



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319032-24

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Retention of mobile home and construction of dwelling, private water well and existing septic tank. |
| <b>Location</b>                     | Gurteenina, Midleton, Co. Cork  |
| <b>Planning Authority</b>           | Cork County Council   |
| <b>Planning Authority Reg. Ref.</b> | 234074  |
| <b>Applicant(s)</b>                 | Gavin Hodnett   |
| <b>Type of Application</b>          | Permission and Permission for retention   |
| <b>Planning Authority Decision</b>  | Grant permission and grant permission for retention   |
| <b>Type of Appeal</b>               | Third Party   |
| <b>Appellant(s)</b>                 | Arend Steenbergen   |
| <b>Observer(s)</b>                  | None  |
| <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 as 0.22ha) is located along minor local road L-7655, a continuation of the L3625 to the east of Thade's Crossroads, approximately 4.5km southeast of Middleton.
- 1.2. The subject site is accessed via a shared laneway from the local road. To the western edge of the shared laneway there is dense treeline, and several cars parked perpendicular to the laneway. There are three gated entrances off the laneway. Two of the entrances to the western edge of the laneway lead to what appear to be two or three separate residential properties and one entrance to the southern end (the subject site).
- 1.3. The subject site is relatively flat and well screened along its southern boundary by mature treeline, several sheds, a metal storage container and two mobile homes are positioned close to the site boundaries with the centre relatively clear. It is stated on the submitted site characterisation form that it is used as spacious car park.

## **2.0 Proposed Development**

- 2.1. The proposed development, as clarified following receipt of further information, comprises:
  - (a) Permission for a dwelling (161.77 sq.m) and installation of a new wastewater treatment unit (Secondary wastewater treatment system (WWTs), a prefabricated tertiary filter and infiltration area).
  - (b) Retention permission for a mobile home (33.76 sq.m), mobile home used as a store (41.5 sqm), domestic shed (9.03 sq.m), metal storage container for domestic use (14.7 sq.m). Gross floor area of structures to be retained (130.5 sq. m) as per application form – revised site plan indicates 98.99 sq.m of structures to be retained.

An existing private well is proposed to be used as the source of water supply. An on-site soak pit is proposed for surface water disposal.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On the 17 January 2024 the planning authority decided to grant permission for a dwelling and grant retention permission of mobile home (to be used as a domestic store), retention of domestic shed, metal storage container for domestic use, private water well and new WWTs, subject to 11 no. conditions. The planning authority have attached a number of bespoke conditions, as follows:

Condition no. 3 The existing (habited) mobile home on the site is permitted on a temporary basis only and shall be removed from the site upon completion of the dwelling here permitted. In the event the dwelling is not completed, the mobile home shall be removed at cessation of duration of this permission. Reason: In the interest of clarity.

Condition no. 4 Sight distance of 90m to the west and 90m to the east shall be provided from centre point of entrance 2.4m back from public road edge. No vegetation or structure shall exceed 1m in height within the sight distance triangle. Reason: To provide proper sight distance for emerging traffic in the interests of road safety.

Condition no. 8 The existing septic tank shall be decommissioned and removed or cleaned out and backfilled with selected granular fill to the satisfaction of the planning authority. Reason: In the interests of public health.

Condition no. 9 Foul drainage shall be by means of a proprietary wastewater treatment system. This treatment unit and percolation area shall meet all the requirements of the Code of Practice, Wastewater Treatment Disposal Systems Serving Single Houses (p.e.<10) EPA 2021 and shall be installed and maintained in accordance with the manufactures instructions. Reason: In the interests of public health.

Condition no. 11 The storage sheds/storage mobile unit subject of this permission shall be used only for purposes incidental to the enjoyment of the dwelling house as such. Reason: In the interests of residential amenity.

