



An
Bord
Pleanála

Inspector's Report ABP-321142-24

Development	Retention of development works as constructed including garage and associated site works.
Location	Knockavelish, Dunmore East, Co. Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	23273
Applicant(s)	Deborah and Ian Kelly
Type of Application	Retention Permission
Planning Authority Decision	Grant permission w. Conditions
Type of Appeal	Third-Party
Appellant(s)	Richard & Linda Murphy Martina & Matthew Walsh
Observer(s)	None
Date of Site Inspection	19 th June 2025
Inspector	Dan Aspell

1.0 Site Location and Description

- 1.1.1. The site is located in Knockavelish townland, approximately 3km north of Dunmore East, Co. Waterford. The site comprises a dwelling and ancillary structures. Access is from a shared lane. The driveway within the site runs adjacent the southern and eastern boundaries. There is a 2-storey garage in the north-eastern corner of the site. There is a terrace and lawn adjacent the house to the east.
- 1.1.2. There is a dwelling adjacent to the east. The access lane to that dwelling runs alongside the southern boundary of the subject site. The subject site at this point is elevated above the level of the lane. There is an access track running alongside the western boundary of the subject site which leads to a dwelling located to the west. There is also a dwelling adjacent the site to the south-west.
- 1.1.3. The surrounding area is rural and agricultural. The topography of the area generally falls north to south, with the lands to the north of the subject site elevated significantly.

2.0 Proposed Development

- 2.1.1. The proposed development comprises retention of works generally as follows:
 - Main entrance, driveway and associated retaining walls;
 - Adjusted internal site levels;
 - Domestic garage;
 - Wastewater treatment system (WWTS);
 - Landscaping and boundary treatments;
 - All associated site development works.
- 2.1.2. In response to further information the applicant also proposed the retention of a 'hot tub' located within the terrace.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Waterford City & County Council issued a notification to grant retention permission subject to 3 no. Conditions. I note the following:

- Condition 2: Certificate of Compliance in relation to WWTS construction;
- Condition 3: The garage shall be used for purposes incidental to the enjoyment of the dwelling, and any change of use shall be subject to permission.

3.2. Planning Authority Reports

3.2.1. Planning report: The report recommended permission be granted. I note the following points:

- Report noted an open Enforcement Case (UD2763) relating to the majority of works for which retention is sought. Report stated the case related to a 'hot tub'; raising of ground levels and landscaping; location of WWTS; construction of garage; retaining walls; construction of road, wing walls and pedestrian access; and eastern boundary landscaping. Omission of opaque glazing also formed part of the enforcement case but does not form part of the application;
- Wastewater: Report stated that permission for WWTS was granted under Reg. Ref. 17367 which showed a 22m separation distance from a neighbouring well to the east. Report stated that the constructed WWTS was 19.5 from the well but that an observation from a neighbour in relation to Reg. Ref. 20952 stated the well was 18m from the WWTS. Report noted that in any event the separation distance granted under 17367 was greater than the 15m required by Table B3 of the EPA Code of Practice. Report stated that from discussion with the Planning Authority Water Services Section in relation to the subject case no objection was raised by the Section notwithstanding the certificate of compliance for Reg. Ref. 17367 being outstanding (Condition 3(b)&(c) of that permission). Report stated that a condition should be attached to the subject permission for a certificate of compliance;

- Raised levels, retaining walls, entrance gate, and entrance drive: Report described the works that have been undertaken. Regarding the raised levels, retaining walls, site drainage and the stability of the front roadside boundary, the report quoted the applicant's engineer in stating there was no visible/obvious movement in the roadside boundary and that the works undertaken on the site including the raised levels, retaining walls and associated drainage have not compromised the stability of same. Report considered the alterations to levels and site entrance do not detract from the character or visual amenity of the area;
- Garage: Report stated it is not unreasonable for a dwelling to have a domestic garage for parking or general storage;
- Boundaries: Report noted retention permission is sought for the existing landscaping and boundary treatments, and that Enforcement Notice UD2763 related to non-compliance with Condition 6 of 17367 in relation to landscaping of the eastern boundary. Report noted no changes to the boundary are proposed and that the eastern boundary is maturing. Report stated that although the revised landscaping is not native it provides screening between the site and neighbouring site to the east, and removal of same will give rise to additional issues that would take time to reestablish and provide screening;
- 'Hot tub': Report stated the Planning Authority previously advised the hot tub was unauthorised and that this formed part of the above enforcement. Report noted the hot tub was included as part of the application for retention in response to further information;
- Entrance to the rear of the property from an adjoining private lane to the west: Report noted the applicant stated this access is closed. Report noted the boundary wall to the lane does not form part of the application for retention and can be dealt with by enforcement if necessary;
- Report recommended granting of retention permission.

