



An  
Bord  
Pleanála

## Inspector's Report PL04.248810

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<b>Development</b>	New single storey side extension to existing dwelling house, with internal alterations to existing chalet.
<b>Location</b>	The Chalet, Main Street, Ballycotton, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	16/06384
<b>Applicant(s)</b>	Eamonn & Mary Carey
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to permission
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	Gordon & Catherine Keeling
<b>Observer(s)</b>	Brian & Ona Lotty
<b>Date of Site Inspection</b>	6 <sup>th</sup> October, 2017
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

The proposed development site is located along the seaward (northern) side of Main Street (the R629 Regional Road) in the small coastal village of Ballycotton, Co. Cork, where it occupies a position on the intervening lands which extend between the public road to the south and Ballycotton Bay to the immediate north. It has a stated site area of 0.11 hectares, is irregularly shaped and is presently occupied by a chalet-style single storey (twin) gable-fronted dwelling house (formerly in use as a doctor's surgery) which is positioned in the south-western corner of the property along a north-south axis in order to front onto Main Street and to avail of the expansive views over the bay to the north. The remainder of the site encompasses a large garden area which extends to the north and northeast of the dwelling house in addition to an area of hardstanding / parking to the east which is accessed via an existing entrance arrangement onto Main Street. The site topography falls away from the public road towards the bay with the result that the floor level of the existing dwelling house is considerably lower than that of the adjacent roadway. To the immediate west the site adjoins a recently extended cottage-style dwelling house whilst the lands to the east consist of a series of individual garden areas associated with the two-storey terraced housing located on the opposite side of Main Street. In a wider context, this particular stretch of Main Street is characterised by a variety of building styles, although two-storey structures are generally confined to the southern (landward) side of the roadway.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a single storey extension (floor area: 76.1m<sup>2</sup>) to the (eastern) side of an existing (single storey) chalet-style dwelling house (floor area: 99.9m<sup>2</sup>) in order to provide for an entrance hall, living room, dining room, kitchen and utility area in addition to the carrying out of associated alternations to the internal layout of the existing residence. External finishes will include an artificial slate roof covering, PVC windows and a painted render.

## 3.0 Planning Authority Decision

### 3.1. Decision

Following the receipt of responses to a request for further information, on 6<sup>th</sup> June, 2017 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 3 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars.

Condition No. 2 – Requires the payment of a development contribution in the amount of €391.84.

Condition No. 3 – Refers to archaeological monitoring of all topsoil stripping associated with the development.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports:

An initial report stated that there was no objection to the overall principle of the proposed development given that it involved the extension of an existing dwelling house located within the development boundary of the village of Ballycotton. With regard to the overall design of the proposed extension, it was noted that whilst the roof profile was 'somewhat unusual' it would mimic the existing dwelling house. It was further considered that the principle concerns related to the impact of the proposal on the seaward views / prospects available from the adjacent scenic route, however, in this respect it was concluded that both the subject site and the adjacent undeveloped lands to the east were within the settlement boundary thereby implying that they were potentially suitable for appropriate development. It was also noted that the Local Area Plan did not raise any specific concerns with regard to this section of roadway and that there was no policy objective which required that this part of the village be maintained free from development. Whilst it was conceded that the proposal would encroach somewhat on the available views, it was held that the overall development was of a modest scale and height and that it struck a reasonable balance between the need for the new development and the preservation

of the existing views / prospects (although it was suggested that in light of the contents of a third party objection the applicant may wish to consider amending the submitted design in order to mitigate the concerns raised therein).

In screening the subject proposal for the purposes of appropriate assessment, the initial Planner's Report notes that the application site is located within 70m of the foreshore and approximately 60m from the Ballycotton Bay Special Protection Area (Site Code: 004022). It proceeds to state that the Planning Authority would have particular concerns as regards the potential constructional impacts of the proposed development on the SPA, however, given the minor nature of the works proposed, the unsuitability of the habitat on site for the protected species, and the likely minimal impact of the proposal on water quality, it was considered that 'Stage 2' appropriate assessment was unnecessary. In support of the foregoing, reference is also made to the submission of a 'good practice' schedule with a previous planning application lodged on site and the assertion in the cover letter which accompanied the subject application that a similar approach would be taken with regard to the proposed development.