In considering the application the planning authority sought Further Information (FI) in respect to:

- details to demonstrate substantiated local need and compatibility with the provisions RP5.4 of the development plan,
- clarification on the proposed management of wastewater,
- evidence of availability of safe/potable water,
- evidence to demonstrate right of access and drawing indicating 90m sightlines at entrance,
- revised plans to clearly indicate what structures are to be retained on site, and clarification in respect to proposals relating to 'Shed 1' as shown to be outside of the site boundaries.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- Report following receipt of further information notes:
  - connection to the rural area demonstrated,
  - clarification of proposal for management of wastewater, lab testing of the water supply submitted and the results appear acceptable subject to the installation of a UV steriliser,
  - sufficient evidence provided to demonstrate right of way noting that Cork County Council are not the arbiter of land ownership disputes and sightlines submitted are satisfactory,
  - all structures to be retained and removed clarified.

Considers that a satisfactory response has been received following the request for further information. Recommends a grant subject to conditioning the retention of the existing mobile home on a temporary basis pending the construction of the dwelling house.

- Likely significant impacts on Natura 2000 sites have been screened out.

- Development contribution calculation based on floor area of 166sq.m<sup>1</sup>.

### 3.2.2. Other Technical Reports

- Area Engineer sought further information regarding vehicular entrance, disposal of surface water through on-site soakaways, contradictions in the application with regards to effluent disposal.

Following receipt of further information, the area engineer notes that the applicant has rectified the contradictions in the application and details the proposal to install a wastewater treatment unit as per the site suitability report. The applicant has submitted a drinking water bacteriological and chemical analysis. There are a high number of coliforms but no E. Coli in the results of the sample in July 2023. The applicant shall ensure the water supply is made potable in this regard. The applicant has submitted a site layout detailing that 90m sight distance is achievable in both directions. Recommended condition for same.

### 3.3. Prescribed Bodies

None received.

### 3.4. Third Party Observations

One third party submission was received from Mr. Arend Steenbergen, the adjoining property owner, the concerns raised are broadly identical to the submitted grounds of appeal.

## 4.0 Planning History

The area is characterised by ribbon development and sporadic backland development, planning history for the subject site and its immediate surrounds is set out below.

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<sup>1</sup> I note that a development contribution condition is not attached to the planning authority's notification of decision to grant permission and grant permission for retention.

*Subject site*

**Planning register reference:** 226325 incomplete application.

*Adjoining lands to the north (Appellant's Property)*

No records are available on ePlan for the planning approvals relating to the appellants property. Notwithstanding the planner's report includes details of permission sought by a Harry Steenbergen that is available on microfiche, as follows:

**Planning register reference:** 94/598 Planning permission was refused for construction of a timber dwelling. Reason for refusal was in relation to the unsuitability of the ground for effluent disposal.

**Planning register reference:** 99/487 Planning permission was sought for retention of a dwelling and installation of a puraflo unit. A request for further information was issued from the planning authority.

*Property due north of the subject site directly abutting the L-7655*

**Planning register reference:** 155569 Permission granted (October 2015) for the demolition of existing rear extension and to erect a new replacement single storey extension to the rear and side of the existing semi-detached cottage and alterations to the existing semi-detached cottage at Cottage of Gurteenina, Midleton, Co. Cork. Applicant Grace McDwyer and Barry Delaney.

**Planning register reference:** 164382 Planning permission granted (May 2016) for a variation to extension design as granted under planning reference number 15/5569. Applicant Grace McDwyer and Barry Delaney

*Lands immediately to the east of the subject site*

**Planning register reference:** 0612658 Planning permission granted (March 2007) for demolition of timber barn and disused cottage and construction of dwelling at Gurteenina, Midleton. Applicant Claire Seymour & Tom Finnegan.

**Planning register reference:** 066634 Withdrawn

**Planning register reference:** 065767 Incomplete application.

*Site immediately adjacent (east) the above site*

**Planning register reference:** 20/6886 Permission was granted (May 2021) for the construction, part storey and half, part single storey dwelling with detached domestic garage, together with septic tank and percolation area, site entrance and all associated site development works at Gurteenina, Ladysbridge, Midleton, Co. Cork. Applicant Megan Beausang and Martin O'Driscoll.