Other Technical Reports

3.2.2. Roads: None.

3.2.3. Water Services: None.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. During the planning application stage 3 no. Observers made submissions. These were Richard & Linda Murphy; Patrick Torrie; and Matthew & Martina Walsh. The issues raised related to public notices; planning history & enforcement; wastewater & existing domestic wells; retaining walls, ground levels & overlooking; entrance gate, walls & pillars; boundaries & 'hot tub'; access across third party lands; impacts on shared laneway; use of garage; and construction impacts.

4.0 Planning History

4.1. Subject site

4.1.1. Given the nature of the case, I set out below details of the relevant planning applications since the granting of the original permission for the house. None of these cases were appealed to the Board:

4.1.2. Reg. Ref. 20952: Retention permission refused by the Planning Authority in 2021 for: WWTS as constructed; external hot tub as installed; retaining walls as constructed and associated adjusted levels and; entrance gate, walls & pillars as constructed. The application was refused for 3 no. reasons summarised as follows:

- Reason 1: The works to be retained are reliant on unauthorised works which are the subject of Reg. Ref. 20508 which at the time of decision had not been determined and as such the development would facilitate the consolidation of the unauthorised works;
- Reason 2: It was not demonstrated the WWTS was installed in accordance with EPA Code of Practice or that it would not create a definite risk of contamination;
- Reason 3: It was not demonstrated that the entrance walls, pillars, and pier, due to their height and location, would not detract from the character and visual amenity of the area.

- 4.1.3. Reg. Ref. 20508: Planning application made in 2020 for retention permission for: domestic garage; retaining walls and associated adjusted levels to facilitate the installation of the entrance road and raised percolation bed for the WWTS. Application was deemed by the Planning Authority to be withdrawn.
- 4.1.4. Reg. Ref. 17367: Retention permission and planning permission granted by the Planning Authority in 2018 to indefinitely retain the works as constructed and for permission to complete the two-storey dwelling in accordance with the plans and specifications submitted and associated site works. Permission was granted subject to 10 no. conditions. I note the following conditions:
- Condition 2: Construction details regarding roadside drainage, road gradient, road and wing walls, road fence, and road finished levels;
 - Condition 3: The WWTS shall be installed in accordance with the site characterisation report and EPA Code of Practice. The dwelling shall not be occupied until a certificate of compliance is submitted to the Planning Authority;
 - Condition 4: The finished floor area of the dwelling shall be 23.27m relative to the defined temporary benchmark as per site layout submitted on 25th May 2017. A certificate of compliance with this condition shall be forwarded to the Planning Authority;
 - Condition 6: Site to be landscaped in accordance with a landscaping scheme to be submitted and agreed with the Planning Authority. The eastern boundary shall be reinforced with a screen boundary fence to ensure effective screening with the adjacent house to the east at all times. Details of the material, height and position/length of same shall be agreed with the Planning Authority;
 - Condition 8: Reuse of soil on site subject to existing ground levels not being altered by more than 1 metre.
- 4.1.5. Reg. Ref. 15393: Application for retention and planning permission to indefinitely retain the works as constructed and permission to complete the two-storey dwelling in accordance with the plans and specifications submitted and associated site works. Application deemed by the Planning Authority to be withdrawn.
- 4.1.6. Reg. Ref. 08669: Planning permission granted by the Planning Authority in 2008 for demolition of existing house and extension, and construction of a new two storey

dwelling over basement, revised entrance, new side boundary wall, new WWTS and percolation area and all associated site works. Permission granted subject to 8 no. conditions, of which I note the following:

- Condition 2: Detail of entrance gates, driveway gradient, road and wing walls, the existing road fence, and road drainage;
- Condition 3: Detail of WWTS installation and submission of certificate of compliance;
- Condition 4: Detail of finished floor levels and certificate of compliance of same;
- Condition 7: Details of management of excavated materials and ground levels.