This report subsequently concluded by recommending that further information should be sought with regard to archaeological considerations and possible design revisions in response to the third party submission.

Following the receipt of a complete response to a request for further information, a final report was prepared which recommended a grant of permission subject to conditions.

### 3.2.2. Other Technical Reports:

*Area Engineer:* No objection subject to conditions.

*Archaeologist:* An initial report noted that the proposed development site was located in close proximity to / within the Zone of Archaeological Potential associated with Recorded Monument CO089-041 (Church – in ruins) and, therefore, it was recommended that the applicant be required to undertake pre-development archaeological testing by way of a request for further information in order to ascertain the presence of any subsurface archaeology which could be associated with the medieval church within that part of the site where ground works were proposed to be carried out.

Following the receipt of a complete response to a request for further information, which included the results of archaeological testing undertaken on site, a further report was prepared which noted that human remains had been discovered within Test Trench No. 2 and that these could be a burial associated with the church site. It was further noted that the bones in question were removed from the site under archaeological supervision and that the remainder of the footprint of the proposed extension was archaeologically excavated with no further anomalies or human bones identified. The report subsequently concluded by stating that there was no objection from an archaeological perspective to the proposed development subject to the archaeological monitoring of all ground works.

*Engineering:* No objection.

### 3.3. **Prescribed Bodies**

None received.

### 3.4. **Third Party Observations**

A single submission was received from the appellants and the principle grounds of objection contained therein can be summarised as follows:

- Concerns with regard to the impact of the proposed development on seaward views and visual amenity.
- Permission was previously refused on site under PA Ref. No. 99/620 on the basis that the proposal would constitute disorderly overdevelopment, would detract from the character of the village, and would set an undesirable precedent for further development to the east of the site.
- Condition No. 2 of the grant of permission issued in respect of PA Ref. No. 99/6009 required landscaping works to be undertaken on site which would not interfere with the sea views available from the public road.
- The submitted proposal does not respect the vernacular character of Ballycotton.

## 4.0 Planning History

### On Site:

PA Ref. No. 99620. Was refused on 8<sup>th</sup> April, 1999 refusing Dr. Eamonn Carey permission for a dwelling.

PA Ref. No. 996009. Was granted on 24<sup>th</sup> January, 2000 permitting Dr. Eamonn Carey permission for the construction of an extension and partial change of use of surgery for use as dwelling unit.

PA Ref. No. 125965. Was granted on 2<sup>nd</sup> April, 2013 permitting Mary Carey & Eamonn Carey permission for a proposed change of use of the existing single storey building "Doctors Surgery" to a dwelling house and to construct single storey extensions, alterations to existing elevations and internal alterations including all associated site works.

### On Adjacent Sites:

PA Ref. No. 032709. Application by Ron & Diane Compton for permission for the construction of a single storey extension to the rear of existing dwelling at Main Street, Ballycotton, Co. Cork. No decision issued.

PA Ref. No. 034514. Was granted on 5<sup>th</sup> December, 2003 permitting Ron & Diane Compton permission for an extension to a dwelling at Main Street, Ballycotton, Co. Cork.

PA Ref. No. 045458. Was granted on 15<sup>th</sup> October, 2004 permitting Ron & Diane Compton permission for the construction of sunroom extension to dwelling (change of roof design) at Main Street, Ballycotton, Co. Cork.

PA Ref. No. 053093. Was granted on 9<sup>th</sup> August, 2005 permitting Ronald Compton permission for the construction of gabion and rock armour coastal protection and associated site works at Main Street, Ballycotton, Co. Cork.

PA Ref. No. 115430 / ABP Ref. No. PL04.240042. Was granted on appeal on 8<sup>th</sup> August, 2012 permitting Ron and Dianne Compton permission for the construction of a single storey extension to the (east) side of cottage at "Starboard Cottage", Main Street, Ballycotton, Co. Cork.

On Sites in the Immediate Vicinity:

PA Ref. No. 041760. Was granted on 15<sup>th</sup> June, 2004 permitting Catherine Maye & Sean Fleming permission for the retention of pedestrian entrance to dwelling at Main Street, Ballycotton, Co. Cork.