*Northwest of the subject site*

**Planning register reference:** 19/6332 Permission was granted (March 2020) for the construction of a new dwelling house, a single storey detached granny flat, detached domestic garage, upgrade of existing agricultural entrance to domestic entrance, wastewater treatment system & percolation area and all ancillary site works & services at Gurteenina, Midleton, Co. Cork. Applicant Emmet O'Brien.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2022

#### **Strategic Planning Area: Greater Cork Ring**

2.14.4 The need to adjust the County's population targets in previous plans has arisen primarily because of the rapid acceleration in population growth experienced in the Greater Cork Ring area during the past two decades. The new population target proposed for the Greater Cork Ring are based upon a strengthening of the Ring Towns acting in concert to support the Cork Metropolitan Area is broadly accepted as a reasonable approach to the issues that the area faces.

#### **County Development Plan Objective CS 2-4: Greater Cork Ring Strategic Planning Area**

#### **Rural Area Under Strong Urban Influence**

5.2.4 The National Planning Framework recognises that the significant urban generated pressure in commuter areas is impacting on the character and cohesion of some rural areas. In other less accessible rural areas, it has been challenging to retain and/or develop community or social facilities and local infrastructure as populations decline. NPO19 in particular requires a distinction be made between areas which are under urban influence and those which are not. In the former the

NPF indicates that the provision of single housing in the countryside should be based on the core consideration of demonstrable economic or social need to live in a rural area, coupled with siting and design criteria, having regard to the viability of smaller towns and rural settlements.

5.4.4 The rural areas of the Greater Cork Ring Area outside the Metropolitan Greenbelt are now within easy commuting distance of Cork City as a result of road and infrastructural improvements. These areas exhibit characteristics such as rapidly rising population, evidence of considerable pressure from the development of (urban generated) housing in the open countryside due to proximity to such urban areas / major transport corridors, pressures on infrastructure such as the local road network and higher levels of environmental and landscape sensitivity.

#### **County Development Plan Objective RP 5-4: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1)**

The rural areas of the Greater Cork Area (outside Metropolitan Cork) and the Town Greenbelt areas are under significant urban pressure for rural housing. Therefore, applicants must satisfy the Planning Authority that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links to a particular local rural area, and in this regard, must demonstrate that they comply with one of the following categories of housing need (a-e):

Excerpt of section applicant identifies as relevant to their application:

(d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.

#### **5.6 Environmental and Site Suitability Requirements**

Considerations include:

- How the proposal relates to the overall strategy, policies, and objectives of the County Development Plan,

#### **5.2. Ministerial Guidelines**

Sustainable Rural Housing Guidelines for Planning Authorities (2005)



### **5.3. Other**

The Environmental Protection Agency Code of Practice Domestic Wastewater Treatment Systems (Population Equivalent  $\leq 10$ )

### **5.4. Natural Heritage Designations**

The proposed Natural Heritage Area: Loughs Aderry and Ballybutler (Site Code: 000446) is approximately 0.6km north from the subject site.

The proposed Natural Heritage Area: Great Island Channel (Site Code 001058), the Special Area of Conservation: Great Island Channel SAC (Site Code: 001058) and the Special Protection Area Cork Harbour SPA (Site Code: 004030) is approximately 4.2km west of the subject site.

The subject site is located approximately 750m from the Dower watercourse which flows into the proposed Natural Heritage Area: Ballycotton, Ballynamona and Shanagarry (Site Code 000076) and Special Protection Area: Ballycotton Bay SPA (Site Code: 004022) approximately 7.5km southeast of the subject site. The Dower watercourse is also a tributary leading into the proposed Natural Heritage Area: Ballymacoda (Clonpriest and Phillmore) (Site Code 000077) and Special Area of Conservation: Ballymacoda (Clonpriest and Phillmore) SAC approximately 11km east from the subject site.