4.2. Nearby sites:

- 4.2.1. Reg. Ref. 2460502 (site to west): Retention and planning permission granted by the Planning Authority in 2025 for alterations made to previously permitted dwelling including for provision of first floor, increase of overall ground floor area, and general alterations to elevations to facilitate changes to the internal layout.

5.0 Policy Context

5.1. National guidelines and strategies

National Biodiversity Action Plan 2023, including its Objectives and Targets.

Environmental Protection Agency Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤10) 2021.

Traffic Management Guidelines. 2003, Department of Transport and Department of the Environment and Local Government.

5.2. Development Plan

Waterford City & County Development Plan 2022-2028 Volume 1 – Written Statement:

- 5.2.1. The site is within the rural area within a rural area under strong urban influence. I note the following provisions in particular:

Section 2.10 'Rural Areas'

Policy Objective H02: *"In granting planning permission, we will ensure new residential development:*

- *Is appropriate in terms of type, character, scale, form and density to that location.*
- *Is serviceable by appropriate supporting social, economic and physical infrastructure.*
- *Is serviceable by public transport and sustainable modes such as walking and cycling.*
- *Is integrated and connected to the surrounding area in which it is located; and,*
- *Is designed in accordance with the applicable guidance and standards of the time:*
 - *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).*
 - *Delivering Homes, Sustaining Communities (2007).*
 - *Urban Design Manual A Best Practice (2009).*
 - *Permeability Best Practice NTA (2015); and,*
 - *Design Manual for Urban Roads (DMURS) (2020) or any update thereof*
 - *National Disability Inclusion Strategy (NDIS) 2017-2022.*
 - *United Nations Convention on the Rights of Persons with Disabilities (UNCPRD)"*

Policy Objective H20: *"Where new development is proposed, particularly on smaller suburban infill sites (< 1 ha in area) we will ensure that the residential amenity of adjacent residential properties in terms of privacy and the availability of daylight and sunlight is not adversely affected. We will support lower density type development at these locations. We will require that new development in more established residential areas respect and retain, where possible, existing unique features which*

add to the residential amenity and character of the area, such features include front walls, gates, piers, railings, and stone/brick/render work”.

Section 9.3 ‘Water Quality’ and Section 9.4 ‘Compliance with the EU and national legislation and guidance on water quality’ in relation to the EPA Code of Practice: Domestic Wastewater Treatment Systems (PE ≤ 10) (2021).

Section 7.11.2 ‘Housing in the Open Countryside’.

Policy Objective BD20 ‘Hedgerow Policy Objective’

Waterford City & County Development Plan 2022-2028 Volume 2 – Development Management Standards:

Section 3.4.2 ‘General Residential Development Design Standards’

Section 6.0 ‘Rural Development’

Section 8.0 ‘Roads Access Policy’ including Section 8.6 ‘Sightline Requirements’

Section 9.0 ‘Other Development Considerations’ including Section 9.2 ‘Site Boundaries’

5.3. Natural Heritage Designations

- 5.3.1. Tramore Dunes and Backstrand SAC and Tramore Back Strand SPA are approximately 5.42km to the south-west, and Hook Head SAC 000764 is approximately 6.44km to south-east.

6.0 Environmental Impact Assessment screening

- 6.1.1. The proposed development has been subject to preliminary examination for environment impact assessment (See Form 1 Appendix 1 of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, I consider that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger requirement for EIA screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Third-Party Appeals

7.1.1. Two third-party appeals were received, from Martina & Matthew Walsh of Knockaveelish, and Richard & Linda Murphy of 'The Straw House', Knockaveelish, the main points of which are summarised as follows:

7.1.2. Martina & Matthew Walsh:

- Rationale for appeal is primarily the unauthorised opening on the private lane to the west of the appeal site;
- The applicant stated the opening had been closed, but it has been opened again, with foundations for a gate in place. A gate will cause traffic constraints;
- Applicant constructed a wall, causing destruction of natural heritage of the area;
- Unauthorised gates also remain in place despite obstruction of sightlines being the reason they were not permitted. This poses a risk for local residents;
- Applicant has no planning permission for this work and continued to build despite refusal of planning permission. There is an ongoing enforcement case against the applicant and they have not rectified any unauthorised development since failure to secure retention permission in 2021. Proper planning procedure has been ignored by the applicant. Appeal requests application be refused.