PA Ref. No. 043697. Was granted on 25<sup>th</sup> August, 2004 permitting Ann Aherne permission for the retention of single storey extension to dwelling house at The White House, Ballycotton, Co. Cork.

## 5.0 Policy Context

### 5.1. Development Plan

Cork County Development Plan, 2014:-

*Chapter 3: Housing*

*Chapter 12: Heritage*

*Section 12.3: Archaeological Heritage*

HE 3-1: *Protection of Archaeological Sites:*

- a) Safeguard sites and settings, features and objects of archaeological interest generally.
- b) Secure the preservation (i.e. preservation in situ or in exceptional cases preservation by record) of all archaeological monuments including the Sites and Monuments Record (SMR) (see [www.archeology.ie](http://www.archeology.ie)) and the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act, 1994, as amended and of sites, features and objects of archaeological and historical interest generally.

In securing such preservation, the planning authority will have regard to the advice and recommendations of the Department of Arts, Heritage and Gaeltacht as outlined in the Frameworks and Principles for the Protection of the Archaeological Heritage.

HE 3-3: *Zones of Archaeological Potential:*

Protect the Zones of Archaeological Potential (ZAPs) located within historic towns and other urban areas and around archaeological monuments generally. Any development within the ZAPs will need to take cognisance of the potential for subsurface archaeology and if archaeology is demonstrated to be present appropriate mitigation (such as preservation in situ/buffer zones) will be required.

*Chapter 13: Green Infrastructure and Environment:*

*Section 13.5: Landscape*

*Section 13.6: Landscape Character Assessment of County Cork:*

Section 13.6.8: Landscape Character Types which have a very high or high landscape value and high or very high landscape sensitivity and are of county or national importance are considered to be our most valuable landscapes and therefore it is proposed to designate them as High Value Landscapes (HVL), highlighted in green in the Table in Appendix E Landscape Character Assessment attached and shown in Figure 13.2.

GI 6-1: *Landscape:*

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land use proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

GI 6-2: *Draft Landscape Strategy:*



Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

Section 13.7: *Landscape Views and Prospects:*

GI 7-1: *General Views and Prospects:*

Preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

GI 7-2: *Scenic Routes:*

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this plan. The scenic routes identified in this plan are shown on the scenic amenity maps in the CDP Map Browser and are listed in Volume 2 Chapter 5 Scenic Routes of this plan.

*N.B.* The proposed development site is located alongside Scenic Route Ref. No. S48: '*Road between Cloyne and Ballycotton (back road)*'.

GI 7-3: *Development on Scenic Routes:*

- a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be

demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.

- b) Encourage appropriate landscaping and screen planting of developments along scenic routes which provides guidance in relation to landscaping. See Chapter 12: Heritage Objective HE 46.

*Chapter 14: Zoning and Land Use:*

*Section 14.3: Land Use Zoning Categories: Existing Built-Up Area*

*ZU 3-1: Existing Built Up Areas:*

Normally encourage through the Local Area Plan's development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted.

**East Cork Municipal District Local Area Plan, 2017:-**

Land Use Zoning:

The proposed development site is located on lands zoned as 'Existing Built-Up Area'.

Other Relevant Sections / Polices:

Section 1: *Introduction*

Section 2: *Local Area Strategy*

Section 5: *Villages, Village Nuclei and Other Locations:*

Section 5.2: *Villages: Ballycotton*

**5.2. Natural Heritage Designations**

None.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The Board is referred to the following planning applications which are considered to be of particular relevance in the assessment of the subject proposal:

PA Ref. No. 11/05430 / ABP Ref. No. PL04.240042:

This grant of permission authorised the extension of a dwelling house on lands adjacent to the subject site and it is submitted that the lower roof profile of that approved design served to contribute to the character and appearance of the existing building. Therefore, it is considered that the aforementioned decision has set a precedent as regards the prevention of a loss of visual amenity and that the subject proposal would appear to conflict with same.