### **5.5. 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.

### **5.6. Grounds of Appeal**

One third party appeal has been submitted from Arend Steenberg, resident of the property adjacent (immediately to North) of the subject site, the grounds of appeal are summarised as follows:

- Dumping/waste on site and contamination of well water – significant contaminated material has been dumped on this site over the years by the previous owners including bitumen and macadam material. The Environment Section of Cork County Council have not carried out an assessment on the site to determine the risk to the appellants and his neighbours' wells.
- Wastewater and additional loading from potential renting out the mobile homes currently on site – Well locations are not shown correctly in the planning application, submits Picture 3 showing locations of wells. Concerns that well water will be polluted due to proximity of the proposed septic tank and percolation area.
- Non-compliance with enforcement notice (Shed no. 1 not removed) – mobiles homes, end of life vehicles, containers and any waste material on site were to be removed.
- Traffic safety and traffic movements – sight distance for vehicular access is quite limited and further restricted by parking of cars on the side of the road adjacent the site entrance by neighbours to the north. Increased traffic movement will lead to nuisance to the appellant.
- Miscellaneous issues – Issues relating to title to land and validity of the planning application. In addition, the positioning of a post box on the appellants pillars and details with respect contract to purchase/ required insurances.

## 5.7. Applicant Response

The applicant's response to the grounds of appeal can be summarised as follows:

- Property registration authority letter with respect to the folio details.
- Photographs submitted to evidence dumping carried out by the appellant over the years.
- Action has been taken in respect to the enforcement notice and a mobile home has been removed. The other items remain to be used as storage as discussed with the council.

- Issue relating to the vehicular access and sight lines relates to the owners of the property to the north and is not a relevant planning issue.
- Certificate of Analysis of drinking water prepared by Science Direct Ltd. The appellant notes that there is no evidence of risk to water supplies.
- The applicant has lived in the immediate vicinity for the last 25 years and there have been no accidents at the site entrance to the public road during this period.
- Issue with post box on the entrance pillars and details of contract to purchase and insurance relating to same not a planning issue.

#### **5.8. Planning Authority Response**

- The relevant issues have been covered in the technical reports already forwarded to the Bord as part of the appeal documentation and has no further comment to make in this matter.

#### **5.9. Observations**

- None

### **6.0 Assessment**

6.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s 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:

- Principal of development/Rural Housing Policy
- Site suitability
- Dumping/waste on site and contamination of well water
- Non-compliance with enforcement notice

- Traffic safety and traffic movements
- Miscellaneous issues - Issues relating to title to land, positioning of a post box and contract to purchase / insurance.

## 6.2. *Principal of development*

- 6.2.1. The subject site is in an area designated as 'Rural Area under Strong Urban Influence'. In the first instance the development plan requires that the applicant must demonstrate a genuine rural housing need. Currently the applicant is living in a mobile home located on the subject site, which is the subject of enforcement action. From the information submitted it is unclear how long the applicant has been living in the mobile home. It would appear to be some time post 2018 from the information submitted in the auctioneer's letter. Before this the applicant resided in the marital family home granted under planning register reference 01/2715 to applicant Stacey Mulcahy (May 2002), approximately 340m from the subject site, according to the information provided at further information stage. The planner's report considers that the applicant has demonstrated, following submission of further information, to the satisfaction of the planning authority that they meet with the provisions of RP 5-4 (d) of the development plan due to social links as they have spent a substantial period of their lives in this rural area (+ 7 years). Therefore, the planning authority consider that applicant complies notwithstanding the previous marital home.
- 6.2.2. While documentary evidence was submitted in part, I am of the view that there is no evidence on file that the proposed house is for the applicant's first home for their permanent occupation as set out in objective RP 5-4. I am not satisfied that the applicant has demonstrated compliance with one of the required categories of housing need within the meaning of objective RP 5-4.
- 6.2.3. Having assessed the housing need the proposal is assessed in parallel with other policies and objective in the development plan, particularly those relating to the environmental and site suitability requirements (section 5.6) as detailed in section 5.1 of my report. Issues relating to site suitability and vehicular access are considered separately in sections 6.3 and 6.4.
- 6.2.4. Having regard to the settlement pattern of the area I am of the opinion that the proposed development would result in what would appear from my site visit to be a fourth line of development extending from the road into the lands. The planning

status of the development immediately north of the subject site is unclear, which the planner's report refers to ongoing enforcement action. Notwithstanding, in an area already characterised by sporadic backland development I consider that the proposed development would constitute excessive backland development and would exacerbate the concentration of development in the area. I am of the view that the applicant has not demonstrated sufficiently compliance with one of the required categories of housing need and that the proposed development would result in detrimental impact by its contribution to the encroachment of random rural development in the area. As such, I consider recommendation for refusal is warranted.