7.1.3. The appeal includes photographs of the site and a map of the site.

7.1.4. Richard & Linda Murphy:

- Granting permission subject to 3 no. conditions does not address previous issues in which planning was granted but planning conditions not met or followed up on by the County Council. Appeal details of planning history;
- Appellant only concern is safe drinking water and privacy for family. Appellant states that in 2019 their well water was contaminated with e-Coli and the family fell sick as a result. Appeal notes that within the planning history the suppliers of the WWTS recommended the separation distance between a well and the WWTS should be 'as far as possible'. Appeal states the applicant should have

followed the recommendations of the supplied and kept the WWTS in the originally intended position and located the 'hot tub' elsewhere;

- Applicant has shown disregard for planning laws and the area. Retention is to rectify a mistake not to bypass the planning process. The County Council has not acted to protect the area;
- Applicant has removed a hedgerow to make way for Laurel planting. Trees not on their property have been cut. Regular use of weedkiller on the boundary ditch resulted in the collapse of an old dry-stone wall. The raised site levels contributed to this problem from water runoff. Appeal states that collapsing stones block the appellant's access. Appellant states that a collapse in 2023 prevented the appellant from driving to their home;
- All 10 no. conditions of the first permission were not met and now the County Council grant retention with a further 3 no. conditions.

7.1.5. The appeal includes photographs outside the site.

7.2. First-Party Response to Third-Party Appeal

7.2.1. None.

7.3. Planning Authority Response

7.3.1. None.

7.4. Observations

7.4.1. None.

8.0 Assessment

8.1.1. Having regard to the foregoing; having examined the application, appeal, Planning Authority reports, and all other documentation on file including all of the submissions received in relation to the appeal; and having inspected the area within and around the site; and having regard to relevant local, regional and national policies, objectives and guidance, I consider the main issues in this appeal are as follows:

- Wastewater treatment system (WWTS);
- Entrance, driveway and associated retaining walls;
- Ground levels;
- Landscaping and boundary treatments;
- Garage;
- Related matters raised in the course of the appeal, including the opening and wall along the site boundary to west, and retention of the 'hot tub'.

8.2. Principle of Development

- 8.2.1. Having regard to the provisions of the Development Plan, including the location of the site within a rural area under strong urban influence, I am satisfied the retention of works ancillary to a dwelling are in principle acceptable, subject to the considerations below.

Background and Context

- 8.2.2. I consider it worthwhile to briefly summarise the nature of the main changes now proposed for retention as they compare to previous applications on the site, including the originally permitted dwelling (Reg. Ref. 08669) and the most recently permitted application (Reg. Ref. 17367). In broad terms I would characterise these as a series of authorised and unauthorised alterations to the original development, however I do not consider they departed majorly from the original permission. The main changes were to the horizontal and vertical alignment of the internal driveway and its distance to the southern boundary; the location of car parking between the side and rear of the dwelling; the distance of the dwelling to the western boundary; the position and configuration of the WWTS; finished levels; and landscaping & planting.

8.3. Waste-water treatment system

- 8.3.1. One appellant's stated concern is safe drinking water. I note the appeal states that in 2019 the appellant's well water was contaminated. I note too the appeal reference to the WWTS supplier's recommended separation distance between a well and the

WWTS, and that the applicant should have followed that recommendation and kept the WWTS in the originally permitted position and located the 'hot tub' elsewhere.