The importance of landscape and visual amenity is recognised in the Planning and Development Act, 2000 and the Cork County Development Plan, 2014 which states that *'it is the general objective to preserve the character of all important views and prospects, particularly sea views . . . of natural beauty as recognised in the landscape strategy'*.

PA Ref. No. 99/6009:

In its assessment of this application the Planning Authority concluded that the proposal in question overcame the difficulties associated with previous planning applications by reason of its avoidance of any diminution in the views available from the public road. Notably, Condition No. 2 of the grant of permission required the site to be landscaped in such a manner as not to interfere with the views of the sea from the public road.

PA Ref. No. 99/620:

This application was refused in 1999 and the case planner's assessment of same recommended that permission be refused for a number of reasons, including the following:

- Overdevelopment of the site which would constitute disorderly development.

- The proposal would be contrary to the proper planning and development of the area.
  - The proposal would detract from the character of the village.
  - The proposed development would set a precedent for further development to the east of the site.
- Tourism is central to Ballycotton and the continued availability of the existing panoramic views of the sea and the surrounding landscape is paramount as this forms one of the unique aspects of the village. Therefore, the appeal of Main Street needs to be maintained and should not be undermined as this could potentially have a negative impact on the wider economy of the village. In this respect the Board is advised that the subject site is located in a particularly scenic area with an open vista where both locals and visitors can appreciate the views over Ballycotton Bay.
  - The existing garden areas to the east of the application site have recently had their trees pruned in order to enhance the views available from the roadside (which were previously obscured). Furthermore, dwelling houses have traditionally been limited to the landward side of the road thereby ensuring spectacular sea and landscape views. Accordingly, there are concerns that any grant of permission for the proposed development could set an undesirable precedent which could ultimately result in the loss of all views of Ballycotton Bay.
  - There are concerns that the proposed development could cause a sense of enclosure and that it does not respect the indigenous character of the village.

## 6.2. Applicant's Response

- The proposed development site is located within the settlement boundary for the village of Ballycotton.
- Throughout the planning process, the applicants took cognisance of the constructive feedback received which included the adoption of a series of mitigation measures (i.e. set back from the roadway, lowering of the proposed

extension etc.) in order to ensure that there would be no adverse impact as regards the obstruction or degradation of the available views.

- The reversion of part of the existing car parking area on site to a landscaped space will have a net beneficial effect.
- The proposed development involves the construction of an extension to an existing dwelling house within the confines of that property and will not in any way set a precedent for the future development of those garden areas to the east of the site. Furthermore, it should be noted that the aforementioned garden areas have been used and maintained as such over many decades.

### 6.3. Planning Authority's Response

None.

### 6.4. Observations

#### Brian & Ona Lotty:

- The observers would have concerns as regards the proposed development and would concur with the points raised in the grounds of appeal.
- It is considered that the proposed extension is incongruous and out of keeping with surrounding housing and the traditional character of the village.
- The proposed development would be contrary to the sustainable development of the area.
- There are concerns that any grant of permission for the subject proposal will set an undesirable precedent for the future development of the adjacent garden areas along the seaward side of the roadway which would totally obscure the current open sea views over Ballycotton Bay.
- This is a popular area for both locals and tourists and it is submitted that the proposed development would have an obtrusive impact on the landscape at this location given its siting along a scenic route designated in the Cork County Development Plan, 2014.