- 6.2.5. In parallel, I consider that the proposed development would give rise to concerns in respect to the resultant cumulative loading from on-site DWWTs, this issue is addressed separately in section 6.3 of my report below.

### 6.3. *Site suitability*

- 6.3.1. The proposed development includes the provision of a new wastewater treatment system, tertiary treatment unit and infiltration area. There is an existing septic tank on the site which is proposed to be decommissioned as per the submitted 'Site Specific Proposal' which includes site suitability assessment submitted with the application.
- 6.3.2. The site area is cited as 0.22ha but that includes the access laneway. The site area proposed to accommodate the new dwelling and associated WWTS is 0.153 ha as per the submitted Land Registry Complaint Map submitted by the applicant in response to the appeal. The site suitability assessment highlights the restricted size of the site, the percolation results, which I note are satisfactory, and the setback distances as constraints. These constraints are stated to have informed the type of proposed DWTTS selected, which comprises a secondary wastewater treatment system with tertiary filter and infiltration area. The gradient of groundwater assumed in the site characterisation form to flow northeast to southwest.
- 6.3.3. The minimum separation distances as set out in Table 6.2 of the EPA code of practice, appear to be achieved with respect of the following:
- distance between the proposed DWTTS and the proposed on-site dwelling house,

- the up-gradient existing domestic well on site, and
- the site boundaries.

Notwithstanding, having regard to the restricted site area and the dense mature treeline along the southern boundary adjacent to the proposed infiltration area the information submitted on the site layout and plan included in the site assessment report does not confirm compliance with the minimum separation distances from same, and I note that limited details have been provided in respect to adjoining DDWTs and wells with no details provided to illustrate the location of the surface water soakaway to enable an assessment. I am of the opinion therefore that the information as submitted does not clearly illustrate full compliance with Table 6.2 of the EPA's Code of Practice.

- 6.3.4. From the submitted site suitability assessment report that the aquifer is regionally important, and groundwater is rated as having 'high' vulnerability. The onsite assessment contained in the site suitability assessment does not detail the number of houses in the vicinity of the subject site, reference is made to a google map clip of housing density in the area. I note for the Board that this clipping does not appear to have been included in the report. The 'Well Location' drawing with aerial base does include some of the dwellings but I highlight that this aerial image is dated, and new dwellings constructed are not shown in this image. From my site inspection and from review of aerial imagery (dated 2024) there appear to be between 5 to 6 dwellings existing within an area of approximately 1ha. The EPA code of practice states that:

*"Any potential impact of the proposed system due to the increased pathogen or nutrient loads on the groundwater quality in the area should be assessed in areas of high-density housing. Densities of DWWTS greater than six per hectare in areas of 'extreme' or high' groundwater vulnerability may mean a negative effect on groundwater quality, particularly with respect to levels of E. coli and nitrate".*

- 6.3.5. An analysis of drinking water was carried out by Science Direct Ltd for the applicant in response to further information sought by the planning authority indicates that, whilst the chemistry tests were all within acceptable limits, coliform bacteria was detected in the sample. It is noted that no E coli bacteria was detected. The email cover note explaining the analysis results states that there should be no coliform

bacteria detected in the sample. Possible sources suggested including neighbouring fields or a faulty septic tank. To address this issue a shock disinfection of the well using chlorine is recommended to reduce the bacteria or the installation of a UV steriliser.

6.3.6. The proposed development will result in the housing density increasing to 6 or 7 per ha., in an area where groundwater is identified as having high vulnerability. The appellant is concerned that there may be further additional wastewater loading from the potential separate letting of the mobile home proposed to be retained. The appellant has raised concerns about the impact of the development on the water quality of existing wells and contends that the locations of existing wells are not accurately identified in the documentation. I note the additional wells identified on the appellants appeal submission (Picture 3).