- 8.3.2. As set out above I am satisfied the location of the proposed hot tub has not had a significant impact on the location of the WWTS and percolation area. Whilst the appellant refers to contamination of the well, no evidence is on the file in this regard. In relation to separation distances, the relevant separation distances for the purposes of planning permission are those stated in planning policy/guidance.
- 8.3.3. The subject application includes for retention of the existing WWTS. The submitted drawings (drawing R-03 'As Built Site Plan') indicate the location of the WWTS and percolation area compared to that permitted under Reg. Ref. 17367. The percolation area permitted as part of that application and the subject retention application are similar, both in terms of ground level and layout, with the footprint of the two percolation areas overlapping. Both are in a similar distance to the neighbouring well which is indicated as being 19.5m away. I note the drawing annotation states the dimensions were provided by the Planning Authority and were not verified on-site.
- 8.3.4. The Planner Report noted that permission for the WWTS was granted under Reg. Ref. 17367, and that that permission provided for a 22m separation distance from the neighbouring well. The report noted that the constructed WWTS is 19.5 from the well, but that an observation from a neighbour in relation to Reg. Ref. 20952 stated the well was 18m from the WWTS. The report noted that nevertheless 15m separation distance required by Table B3 of the EPA Code of Practice was provided. Whilst no report from the Planning Authority Water Services section or Irish Water are on file, the Planner Report stated that from discussion with the Planning Authority Water Services Section no objection was raised notwithstanding the certificate of compliance for 17367 being outstanding (Condition 3(b)&(c) of that permission). The Planning Authority attached a condition (Condition 2) to the subject decision, requiring submission of a certification of compliance.
- 8.3.5. I note the WWTS and percolation area in the subject application are as per that refused under Reg. Ref. 20952. In that case the 2nd refusal reason stated that it had not been demonstrated the WWTS was installed in accordance with EPA Code of Practice or that it would not create a definite risk of contamination. The Planner Report in that case stated that the polishing filter was shown to be 19.5m from the

neighbouring well, but that the submitted section drawing indicated the WWTS but not the polishing filter. The report also stated that no details were submitted indicating that the treatment system and polishing filter was installed in accordance with the relevant standards. I consider that this appears to be the basis for refusal in that case. I note that no report from the Water Services section of the Planning Authority or Irish Water was provided in that case.

- 8.3.6. Having regard to the foregoing; having reviewed the information on file; having visited the site; and having had due regard to the relative location and level of the WWTS and percolation area to the neighbouring well, I see no reason to disagree with the assessment of the Planner Report in granting permission subject to condition. I acknowledge that it is not clear why the information previously required by the Planning Authority has not been submitted (Condition 3(b)&(c) of Reg. Ref. 17367) however I note that a WWTS has been twice permitted on this site, most recently being in a broadly similar location to that currently proposed. I also acknowledge that the current version of the EPA Code of Practice places more onerous requirements on WWTS than the requirements in effect at the time that the original WWTS (2008) and retained WWTS (2017) were permitted. However I also note that from the original permission the WWTS was to be generally to the rear of the dwelling and the WWTS as shown in Reg. Ref. 17367 was closer to the party boundary to the east; both arrangements I consider would be more likely to impact the neighbouring dwelling. As such I am satisfied the current layout shown is preferable. Overall and on balance I see no reason to diverge from the assessment of the Planning Authority in this regard, subject to a condition linking the subject application to the previously attached conditions in this regard.

8.4. Entrance, driveway and associated retaining walls

Entrance

- 8.4.1. The entrance comprises a blue/black stacked stone wall, measuring approximately 1.8-2.0m in height, and providing vehicular and pedestrian access. It is set back from the shared lane and is partly screened by planting. I consider the entrance location and layout broadly align with that shown in the original permission (Reg. Ref. 08669) and subsequent retention permission (Reg. Ref. 17367).

- 8.4.2. Refusal reason no. 3 of the most recent application on the site (Reg. Ref. 20952) stated that it was not demonstrated the entrance walls, pillars, and pier due to their height and location would not detract from the character and visual amenity of the area. I consider that limited information relating to the appearance of the entrance was submitted with that application. More detailed information is submitted with the subject application, including elevations, dimensions and details of materials (drawing RP-04 Rev: A 'Sections').
- 8.4.3. No report from the Planning Authority Roads section is recorded in relation to the subject application.
- 8.4.4. Given the foregoing, and the revised drawings submitted, I consider the entrance is acceptable, including in terms of character and visual impact.
- 8.4.5. Regarding sightlines, the entrance is onto a private, shared laneway. As stated I am satisfied the access is generally in the location previously permitted. Vehicles to only two dwellings directly pass the entrance, and I consider that users would have reasonably good visibility of the access point from the south (approx. 80m) and the north (approx. 35m). I note Development Plan Section 8.6 'Sightline Requirements' states sightlines of 30 metres shall be required for dwellings accessing onto a cul-de-sac serving not more than 3 dwellings. I acknowledge there may be a risk between vehicles approaching the junction at the same time, in particular from the north, but given the access is in generally the location previously permitted; appears to be there for many years; and the relevant homeowners are aware of the arrangement, I am satisfied the entrance does not have an unacceptable impact on road safety.