- Whilst an archaeological investigation was undertaken during the planning process there are concerns that cognisance does not appear to have been taken of the fact that the property is located on the site of an ancient church.
- Having regard to the overall scale and design of the proposed extension and the prevailing pattern of development in the surrounding area, it is considered that the proposed development would be visually incompatible with the site surrounds and would be visually obtrusive when viewed from residential properties along Main Street. Furthermore, the proposal would not be in keeping with the existing character of those properties to the front of same and would impact on the residential amenities of the village.
- The importance of Ballycotton is highlighted by reference to a number of headings within the Cork County Development Plan, 2014 (i.e. Special Protection Areas, Proposed Natural Heritage Areas, Ramsar Wetlands Site, Areas of Geological Interest, Habitats and Species, and Scenic Routes).
- Ballycotton is known for its beauty and scenic qualities and, therefore, it is incumbent on all to preserve it from overdevelopment and to allow the area to retain its sense of place as a cherished natural amenity to be enjoyed by all. Accordingly, if piecemeal development is allowed to continue, it is submitted that the area will lose its charm and its appeal as an area of visual beauty.
- Inadequate consideration has been given to the references in the County Development Plan which recognise the importance of landscape and visual amenity considerations pursuant to the provisions of the Planning and Development Act, 2000. In this regard the Board is referred to Objective ENV 2-9 of the Plan which states that *'it is the general objective to preserve the character of all important views and prospects, particularly sea views . . . of natural beauty as recognised in the Landscape Strategy'*. In addition, Objective ENV 3-5 of the Plan states that *'it is a particular objective to preserve the character of those views and prospects obtainable from scenic routes identified in this Plan. Those routes are shown on the scenic amenity maps in Volume 4 and listed in Volume 4 of this plan'*.

## 6.5. Further Responses

### The Department of Culture, Heritage and the Gaeltacht:

- States that the proposed development is small in scale and that it is at a sufficient remove from the Recorded Monument (RMP No. CO089-041 Church) such that subsurface impacts will be minor in nature. However, given that the monument is a Church within the village of Ballycotton, it is considered to be possible that disarticulated human remains and / or *in situ* burials may be uncovered during the course of groundworks required by the development. Therefore, the Department concurs with the Planning Authority as regards the inclusion of a condition in the grant of permission (Condition No. 3) which requires the applicant to undertake archaeological monitoring.
- In the event of a grant of permission, it is recommended that Condition No. 3 be retained in the schedule of conditions.
- It is strongly recommended that the wording of Condition No. 3 be retained so as to ensure that the archaeological requirements are understood by the relevant professional and that the appropriate archaeological mitigation is carried out.

## 7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout / visual impact
- Impact on residential amenity
- Archaeological implications
- Appropriate assessment
- Other issues

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

The proposed development involves the extension of an existing dwelling house on lands located within the development boundary of the village of Ballycotton which are zoned as 'Existing Built-Up Area' in the East Cork Municipal District Local Area Plan, 2017. Accordingly, I am satisfied that the overall principle of the proposed development is acceptable.

7.3. **Overall Design and Layout / Visual Impact:**

The proposed development involves the construction of a single storey extension to the eastern elevation of an existing single storey, chalet-style dwelling house located on the seaward side of Main Street within the built-up area of the small coastal village of Ballycotton. In this regard concerns have been raised that the submitted proposal will be out of keeping with the established character of the village and that it will also serve to detract from the views towards Ballycotton Bay presently available from the adjacent public road (i.e. Main Street) which has been designated as a scenic route in the Cork County Development Plan, 2014.

With regard to the overall design of the proposed extension, it is clear that the subject proposal has sought to replicate the architectural styling of the existing dwelling house through its use of a low profile (twin) gable-fronted construction. Whilst I would concede that this design will result in a somewhat elongated appearance when viewed from Main Street, it should be noted that the proposed extension has been set back behind the front building line of the existing dwelling house and that the finished floor level of the new construction will be 600mm below that of the main residence as a result of the site topography (which falls away from the public road). Each of these aspects of the submitted design will serve to reduce the overall visual impact of the proposed construction when viewed from within the village and it is also of relevance to note that the proposal will be screened in part by the existing roadside boundary wall and entrance gates (please refer to Drg. No. 6002-08 received by the Planning Authority on 21<sup>st</sup> December, 2016). Accordingly, although the submitted design is perhaps somewhat complicated with its multiplicity of gables and elongated shape when viewed from Main Street, in my opinion, it is in keeping with the existing dwelling house and will not unduly detract from the wider



character of the village given the variety of housing styles in the immediate site surrounds and the particulars of the site context.