6.3.7. On the basis of the information available, taking not account the high density of housing, as defined in the EPA's code of practice (para.5.4.1), the absence of a public water supply, the 'high' vulnerability of groundwater and the detection by drinking water analysis of bacteria in the existing well on the subject site I am not satisfied that the application has demonstrated that the site is suitable for a DWTTs and that the proposal would not threaten drinking water supplies.

6.3.8. In the absence of such evidence, it is considered that, taken in conjunction with existing development in the vicinity, the proposed development comprising further backland development in this unserved rural area would result in an excessive density of development served by private effluent treatment systems in the area and would, therefore, be prejudicial to public health

#### 6.4. *Traffic safety /sightlines*

6.4.1. The proposed access to the subject site is via a shared laneway off the L-7655, off which there are 2 no. vehicular entrances off the western boundary of the laneway serving what appears to be residential development. As stated previously it is unclear whether all the structures and the associated access are authorised.

6.4.2. The appellant has raised concerns relating to the intensification of use of the laneway and the adequacy of the sightlines at the entrance to the site. The planning authority sought further information with respect to the provision of 90m sightlines in both directions – drawing Revised Site Layout Plan 'B' illustrates and the area

engineer considered that the drawing illustrates that 90m sightlines can be achieved and that a condition should be attached. Condition no. 4 was attached requiring the provision of 90m sight distance in both directions and that no vegetation or structure shall exceed 1m in height within the sight distance triangle. I note that the applicant has a right of way over the laneway, but written consent has not been obtained from the relevant owner to make the application in the first instance which includes the laneway and secondly to make changes, if necessary, at the entrance. I am satisfied that adequate sightlines are achievable, however, having regard to the other substantive reasons for refusal, outlined in section 6.2 and 6.3 of my report with respect to housing need and site suitability, I am of the view that these issues are of such significance to warrant a recommendation for refusal.

#### 6.5. *Dumping*

- 6.5.1. The appellant has raised historic dumping as an issue on the lands and concerns relating to pollution of the wells within the vicinity. There is no report on file from the Environment Section of the planning authority. From my site visit I noted that the site is being used to store a small number of pallets and other materials. Evidence of dumping on a large scale was not obvious.
- 6.5.2. I note the matters raised in relation to the disposal of waste and historic dumping. The Waste Management Act imposes a general duty of care on holders of waste, under which a person may not hold, transport, recover or dispose of waste in a manner that causes, or is likely to cause, environmental pollution, this issue is therefore the subject of a separate legal code.

#### 6.6. *Non-compliance with enforcement notice*

- 6.6.1. I acknowledge the concerns raised by both the appellant and the applicant with respect to unauthorised development on the subject site and the adjoining lands. The matter of enforcement falls under the jurisdiction of the planning authority.

#### 6.7. *Miscellaneous issues*

##### *Issues relating to title to the land*

- 6.7.1. The applicant has submitted as part of the application and as part of the appeal response copy of the folio indicating the right of way between points x (entrance from the road to Y entrance into the applicant's lands marked 'A' on folio map (0.153 ha).



A Tony O'Connor is identified as sole owner of the property the subject of the deed of transfer from Arend Steenbergen as dated 4<sup>th</sup> September 2013. A copy of land registry document indicating a transfer of the folio from Tony O'Connor to Gavin Hodnett (the applicant) has been submitted.

- 6.7.2. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest to make an application. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

*Issues relating to positioning of a post box and details relating to contract to purchase / insurance*

- 6.7.3. These matters are not considered to be relevant planning matters.

## 7.0 AA Screening

### **Appropriate Assessment: Screening Determination**

#### **(Stage 1, Article 6(3) of Habitats Directive)**

I have considered the proposed retention of mobile home and construction of dwelling, private water well, decommissioning of existing septic tank and proposed new wastewater treatment system with infiltration area in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

A screening report for Appropriate Assessment was not submitted with this planning appeal case. However, in the Local Authority assessment of the proposed development, Appropriate Assessment Screening was undertaken by Cork County Council as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. Cork County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

A detailed description of the proposed development is presented in section 2.0 of my report. In summary the proposed development comprises the construction of a single storey dwelling, the retention of ancillary structures including mobile home, container and sheds. It is proposed to decommission the existing septic tank on the subject site and provide a new wastewater treatment system with infiltration area. Surface car parking is proposed and a soak away for surface water.