Driveway and retaining walls

- 8.4.6. The driveway on site is approximately 70m long and runs adjacent the southern and eastern boundaries. The site and surrounding topography generally slope downward north to south. There are retaining walls along both sides of the driveway in response to the changes in levels across the site.
- 8.4.7. Whilst the driveway overall has remained broadly the same through the various applications on the site, retaining walls were shown only on the northern side of the driveway in the original application. Retaining walls on both sides were shown in various configurations in subsequent applications. I note the originally permitted driveway was located abutting this southern boundary, and that it is now set

approximately 2-5m back from the boundary, although I note again that it was shown in other positions in other applications.

- 8.4.8. I also note one appellant's point regarding debris falling onto the adjacent access lane which leads to their property to the east. The appellant submitted photographs of debris that appeared to have fallen onto the road, as well as showing a pipe outfall along this boundary. The appellant's primary concern is stated as being that surface water and the use of sprays has caused debris to become dislodged and to fall onto the lane, and they report this as an ongoing issue. The applicant submitted a letter in response to further information from their civil & structural consulting engineer which indicated that based on their condition survey of the boundary and as-built survey drawings there was no visible / obvious movement in the roadside boundary and that the works undertaken including the raised levels, retaining walls and associated site drainage have not compromised the stability of the site.
- 8.4.9. Again no report from the Planning Authority Roads section was received in relation to the subject application.
- 8.4.10. Given the topography of the area, and having regard to the foregoing, I am generally satisfied the existing arrangement is acceptable. I am generally satisfied the retaining walls and levels on site are reasonable and acceptable. No obvious signs of instability were evident during my site visit, however I note that this was during the summer and that significant growth had emerged along the embankment from what is shown in the photographs provided by the appellant.
- 8.4.11. Regarding the planning history on the site, the existing driveway and retaining wall arrangement was not previously refused, however Condition 2 of Reg. Ref. 17367 required that construction details regarding roadside drainage, road gradient, road and wing walls, road fence, and road finished levels be submitted for the agreement of the Planning Authority. I see no evidence on file or the available public record whether this was complied with. I consider that a condition linking the subject proposal to the existing permissions on the site is warranted to ensure compliance with these requirements in the interests of traffic safety.

8.5. Ground levels

- 8.5.1. In relation to ground levels on and around the site, the topography of the area falls significantly north to south. Levels step down across the site north to south. I note that whilst the driveway on site rises in level from the entrance eastward into the site, conversely the adjacent lane along the southern boundary falls away steeply west to east. I also note that this general arrangement of levels was, broadly speaking, in place at the time that the previous house on the site was demolished, as permitted by the original application for the existing house (Reg. Ref. 08669).
- 8.5.2. As set out above, the applicant's civil & structural consulting engineer indicated that based on their condition survey of the boundary and as-built survey drawings, there was no visible / obvious movement in the roadside boundary and that the works undertaken on the site including the raised levels, retaining walls and associated site drainage have not compromised the stability of the site.
- 8.5.3. Again no report from the Planning Authority Roads section is recorded.
- 8.5.4. Having reviewed the planning history and the available documentation, I do not consider the levels on site have changed unduly over the course of the development of the site. In this regard I note that in broad terms there appears to have been localised changes of approximately 1m and a general increase in levels in the south-eastern corner and along the southern boundary by at maximum 1-1.5m. Having regard to the available information I do not consider these changes to be undue or unwarranted.
- 8.5.5. Having visited the site I do not consider that the changes in levels on the site have had an undue impact on the residential amenity of neighbouring dwellings.
- 8.5.6. Regarding the previous reasons for refusal (Reg. Ref. 20952), the first refusal reason stated that the works to be retained were reliant on unauthorised works which were the subject of a separate retention application (Reg. Ref. 20508) which at the time of decision had not been determined and as such the development would facilitate the consolidation of the unauthorised works. That application (Reg. Ref. 20508) was deemed to be withdrawn; it included for the retention of as constructed adjusted levels to facilitate the installation of the entrance road and raised percolation bed for the wastewater treatment system. As such, I am satisfied that the levels for which

retention was sought were not previously refused on the site. I am satisfied that these matters are appropriately addressed in the subject application.