In relation to the site location alongside Scenic Route No. S48: *'Road between Cloyne and Ballycotton (back road)'* as identified in the County Development Plan, 2014 and the potential impact of the proposed development on the views available from this route over Ballycotton Bay, whilst I would also acknowledge that the wider area has been designated as an area of *'high value'* landscape, in my opinion, cognisance must be taken of the specifics of the site context given that the subject site is located in a built-up area on zoned lands situated within the village development boundary and at this point I would reiterate that the proposal involves the extension of an existing property. Furthermore, I would also concur with the previous reporting inspector in their assessment of ABP Ref. No. PL04.240042 (which concerned a proposal to extend an existing dwelling house on the adjacent lands to the immediate west of the subject site) that the views of Ballycotton Bay are somewhat sporadic along this section of Main Street as a consequence of the existing dwellings / buildings located along the seaward side of the roadway.

On balance, having regard to the nature, design, scale and height of the proposed development, with particular reference to its positioning relative to the public roadway, and the specifics of the site context, I am satisfied that the subject proposal will not seriously injure the visual amenities of this sensitive location.

#### 7.4. **Impact on Residential Amenity:**

Whilst I would acknowledge that there may be some concerns that the proposed development will have a detrimental impact on the residential amenity of nearby dwelling houses by reason of the obstruction (in part) of views over Ballycotton Bay that may presently be available from those properties, it is of the utmost relevance to note that any such views are not of public interest nor are they expressly identified as views worthy of preservation in the relevant Development Plan. They are essentially views enjoyed by a private individual from private property. A private individual does not have a right to a view and whilst a particular view from a property is desirable, it is not definitive nor is it a legal entitlement and, therefore, I am of the opinion that the proposed development would not seriously injure the amenities of property in the vicinity simply by interfering with their views of the surrounding area.

Furthermore, having regard to the overall design, scale, height and siting of the proposed extension, and its positioning relative to both the site boundary and surrounding properties, I am satisfied that the subject proposal will not give rise to any detrimental impact on the residential amenity of property in the area such as by way of overlooking, overshadowing, or an excessively overbearing appearance.

7.5. **Archaeological Implications:**

From a review of the available information, it is apparent that the proposed development site is located either immediately adjacent to or within the zone of archaeological potential associated with Recorded Monument No. CO089-041 which is marked as a '*Church (in ruins)*' on the 1842 OS 6-inch mapping and the 'site of' on later editions (there is no visible surface trace of the monument remaining). Accordingly, in response to a request for further information issued by the Planning Authority (made pursuant to the recommendation of the County Archaeologist), the applicant undertook pre-development archaeological testing on site and submitted a report on same which details that 4 No. test trenches were initially excavated under licence within the footprint of the proposed development and that the only find encountered was the presence of several disarticulated human bones (a fragmentary human skeleton c. 20% complete) within Trench No. 2. These remains were subsequently examined by an osteoarchaeologist who confirmed the identification of what appeared to be '*a possible female of undetermined age, but likely to be a mature adult*'. In light of this discovery (which may be associated with a shallow grave), it was considered that additional excavations on site were necessary and thus an amendment was made to the original method statement which involved the removal of all soil from within the footprint of the proposed extension. No further anomalies or human bones were recorded on site with the only other finds comprising a few shards of glass, blue & white tableware (willow pattern china) and some animal bones. The report on the archaeological testing subsequently concluded by stating that in light of the comprehensive archaeological testing undertaken on site and the excavation of the entirety of the footprint of the proposed extension to undisturbed subsoil level, there was no reason pertaining to archaeology as to why the development should not proceed as proposed, although it was recommended that archaeological monitoring of any additional excavation

(groundworks) such as drainage / service trenches etc. should be monitored by a suitably qualified archaeologist.

Having considered the results on the aforementioned archaeological testing, the County Archaeologist subsequently contacted the author of the report with a view to obtaining further clarity on the context and position of the human remains discovered on site. The contents of these discussions are recorded in the final report prepared by the County Archaeologist wherein it is indicated that the consultant archaeologist submitted that:

*'while no remains of church walls or building foundations were present, it is likely the burial was placed during the period of use of this area as a church and likely associated burial ground. As the church is named 'in ruins' on the first ed OD map (1829-41) and 'site of' on the 1897-1913 OS map; it is therefore likely that the burial dated to a period before 1840. The church may have been in use for a short period of time and therefore few burials placed in the vicinity'.*

Following consideration of these additional details, the County Archaeologist prepared a final report wherein she concurred with the conclusions and recommendations of the testing report before recommending that all ground works associated with the development should be subjected to archaeological monitoring. Notably, the submission received from the Department of Culture, Heritage and the Gaeltacht with respect to the subject appeal has concurred with the position adopted by the Planning Authority and it has emphasised that the wording of any condition pertaining to archaeological monitoring should follow that imposed in the notification of the decision to grant permission.