There are no watercourses or other ecological features on the site that would connect it directly to European Sites in the wider area.

## 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).

Two European sites are located within 4.2km of the potential development site.

- Special Area of Conservation: Great Island Channel SAC (Site Code: 001058)
- Special Protection Area Cork Harbour SPA (Site Code: 004030)

There is no connection from the subject site with these two European sites.

A watercourse (Dower) approximately 750m to the south of the subject site flows into the Special Protection Area: Ballycotton Bay SPA (Site Code: 004022) approximately 7.5km southeast of the subject site.

The Dower watercourse is also a tributary leading into the Special Area of Conservation: Ballymacoda (Clonpriest and Phillmore) SAC (Site Code:000077) approximately 11km east from the subject site.

| European Site  | Qualifying Interests (summary)  | Distance | Connections |
|--|---|----------|-------------|
| Special Area of Conservation: Great Island Channel SAC (Site Code: 001058) | Mudflats and sandflats not covered by seawater at low tide [1140]<br><br>Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330]  | 4.2km    | No          |
| Special Protection Area Cork Harbour SPA (Site Code: 004030)               | Wintering waterbirds<br><br>Wetland and Waterbirds  | 4.2km    | No          |
| Special Protection Area: Ballycotton Bay SPA (Site Code: 004022)           | Waterbird [11 x species]<br><br>Wetland habitats  | 7.5km    | Indirect    |
| Special Area of Conservation: Ballymacoda (Clonpriest and Phillmore) SAC   | Estuaries [1130]<br><br>Mudflats and sandflats not covered by seawater at low tide [1140]<br><br>Salicornia and other annuals colonising mud and sand [1310]<br><br>Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330] | 11km     | Indirect    |

|   |   |  |  |
|---|---|--|--|
|   | Mediterranean salt meadows (Juncetalia maritimi) [1410] |  |  |
| <p><b>Likely impacts of the project (alone or in combination)</b></p> <p>Due to the nature of the development site and the presence of a significant buffer area (agricultural lands) between the site and the Dower watercourse as a pathway to the identified European sites, I consider that the proposed development would not be expected generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.</p> <p>The proposed development would not have direct impacts on any European site.</p> <p>During site clearance, demolition and construction of the proposed warehouse and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water.</p> <p>The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to Special Protection Area: Ballycotton Bay SPA and Special Area of Conservation: Ballymacoda (Clonpriest and Phillmore) SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.</p> <p><b>Likely significant effects on the European sites in view of the conservation objectives</b></p> <p>The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SPA and SAC. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance.</p> <p><b>In combination effects</b></p> <p>The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.</p> <p>No mitigation measures are required to come to these conclusions.</p> |   |  |  |
| <p><b>Overall Conclusion</b></p> <p><b>Screening Determination</b></p> <p>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, I</p>  |   |  |  |

conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment (a submission of a NIS) is not required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site
- Distance from and weak indirect connections to the European sites
- Taking into account screening determination by the planning authority.

## **8.0 Recommendation**

It is recommended that planning permission be refused for the following reasons and considerations:

## **9.0 Reasons and Considerations**

1. The site of the proposed development is located within a rural area under strong urban influence and is, therefore, required to be assessed against Objective RP 5-4 of the Cork County Development Plan 2022-2028. Specifically, the applicant is required to demonstrate compliance with one of the five categories of housing need set out. The applicant is evidently seeking to demonstrate compliance with category (d) being 'persons who have spent a substantial period of their lives (i.e. over seven years) living in the local rural area in which they proposed to build their first home for their permanent occupation' and while documentary evidence was submitted, in part, there was no evidence on file that the proposed house is for the applicant's first home for permanent occupation. Accordingly, it is considered that the applicant has not demonstrated compliance with one of the required categories of housing need within the meaning of Objective RP 5-4. The proposed development would be contrary to the stated policy of the Cork

County Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area.

2. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development comprising further backland development in this unserviced rural area would result in an excessive density of development served by private effluent treatment systems in the area and would, therefore, be prejudicial to public health.

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.

---

Claire McVeigh  
Planning Inspector

30 October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

|   |   |  |                                  |
|---|---|--|----------------------------------|
| <b>An Bord Pleanála<br/>Case Reference</b>  | 319032-24   |  |                                  |
| <b>Proposed Development<br/>Summary</b>   | Retention of mobile home and construction of dwelling, private water well and existing septic tank. |  |                                  |
| <b>Development Address</b>  | Gurteenina, Midelton, Co. Cork.   |  |                                  |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(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<br/>(if relevant)</b> |
| <b>No</b>   |   |  |                                  |
| <b>Yes</b>  | ✓   | Class/Threshold Part 2 Class 10<br>(b) Construction of more than 500 dwelling units. | Proceed to Q.4                   |

**4. Has Schedule 7A information been submitted?**

|            |   |   |
|------------|---|---|
| <b>No</b>  | √ | <b>Preliminary Examination required</b> |
| <b>Yes</b> |   | <b>Screening Determination required</b> |

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

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

## Form 2

### EIA Preliminary Examination

|  |   |                      |
|--|---|----------------------|
| An Bord Pleanála Case Reference  | 319032-24   |                      |
| Proposed Development Summary   | Retention of mobile home and construction of dwelling, private water well and existing septic tank.   |                      |
| Development Address  | Gurteenina, Midleton, Co. Cork.   |                      |
| The Board carries 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. |   |                      |
|  | Examination   | Yes/No/<br>Uncertain |
| <p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>  | <p>The proposed development, as clarified following receipt of further information, comprises:</p> <ul style="list-style-type: none"> <li>(a) Permission for a dwelling (161.77 sq.m) and installation of a new wastewater treatment unit (Secondary wastewater treatment system, a prefabricated tertiary filter and infiltration area).</li> <li>(b) Retention permission for a mobile home (33.76 sq.m), mobile home used as a store (41.5 sqm), domestic shed (9.03 sq.m), metal storage container for domestic use (14.7 sq.m). Gross floor area of structures to be retained (130.5 sq. m) as per application form – revised site plan indicates 98.99 sq.m of structures to be retained.</li> </ul> <p>An existing private well is proposed to be used as the source of water supply. An on-site soak pit is proposed for surface water disposal.</p> <p>The immediate area is characterised by sporadic backland development and ribbon development along the local road.</p> | No                   |
| Will the development   | No significant waste, emissions or pollutants are   |                      |



|  |   |    |
|--|---|----|
| result in the production of any significant waste, emissions or pollutants?  | likely.   |    |
| <p>Size of the Development<br/>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>The size of the proposed development is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended.</p> <p>There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted projects in the adjoining area.</p>  | No |
| <p>Location of the Development<br/>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p> | <p>The application site is not located in or immediately adjacent to a European site. The closest European sites are the Special Area of Conservation: Great Island Channel SAC and the Special Protection Area Cork Harbour SPA (Site Code: 004030) is approximately 4.2km west of the subject site.</p> <p>The subject site is located approximately 750m from the Dower watercourse which flows into the proposed Natural Heritage Area: Ballycotton, Ballynamona and Shanagarry (Site Code 000076) and Special Protection Area: Ballycotton Bay SPA (Site Code: 004022) approximately 7.5km southeast of the subject site. The Dower watercourse is also a tributary leading into the proposed Natural Heritage Area: Ballymacoda (Clonpriest and Phillmore) (Site Code 000077) and Special Area of Conservation: Ballymacoda (Clonpriest and Phillmore) SAC approximately 11km east from the subject site.</p> <p>There are no ecological sensitive locations in the vicinity of the site.</p> <p>It is considered that, having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.</p> | No |
| Conclusion   |   |    |

There is no real likelihood of significant effects on the environment.

EIA not required.

**Inspector:** \_\_\_\_\_

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

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

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

(only where Schedule 7A information or EIAR required)