- 8.5.7. I note however that a number of conditions attached to planning permission Reg. Ref. 17367 related to ground levels (Conditions 2, 4 and 8). I also note that Condition 4 of planning permission Reg. Ref. 08669 required submission of details of finished floor levels and certificate of compliance of same. I see no evidence on the file whether these conditions were complied with. I am satisfied that there is no reason retention permission should not be granted in this regard, subject to the attachment of a condition linking the subject proposal to the existing permissions on the site is to ensure compliance with outstanding structural land engineering requirements.

8.6. Landscaping and boundary treatments

- 8.6.1. I consider that the primary difference between the existing landscape layout and that previously permitted (Reg. Ref. 17367) is the more defined private amenity space; reduction in the nature slope to the rear; increased hard and soft landscaping to the rear; and differences in boundary planting. Overall I consider the existing landscaping for retention is acceptable.
- 8.6.2. Regarding boundaries, I note the appellant's comments in this regard. I have had particular regard to the eastern boundary and the relationship with the neighbouring dwelling. Reg. Ref. 17367 (drawing 105P 'Site Plan') proposed 'new screen planting to boundary' along the eastern boundary. Condition 6 of that permission required for the site to be landscaped in accordance with a landscaping scheme to be submitted and agreed with the Planning Authority; for the eastern boundary be reinforced with a screen boundary fence; and for details of the material, height and position/length of same to be agreed with the Planning Authority. I see no evidence whether details of a landscaping scheme or boundary screen was agreed.
- 8.6.3. The existing boundary at this point comprises reasonably mature hedging however a reinforced screen boundary fence is not evident. Visibility between the properties is limited by the hedging. I note the provisions of Development Plan Section 9.2 'Site Boundaries', however I concur with the Planning Authority that requiring removal of this hedge and planting of alternative hedging or a reversion to the most recent permission is not warranted and may not produce a more favourable outcome. I

consider however that given the location of the main amenity space and hot tub to the side of the subject dwelling, the previously conditioned screen boundary fence is warranted. Having regard to the foregoing I consider that permission should be granted subject to a condition linking the subject proposal to the existing permissions on the site to ensure protection of neighbouring residential amenity.

8.7. Garage

- 8.7.1. No garage was indicated on the original permission (Reg. Ref. 08669). The drawings submitted with application Reg. Ref. 20952, which was refused, indicated the garage was retained under Reg. Ref. 20508, however that application was deemed withdrawn. I note that retention of the garage was not previously refused.
- 8.7.2. The garage is 2-storey and painted dark grey. The footprint measures approximately 25sqm, and the total useable floorspace of approx. 40sqm. The ground and first floor have windows, however there are no windows in the eastern elevation facing the neighbouring dwelling. The garage is shown as being approximately 2.6m from the eastern boundary, and I estimate it is 15m from the dwelling to the east. The first floor is indicated as being for storage, and I identified nothing during my site visit to indicate anything to the contrary.
- 8.7.3. Give the scale, layout and position of the garage, and the mature boundary adjacent, I do not consider it has had a significant detrimental impact on the amenity of the area or the residential amenity of the neighbouring dwelling. The Planning Authority decision included a condition regarding the use of the garage; I am satisfied that this approach is reasonable.

Summary

- 8.7.4. Having regard to the foregoing, and having had due regard to the matters raised in the appeals, I am satisfied the proposed works for retention are generally acceptable, subject to the conditions outlined above, and I see no significant issues warranting overturning the planning authority decision. I am satisfied the application has resolved the previous reasons for refusal on the site, and that permission for retention of development as proposed should be granted subject to condition.

8.8. Related matters raised in the course of the appeal

'Hot tub'

- 8.8.1. One appeal implies that the inclusion of a sunken hot-tub impacted the location of the wastewater treatment system. The WWTS was originally permitted to the rear / north of the dwelling, but was subsequently constructed beside the dwelling, leaving it closer to the location of the hot-tub. I do not consider the hot tub impacted the location of the WWTS significantly. Overall I consider the hot-tub to be a relatively small feature, and given the location beside the dwelling within the main private amenity space and a good distance from neighbouring dwelling I consider it to be reasonable overall, subject to the attachment of conditions as set out above in relation to the treatment of the eastern boundary as required under Reg. Ref. 17367 to ensure the proper protection of neighbouring residential amenities.

