system. They state that they have no difficulty fitting same and have supplied a specification sheet for a modular bypass interceptor. Drawing 'Site Layout Plan Overview 21-067-104 A indicates that it is proposed to construct an interceptor close to the western site boundary onto the historic storm water sewer which ultimately discharges to the Finnow River.

The application site consists of buildings, large area of hard standing/yard area and artificial surfaces, bound by hedgerows to the east, south and west. There are no active ditches, watercourse or waterbodies present within the footprint of the subject site. An active drain is located to the west of the surrounding factory yard, outside of the subject application red line boundary.

No invasive plant species were recorded on the site. The flood extents (Flood zones A & B) for the Finnow River do not reach the subject site.

### Consultations and submissions

No issues raised by prescribed bodies consulted or within the observations received.

### European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).

The boundary of the nearest European Site is within 200m of the proposed development to be retained. There is a potential pathway (rainwater from the roof of workshop draining to historic storm water sewer) identified to the Blackwater River SAC (002170) via the Finnow River which discharges into the SAC in the form of surface water run-off via land and the Finnow River.

European Site	Qualifying Interests (summary)	Distance	Connections
Blackwater River (Cork/Waterford) (Site Code: 002170)	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Perennial vegetation of stony banks [1220] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Austropotamobius pallipes (White-clawed Crayfish) [1092] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099]	<b>Within c. 200m at nearest point.</b>	Indirect via surface water drains to the existing underground piped storm water sewer which discharges to a drainage ditch located at the west of the factory yard before ultimately draining into the Finnow River.

	Alosa fallax (Twaite Shad) [1103] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355] Trichomanes speciosum (Killarney Fern) [1421]			
<p><b>Likely impacts of the project (alone or in combination with other plans and projects)</b></p> <p>As the proposed application site is not located within or adjacent to a European site there will be no direct impacts and no risk of habitat loss, fragmentation or any other direct impact.</p> <p>With regard to indirect impacts, in relation to construction pollutants, the subject site is buffered from the Finnow River by the yard and the existing workshop located immediately adjacent to the workshop extension. In a worst-case scenario (e.g. a period of very high rainfall) it is possible that surface water runoff from the construction site could carry pollutants to the Finnow River, which forms part of the Blackwater River SAC.</p> <p>In their response to request for further information the applicant states in the cover letter (received 1<sup>st</sup> March 2023) that no runoff occurred at construction stage as the only wet trade was the construction of the concrete foundations and the floor, this area was temporarily bunded during construction.</p> <p>There are a number of factors that would prevent ‘likely significant effects’ on the SAC. Any runoff from the site would have to flow over at least 100m of agricultural land to reach the closest section of the designated area along and adjacent to the Finnow River, which would provide a high degree of filtration and the workshop to be retained is buffered from the SAC by the intervening steel fabrication workshops and factory yard.</p> <p>I note that the subject site is served by public wastewater sewer.</p> <p>During the operational phase, surface water runoff from the extension’s roof will be collected and used within the building in toilet facilities and for watering of the proposed landscaping. It is stated in the report to inform screening for AA (June 2023) that with the use of the rainwater harvesting system, to serve the buildings toilets and for use in watering the proposed landscape buffer, there will be no increase in hydrological flows to the River Finnow and the Blackwater SAC as a result of the development of the new structure.</p> <p>I note that the proposed increase in roof to be retained equates to 7% of the existing steel fabrication business. The information submitted with the subject application does not clearly establish whether the resultant increase in hydrological flow within the SAC will, not be significant as assessed in the absence of the rainwater harvesting system. There appears to be uncertainty as to the significance of effects in the information submitted in respect to the reliance on mitigation measures.</p>				

A modular bypass interceptor (Drawing 'Site Layout Plan Overview 21-067-104 A) is proposed close to the western site boundary onto the historic storm water sewer which ultimately discharges to the Finnow River. I consider the provision of an interceptor to be a standard measure to prevent ingress of pollutants from surface water during the operation phase for an industrial facility.

### **Likely significant effects on the European sites in view of the conservation objectives**

The qualifying interests of the SAC are considered to be sensitive to flow variability over the annual cycle, and their conservation objectives would be compromised in the event of a modified flow regime.

The Finnow River is located c0.3km to the west of the subject site. The surface water drainage system at the site comprises collection of rainwater from the roof of the existing building, which is directed to a sealed underground pipe which discharges to a ditch at the west of the factory yard. The report to inform screening for AA states that there are no watercourses or active drainage ditches present within footprint of the subject site.

Any surface water run-off generated during activities such as excavations for the foundations, pouring concrete etc. during the construction phase Any runoff from the site would have to flow over at least c 0.3km of agricultural land to reach the Finnow River, which would provide a high degree of filtration and the workshop to be retained is buffered from the SAC by the intervening existing steel fabrication workshops and factory yard

I have also considered operational impacts, increase in surface water runoff and potential of pollutants entering the surface water network. The information submitted with the subject application does not clearly establish whether the resultant increase in hydrological flow within the SAC, will not be significant as assessed in the absence of the rainwater harvesting system. There appears to be uncertainty as to the significance of effects in the information submitted in respect to the reliance on mitigation measures.

### **In combination effects**

The submitted report to inform screening for AA lists plans and projects (Table 4-1) which may contribute to cumulative or in-combination impacts.

In combination impacts have been considered and in light of considerations highlighted above, in respect to uncertainty as to the significance of effects in the information submitted, the risk of in combination impacts with the St. Joseph's Garden development other plans and projects cannot be ruled out.

### **Overall Conclusion Screening Determination**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening,

including the reports to inform screening for appropriate assessment in which there is uncertainty about the reliance on mitigation measures, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European Site (Site Code: 002170), or any other European site, in view of the site's conservation objectives.