On the basis of the foregoing, I would concur with the recommendations of the report on archaeological testing (as supplemented by the comments of the County Archaeologist and the submission received from the Department of Culture, Heritage and the Gaeltacht) given that the entirety of the footprint of the proposed development has been excavated to subsoil level with no further discoveries of archaeological significance and as the human remains already found on site have been removed and appropriately treated. Therefore, it is reasonable in my opinion to allow the proposed development to proceed subject to the archaeological monitoring of groundworks.

7.6. **Appropriate Assessment:**

From a review of the available mapping, including the Cork County Development Plan, 2014 and the data maps available from the website of the National Parks and Wildlife Service, it is apparent that although the proposed development site is not located within any Natura 2000 designation, it is situated approximately 60m southeast of the Ballycotton Bay Special Protection Area (Site Code: 004022). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Objective No. HE 2-1: '*Sites Designated for Nature Conservation*' of Chapter 13 of the Cork County Development Plan, 2014, to protect all natural heritage sites, both designated or proposed for designation, in accordance with National and European legislation. In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, the designated site should be accompanied by such sufficient information as to show how the proposal will impact on the designated site. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the availability of public mains services, the site location outside of any Natura 2000 designation, the limited ecological value of the lands in question, and the separation distances involved between the site and the Ballycotton Bay Special Protection Area, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of the aforementioned Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of the foregoing Natura 2000 site and would not undermine or conflict with the Conservation Objectives applicable to same.

Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects,

would not be likely to have a significant effect on any European site and, in particular, specific Site Code: 004022, in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

#### 7.7. **Other Issues:**

##### Precedent for Future Development:

With regard to the concerns expressed in the grounds of appeal that the proposed development may set an undesirable precedent for the future development of those lands further east along the seaward side of Main Street, in the first instance I would reiterate my earlier comments that the subject proposal involves the extension of an existing dwelling house (on the seaward side of Main Street) within the established curtilage of that property on lands situated within the development boundary for the village of Ballycotton and zoned as *'Existing Built-Up Area'* in the East Cork Municipal District Local Area Plan, 2017. Accordingly, I would suggest that there is no objection in principle to the proposed development.

Furthermore, whilst I would acknowledge the appellants' concerns that any future development of those undeveloped lands to the immediate east of the application site could potentially serve to erode the seaward views over Ballycotton Bay presently available from Main Street (Scenic Route Ref. No. S48: *'Road between Cloyne and Ballycotton (back road)'*), in my opinion, it is possible to differentiate between the subject site and those lands having regard to the specifics of the site context. In this respect it is of relevance to note that the proposed development site is already occupied by an existing dwelling house situated on the seaward side of Main Street whereas the lands to the east would appear to comprise 'undeveloped' garden areas associated with the terraced housing located on the opposite side of Main Street. Accordingly, I would suggest that there are clear contextual differences between the application site and the adjacent lands and thus I am not of the opinion that the extension of an existing dwelling house on the seaward side of Main Street would in any way set a precedent for what could be described as the 'standalone' development of the adjacent garden areas which are physically separate from the residences they serve due to the intervening presence of the public road. In any event, it should be noted that any development proposals on those lands to the east

of the application site will be assessed on their merits having regard to the applicable planning policies whilst an opportunity will also be afforded to any interested third parties to make a submission on same.

## 8.0 Recommendation

Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations set out below:

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the location of the site within Ballycotton Village and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 submitted on the 21<sup>st</sup> day of December 2016 and the 10<sup>th</sup> day of May, 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

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

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

4. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** To restrict the use of the extension in the interest of residential amenity.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- b) employ a suitably-qualified archaeologist who shall monitor all ground works associated with the development, and
- c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or

on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Robert Speer  
Planning Inspector

11<sup>th</sup> October, 2017