Opening and wall on western boundary

- 8.8.2. One appellant raises issue with a vehicular opening in the north-western corner of the site which opens onto a private lane to the west that provides access to the appellant's home. They also raise issue with a wall along the western boundary of the site which runs alongside the abovementioned lane.
- 8.8.3. The referenced boundary wall measures approximately 25m in length and stands between approx. 1m-1.6m in height on the lane side. At the time of my site visit there was an opening in the hedge in the north-western corner of the site which led to an area of hardstanding and a small structure within the subject site. I note the access lane off which the opening is taken is gated and is outside the control of the applicant. I am satisfied the applicant does not have control of this lane or unencumbered access along it, but that access to the hardstanding and adjacent structure on the applicant's property is available to them through their dwelling.
- 8.8.4. The Planner Report stated these matters could be dealt with by Enforcement if necessary.
- 8.8.5. I note the submitted site layout plan (drawing no. R-03 'As Built Site Plan' indicates for this boundary that "*Existing boundary to be maintained existing growth to be reinforced (native species deciduous)*". No boundary wall or access are shown along this boundary. I am satisfied that these works are not clearly shown on the submitted

plans and are not stated in the public notices, and as such do not form part of the subject application. I am satisfied that permission as applied for can be granted separate to these matters subject to standard conditions.

Conditions

- 8.8.6. As set out above I consider that standard conditions clarifying the works permitted and linking the subject permission to relevant previous permissions are required. I also consider that a condition restricting the use of the garage for purposes incidental to the enjoyment of the dwelling is required. Regarding Contributions, I consider that no additional contribution apply.

9.0 Appropriate Assessment screening

- 9.1.1. I have considered the proposed project in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in a rural area approximately 6.44km north-west of Hook Head SAC and approximately 5.42km north-east of Tramore Backstrand SPA and Tramore Dunes and Backstrand SAC. The proposed development comprises retention of works to a dwelling. No significant nature conservation concerns were raised in the appeal. Having considered the nature, scale and location of the project, I am satisfied it can be eliminated from further assessment as it could not have any effect on a European Site. The reason for this conclusion is the nature of works being small in scale; the location-distance from nearest European site; and lack of connections. Taking into account screening determination by the LPA I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Water Framework Directive

- 10.1.1. The subject site is located in a rural area approximately 720m from Waterford Harbour and approximately 138m from the Knockacurrin river. The proposed development comprises the retention of works to a dwelling. I have assessed the project and have considered the objectives as set out in Article 4 of the Water

Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status and prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied it can be eliminated from further assessment as there is no conceivable risk to any water body. The reason for this conclusion is the nature and small scale of the works; its location in a rural area; the distance from the nearest Water bodies and lack of hydrological connections. Taking into account WFD screening determination by Planning Authority, I conclude that on the basis of objective information, the proposed development will not result in a risk of deterioration on any water body surface and/or groundwater water bodies (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives.

11.0 Recommendation

11.1.1. I recommend permission be **Granted**, subject to conditions, for the reasons and consideration set out below.

12.0 Reasons and Considerations

Having regard to the nature and extent of the garage, alterations and associated works proposed for retention, it is considered that subject to conditions the development would be consistent with the relevant provisions of the Waterford City & County Council City Development Plan 2022-2028, including Policy Objectives H02 and H20; would protect and provide for residential uses and amenities; would respect the character and visual amenities of the area; would not be prejudicial to public safety or health; and would therefore be consistent with the proper planning and sustainable development of the area

13.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the Planning Authority on the 23 rd day of August 2024,
----	---

	except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. For the avoidance of doubt, this permission shall not be construed as approving any development shown or referenced on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices. Reason: In the interest of clarity.
2.	Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permissions on the site (Register Reference 17367 and Reg. Ref. 08669). Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.
3.	The garage permitted herein shall be used solely for purposes incidental to the enjoyment of the dwelling and any proposed change of use of the garage shall be subject to the grant of a separate planning permission. Reason: In the interests of the residential amenity 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.-

Dan Aspell
Inspector
27th June 2025

APPENDIX 1

Form 1: EIA Pre-Screening

Case Reference	ABP-321442-24
Proposed Development Summary	Retention of development works as constructed including

	garage and associated site works
Development Address	Knockavelish, Dunmore East, Co. Waterford
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q2.
	☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required.	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: __ 18th June 2025__